

REPUBLIC OF VANUATU

ENERGY EFFICIENCY OF ELECTRICAL APPLIANCES, EQUIPMENT AND LIGHTING PRODUCTS
ACT NO. 24 OF 2016

Arrangement of Sections

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Assent: 26/01/2017

Commencement: 29/03/2017

ENERGY EFFICIENCY OF ELECTRICAL APPLIANCES, EQUIPMENT AND LIGHTING PRODUCTS
ACT NO. 24 OF 2016

An Act to provide for minimum energy performance standards, energy labelling and for registration of electrical appliances, equipment and lighting products that are energy efficient and for related purposes.

Be it enacted by the President and Parliament as follows-

PART 1 PRELIMINARY MATTERS

1. Interpretation

In this Act, unless the contrary intention appears:

advertise includes bringing information to the attention of the public by any means, including electronically;

authorised officer means an officer appointed by the Regulator under section 15;

brand means a name, logo or symbol under which a product is supplied or marketed;

business use means the use of a product in buildings or business operations of a person but does not include the sale, hire or hire purchase of a product;

Court means the Supreme Court;

document means information recorded or stored on paper or in electronic or any other non-paper based form;

day means a working day;

energy label means a label affixed to a product that is visible at the point of sale or supply for one or more of the following purposes:

(a) to indicate the energy consumption, energy efficiency or other aspect of energy performance of the product specified in Column 1 of Schedule 2, using a form of label specified in Column 2 of Schedule 2; or

(b) to indicate that a product class specified in Column 1 of Schedule 1 meets the minimum energy performance standards specified in Column 2 of Schedule 1; or

(c) to advertise a product class specified in Column 1 of Schedule 1 meeting the minimum energy performance standards in Column 2 of Schedule 1; or

(d) to inform potential customers of the economic benefits of selecting energy efficient products.

Minister means the Minister responsible for Energy;

minimum energy performance standard means the level of energy efficiency specified in the standards for electrical appliances, equipment and lighting products under Column 2 of Schedule 1;

model means a range of items of the same brand where each item has the same energy performance characteristics;

prescribed means prescribed by the regulations;

product means an electrical appliance, equipment or lighting products provided under Schedule 1 or 2;

Regulator means the Director of the Department of Energy as provided under section 12.

2. Purpose

The purpose of this Act is to:

(a) establish minimum energy performance standards for the electrical appliances, equipment or lighting products listed under Column 1 of Schedule 1; and

(b) establish the standards for energy labelling of electrical appliances, equipment or lighting products listed in Column 1 of Schedule 2; and

(c) regulate the supply of products; and

(d) establish a register of products; and

(e) prohibit the import into Vanuatu of products that are not energy efficient; and

(f) provide for the registration of brands and models of products .

PART 2 REGISTRATION AND LABELLING OF ELECTRICAL APPLIANCES, EQUIPMENT AND LIGHTING PRODUCTS

Division 1 Registration

3. **Application for registration of brand and model of products**

(1) A person who is applying for registration of brand and model of a product must apply to the Regulator:

(a) in the prescribed form; and

(b) accompanied with:

(i) the prescribed fee; and

(ii) if requested by the Regulator, a copy of a test report made by an approved relevant test authority showing the results of the test to a standard specified under Schedule 1 or 2; and

(iii) information on the person's registered or trading name, business address and contact details; and

(iv) a photograph and brief description of the products; and

(v) the registration number of the product in Vanuatu if the product is already registered in Vanuatu; and

(vi) the registration number of the products in the country of registration if the product has been registered in another country as complying with the relevant standards in Schedules 1 and 2; and

(vii) any other information and document that the applicant considers necessary or requested by the Regulator.

(2) The Regulator must issue a certificate to an applicant if the Regulator is satisfied that the applicant has complied with subsections (1), (3) and (4).

(3) The Regulator may in writing require a person to provide, within a specified time, additional information and documents that the Regulator considers necessary to make a decision on the application under subsection (2).

(4) The Regulator may make any other enquiries relating to the application as he or she considers necessary to enable him or her to make a decision on the application.

(5) For the purpose of this section, **approved relevant test authority** means a manufacturer or independent test laboratory approved by the Regulator for the purposes of providing a test report in accordance with subparagraph (2)(b)(ii).

4. **Grant or refusal of an application for registration**

(1) The Regulator must:

(a) grant an application for registration of a brand or model of a product; or

(b) refuse an application for registration of a brand or model of a product,

within 14 days after receiving an application under section 3.

(2) In addition to paragraph (1)(b), the Regulator must notify the applicant in writing stating the reasons for his or her refusal.

5. Change in energy-using characteristics of a product

If a person is aware that the energy-using characteristics of a product are different from the information previously submitted to the Regulator to support an application for registration of that product, the person must inform the Regulator.

6. Import of product

A person must not import a product of a type listed in Schedules 1 and 2 for the purpose of sale, hire, hire purchase, business use, personal use, charitable or donation purpose, unless:

(a) the brand and model has been registered in accordance with this Division; and

(b) the Regulator issued a certificate confirming that the brand and model has been registered.

7. Register of brands and models of a product

(1) The Regulator is to keep and maintain a register of:

(a) brands and models of products that meet the minimum energy performance standards and energy labelling requirements under this Act; and

(b) persons whose application for registration have been granted under paragraph 4(1)(a).

(2) The Regulator must publish a notice in the Gazette containing the names of registered persons with the brand and model of the product that meets the minimum energy performance standards and energy labelling requirements, as set out under Schedules 1 and 2.

8. Seizure of product

(1) The Regulator may seize a product if:

(a) the product has been imported by a person; and

(b) the product is in the possession of a person or Customs Department; and

(c) the Regulator is satisfied that:

(i) the person has not obtained a certificate as required under paragraph 6(b); or

(ii) the product is not properly registered as required under paragraph 6(a); or

(iii) the product does not comply with the product standards as required under Column 2 of Schedule 1 and Column 3 of Schedule 2.

(2) The Regulator must notify a person as soon as practicable in writing and must give reasons of his or her intention to seize a product before seizing the product.

(3) A person may, within 21 days of being notified in writing by the Regulator under subsection (2), give reasons to the Regulator for the product not to be seized.

(4) The Regulator may seize the product and notify a person in writing of his or her decision if he or she is not satisfied with the reasons provided by the person under subsection (3).

(5) The Regulator may, in the presence of the owner of the product, destroy the product or re-export the product to its last port of origin if the product is seized under this section.

(6) The cost of destroying or re-exporting the products under subsection (5), must be paid by the owner of the product.

(7) If the product is destroyed, the Regulator must issue a destruction certificate to the owner of the product.

Division 2 Minimum Energy Performance Standards Requirements

9. Performance standard of a product

A person must not sell or let for hire a product unless:

(a) the product complies with the corresponding minimum energy performance standards requirement listed under Column 2 of Schedule 1; and

(b) the brand and model of the product has been registered with the Regulator in accordance with Division 1.

Division 3 Energy Labelling Requirements

10. Labelling of products

(1) A person must not sell or let for hire a product unless:

(a) the product has an energy label meeting the requirements under Column 2 of Schedule 2; and

(b) the brand and model of the product has been registered with the Regulator in accordance with Division 1; and

(c) the energy label is affixed to the front of the product and clearly visible; and

(d) the description of the brand and model on the label matches the description on the product.

(2) A person must not affix or display a label relating to energy efficiency or energy consumption on a product unless that label meets the requirements as provided under subsection (1).

(3) A person who advertises a product by media must ensure that an image of the energy label of the product appears on the advertisement.

(4) For the purpose of this section, **media** does not include radio advertisement.

Division 4 Cancellation of Registration

11. Cancellation of registration

(1) The Regulator may cancel the registration of a brand or model of a product if he or she is satisfied that:

(a) the brand or model of the product does not meet the minimum energy performance standards required under Column 2 of Schedule 1; or

(b) the values for energy efficiency and energy consumption indicated on the energy labels affixed to products of that brand and model is incorrect; or

(c) the energy-using characteristics of the product have changed as provided under section 5.

(2) In addition to subsection (1), the Regulator may cancel the registration of a product if the Regulator is satisfied that the person who originally lodged the application for registration of that product has:

(a) contravened a provision of this Act or a Regulation made under this Act; or

(b) deliberately or knowingly provided false, inaccurate or misleading information to the Regulator; or

(c) refused or failed to cooperate with an authorised officer in the performance of his or her functions under this Act; or

(d) become insolvent or bankrupt; or

(e) been compulsorily or voluntarily wound up; or

(f) been dissolved.

PART 3 ADMINISTRATION

12. Regulator

The Director of the Department of Energy is the Regulator under this Act.

13. Functions of the Regulator

The Regulator has the following functions:

(a) to keep and maintain a register of persons and products; and

(b) to assess applications for product registration; and

(c) to assess and issue certificates confirming product registration; and

- (d) to monitor and enforce compliance with this Act; and
- (e) to review and evaluate the operation of this Act; and
- (f) to advise the Minister on the implementation of this Act; and
- (g) such other functions as may be conferred on the Regulator by this Act or any other Act.

14. Powers of the Regulator

(1) The Regulator has the power to do all things that are necessary or convenient to be done for or in connection with the performance of his or her functions.

(2) Without limiting subsection (1), the Regulator has the power to do all or any of the following:

(a) to produce, publish, issue, circulate and distribute, whether for payment or otherwise, in paper or electronic form such reports, papers, periodicals or other information as may be conducive to the carrying out of his or her functions;

(b) to provide training for his or her employees or authorised officers for the purpose of the implementation of this Act;

(c) to require a person to display posters, leaflets or other materials related to energy labelling, or the economic and environmental benefits of purchasing energy-efficient appliances, whether previously provided by the Regulator or by any other person.

PART 4 APPOINTMENT AND POWERS OF AUTHORISED OFFICERS

15. Appointment of authorised officers

The Regulator may in writing appoint the following persons as authorised officers for the purposes of this Act:

(a) an officer of the Department of Energy; and

(b) a Custom officer nominated by the Director of the Department of Customs and Inland Revenue; and

(c) such other person as the Regulator considers appropriate.

16. Powers of authorised officers

An authorised officer has the following powers:

(a) to investigate and report to the Regulator on the nature, conduct or state of a trader's business or a particular aspect of that business so far as it relates to its registration for the purposes of this Act; and

(b) to enter business premises during business hours and:

(i) inspect and take photographs of the products; or

(ii) inspect or collect written information, advertising or any document made available to the public in relation to the products; and

(c) to enter private premises if he or she has reason to believe that a business is being carried on the premises; and

(d) to investigate possible contraventions of this Act; and

(e) to take copies of or extracts of any document produced to him or her by a person or any other person to assist him or her in the performance of his or her functions under this Act; and

(f) such other functions as may be prescribed by this Act or any other Act.

17. Identification of authorised officers

(1) The Regulator is to provide to each authorised officer, an identity card that will provide evidence of the appointment of that authorised officer under this Act.

(2) An authorised officer who holds an identity card issued under this section must, on the termination of his or her appointment, surrender the identity card to the Regulator.

PART 5- MISCELLANEOUS

18. Person may make a complaint

A person may make a complaint in writing to the Regulator if he or she is not satisfied that a product imported on or after the commencement of this Act meets the required standards under Schedule 1 or 2.

19. Protection from liability

A civil or criminal liability action is not to be taken against the Regulator or authorised officer in respect of anything done or omitted to be done by the Regulator or authorised officer in good faith in the execution or purported execution of his or her powers, functions or duties under this Act.

20. Annual return

(1) A person who imports products for business use or a person who makes available products for the purpose of sale, hire or hire purchase must, if requested by the Regulator, lodge with the Regulator before or on 31 March of each year, an annual return for the preceding year containing the following information:

(a) the number of each type of product sold, let for hire or hire purchased by a person under this Act; and

(b) the number of units of each registered brand and model of product imported into Vanuatu by a person (whether for sale, hire or hire purchase, personal use or charitable or donation purpose); and

(c) a copy of any other document and data that the Regulator considers necessary to support the information supplied under paragraph (a) or (b).

(2) An annual return lodged under subsection (1) must be in the form prescribed by the Regulator.

21. **Protection of information**

A person must not disclose to any other person any information entrusted to him or her in confidence, or acquired by him or her, in his or her capacity or in the course of his or her duties as a public officer, employee, agent, liquidator, receiver or manager unless the information is required:

(a) for the purposes of prosecution or proposed prosecution under this Act; or

(b) by the Regulator or an authorised officer for the proper administration of the functions of his or her office under this Act; or

(c) by a person to whom the information relates.

22. **Annual Report**

The Regulator must submit to the Minister an annual report on or before 31st December of each year, relating to the administration of this Act for the preceding year.

23. **Appeal rights**

(1) A person may make an appeal to the Court against any decision made by the Regulator under this Act.

(2) An appeal must be brought, not more than 28 days after the date on which the appellant is notified of the decision appealed against.

(3) The Court may:

(a) confirm, vary or revoke the decision of the Regulator; or

(b) make any other order it considers appropriate.

24. **Offences**

(1) A person who:

(a) provides false or misleading information, including any false or misleading report, under any requirement of this Act; or

(b) assaults, delays or obstructs the Regulator or an authorised officer in the exercise of any powers or the carrying out of any functions of the Regulator or authorised officer under this Act; or

(c) fails to give all reasonable assistance to the Regulator or authorised officer to carry out any function or duty under this Act; or

(d) impersonates or falsely represents himself or herself to be:

(i) an authorised officer; or

(ii) acting under an authorised officer's orders; or

(e) contravenes or fails to comply with any provisions of this Act or Regulation made under this Act,

commits an offence.

(2) A person who commits an offence under paragraph (1)(a), (b), (c), (d) or (e), is liable on conviction:

(a) if the person is an individual - to a fine not exceeding VT1,000,000 or imprisonment for a term not exceeding 1 year, or both; or

(b) if the person is a body corporate - to a fine not exceeding VT3,000,000; or

(c) if the person is a partnership - to a fine not exceeding VT5,000,000.

(3) If a body corporate commits an offence under this Act, any officer, director, manager or agent of the body corporate who:

(a) authorised, assented to or participated in; or

(b) by his or her neglect or omission, contributed to,

the commission of the offence commits an offence and is liable on conviction to a fine not exceeding VT1,000,000 or imprisonment for a term not exceeding 1 year or both.

25. **Penalty Notice**

(1) A Regulator or authorised officer may serve a penalty notice on a person if it appears to the Regulator or authorised officer that the person has committed an offence under any provision of this Act.

(2) A penalty notice is a notice to the effect that, if the person served does not intend to have the matter determined by a Court, the person may pay within a time and to a person specified in the notice the amount of penalty prescribed by the regulations for the offence if dealt with under this section.

(3) A penalty notice may be served personally, electronically or by post.

(4) If the amount of penalty prescribed for the purposes of this section for an alleged offence is paid under this section, the person is not liable to any further proceedings for the alleged offence.

(5) Payment made under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil proceeding arising out of the same occurrence.

(6) The regulations may:

(a) specify the offence by referring to the provision creating the offence under this Act; and

(b) prescribe the amount of penalty payable for the offence if dealt with under this section; and

(c) prescribe different amounts of penalties for different offences or classes of offences.

(7) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty which could be imposed for the offence by a Court.

(8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

26. Regulations

The Minister may on the advice of the Regulator make Regulations prescribing all matters:

(a) required or permitted by this Act to be prescribed; or

(b) that are necessary or convenient to be prescribed for the carrying out or giving effect to this Act.

27. Amendment of Schedule

The Minister may on the recommendation of the Regulator, by Order:

(a) add to; or

(b) vary; or

(c) replace,

Schedule 1 or 2.

28. Transitional provisions

(1) This section applies to a person who, before the commencement of this Act, orders for import, a product, for sale, hire or hire purchase, or for personal used, charitable or donation purpose.

(2) If a product is in the possession of a person at the time of the commencement of this Act, the person must, within 6 months from the commencement of this Act:

(a) if the product does meet the standards required under Schedules 1 and 2 - apply to the Regulator to register the product; or

(b) if the product does not meet the standards required under Schedules 1 and 2 - notify the Regulator of the brand and model and the number of units in his or her possession.

(3) If a product has been ordered by a person but has not been imported at the time of commencement of this Act and the product does meet the standards required under Schedules 1 and 2, the person must, within 6 months from the commencement of this Act:

(a) apply to the Regulator to register the product; and

(b) notify the Regulator of the brand, model and the number of units to be imported.

(4) On or after the commencement of this Act, a person must not order for import, a product that does not comply with the minimum energy performance standards specified in Schedule 1.

(5) A person must not, after 3 years from the commencement of this Act, sell, hire or hire purchase a product that does not meet the minimum energy performance standards under Schedule 1.

(6) Despite subsection (5), an individual person or charitable organisation, after 6 months from the commencement of this Act, must not import a product for personal use or for charitable or donation purpose.

(7) A person must provide, within 14 days of a written request from the Regulator, evidence to verify the date on which an order for a product intended for importation was placed.

29. Commencement

(1) Subject to subsection (2), this Act comes into force on the date on which it is published in the Gazette.

(2) The Regulator may by Order determine the commencement date for certain classes of products listed in Schedules 1 and 2.

SCHEDULE 1

LIST OF PRODUCT CLASSES SUBJECT TO MINIMUM ENERGY PERFORMANCE STANDARDS AND LIST OF APPLICABLE STANDARDS

Column 1 Product class	Column 2 Standards for minimum Energy performance Characteristics	Column 3 Standard for energy testing
Household refrigerating appliances: any electrical household refrigerating Appliances covered under the standards, and including refrigerators, refrigerators and freezers or	AS NZS 4474.2:2009: Performance of household Electrical appliances-Refrigerating appliances-Energy labelling and minimum	AS/NZS 4474.1:2007 (incorporating amendment Nos 1 and 2): Performance of household electrical appliances – Refrigerating appliances –

<p>freezers covered under the standard which: (a) Operate using the vapour Compensation cycle, and (b) Use mains electricity (230/240 volts at 50Hz) as the primary power source</p>	<p>energy performance standard requirements</p>	<p>Energy consumption and performance</p>
<p>Air conditioners, including Single phase and 3-phase up to 65kW rated total cooling Capacity. Includes air source heat Pumps but not water source heat pumps.</p>	<p>AS/NZS 3823.2:2013 Performance of electrical appliances- air conditioners and heat pumps Part 2: Energy labelling and minimum energy performance standard (MEPS) requirements</p>	<p>AS/NZS 3823.1.1:2012 Performance of household electrical appliances- room air conditioners Part 1.1:Non ducted air conditioners and heat pumps-Testing and rating for performance</p> <p>AS/NZS 3823.1.2:2012 Performance of electrical appliances – air conditioners and heat pumps Part 1.2:Test Methods- ducted air conditioners and air to air Heat pumps- testing and Rating for performance</p> <p>AS/NZS 3823.1.4:2012 Performance of electrical appliances-air conditioners and heat pumps Part 1.4:Test methods –multi split system air conditioners and air to air heat pumps- Testing and rating for performance</p>
<p>Incandescent lamps</p>	<p>AS 4934.2-2011 incandescent lamps for general lighting services Part 2:minimum energy performance standards (MEPS) requirements</p>	<p>AS/NZS 4934.1:2014 Incandescent lamps for general lighting services Part 1:Test methods-Energy performance</p>
<p>Linear Fluorescent lamps</p>	<p>AS/NZS 4782.2:2004 Double-capped fluorescent lamps- Performance specifications Part 2:minimum energy performance standards(MEPS)</p>	<p>AS/NZS 4782.1:2004 Double-capped fluorescent lamps- performance specifications Part 1: general (IEC 60081:2000 MOD)</p>

	AS/NZS 4782.3(Int):2006 Double-capped fluorescent lamps- performance specifications Part 3: Procedure for quantitative analysis of mercury present in fluorescent lamps	
Compact fluorescent lamps	AS/NZS 4847.2:2010 self ballasted lamps for general lighting Services Part 2: Minimum energy performance standards (MEPS) requirements AS/NZS 4782.3(Int):2006 Double-capped fluorescent lamps- Performance specifications Part 3: Procedure for quantitative analysis of mercury present in fluorescent lamps	AS/NZS 4847.1:2010 self ballasted lamps for general lighting services Part 1:Test methods - Energy performance
Fluorescent lamp ballasts	AS/NZ 4783.2.2002 Performance of electrical lighting equipment – ballasts for fluorescent lamps – Part 2: energy labeling and minimum energy performance standards	AS/NZ 4783.1:2001 Performance of electrical equipment – ballasts for fluorescent lamps – Part 1: Method of measurement to determine energy consumption and performance of ballasts- lamp circuits

SCHEDULE 2

LIST OF PRODUCT CLASSES SUBJECT TO MANDATORY ENERGY PERFORMANCE LABELLING

Column 1 Product class	Column 2 Standards for mandatory energy performance labelling	Column 3 Standard for energy testing
Household refrigerating appliances: any electrical household refrigerating appliances	AS/NZS 4474.2:2009: Performance of household electrical appliances- Refrigerating appliances-Energy	AS/NZS 4474.1:2007 (incorporate Amendment Nos1 and 2):performance of

<p>covered under the standard, and including refrigerators, refrigerators and freezers or freezers covered under the standard which:</p> <p>(a) Operate using vapour compression cycle; and</p> <p>(b) Use mains electricity (230/240 volts at 50Hz) as the primary power source;</p>	<p>labelling and minimum energy performance standard requirements.</p>	<p>household electrical appliances- Refrigerating appliances-Energy consumption and performance</p>
<p>Air conditioners, including (single phase and 3-phase up to 65kW rated total cooling capacity, non conducted) Includes air-source heat pumps but not water-source heat pumps.</p>	<p>AS/NZS 3823.2:2013 Performance of electrical appliances – air conditioners and heat pumps Part 2:Energy labelling and minimum energy performance standard (MEPS) requirements</p>	<p>AS/NZS 3823.1.1:2012 Performance of household electrical appliances- room air conditioners Part 1.1: Non ducted air conditioners and heat pumps-Testing and rating for performance</p> <p>AS/NZS3823.1.2:2012 Performance of electrical appliances- air conditioners and heat pumps Part 1.2:Test methods-Ducted air conditioners and air-to-air heat pumps- Testing and rating for performance</p>
		<p>AS/NZS3823.1.4:2012 Performance of electrical appliances- air conditioners and heat pumps Part 1:4:Test Methods-Multi split-system air conditioners and air to air heat pumps-Testing and rating for performance</p>