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EUROPEAN
COMMISSION

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COMMISSION DELEGATED REGULATION (EU) .../...

of XXX

supplementing Regulation (EU) 2024/1781 of the European Parliament and of the Council by setting out derogations from the prohibition of destruction of unsold consumer products

(Text with EEA relevance)

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

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EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

General background and objective

Regulation (EU) 2024/1781 of 13 June 2024 establishing a framework for the setting of ecodesign requirements for sustainable products ('the ESPR')¹ entered into force on 19 July 2024.

The ESPR delivers on the commitments the Commission made in the European Green Deal set out in the communication of 11 December 2019 and in the communication of 11 March 2020 on a new circular economy action plan for a cleaner and more competitive Europe. These commitments include making the EU regulatory framework fit for a sustainable future and ensuring that products placed on the EU market become increasingly sustainable. The ESPR is also a key contribution towards fulfilling the ambitions of the Commission's Clean Industrial Deal to make the EU the world leader on circular economy by 2030 as set out in the Commission's communication of 26 February 2025.

Alongside establishing a framework for setting ecodesign requirements, the ESPR identifies the destruction of unsold consumer products by businesses as an environmental problem across the EU and introduces measures to prevent this practice. As such, it also aligns with the EU strategy for sustainable and circular textiles set out in the Commission's communication of 30 March 2022, which announced action to stop the destruction of unsold textiles. Between 4% and 9% of all textile products on the EU market are destroyed before use.

The ESPR requires businesses to take measures that can reasonably be expected to prevent the need to destroy unsold consumer products. It also prohibits the destruction of unsold apparel and clothing accessories as well as footwear products. To ensure that this measure is applied in a proportionate manner, Article 25(5) ESPR requires the Commission to adopt a delegated act setting out derogations from this prohibition where appropriate. Such derogations might be justified for any of the following reasons:

- (a) health, hygiene and safety reasons;
- (b) damage caused to products as a result of their handling, or detected after products have been returned, which cannot be repaired in a cost-effective manner;
- (c) unfitness of products for the purpose for which they are intended, taking into account, where applicable, EU and national law and technical standards;
- (d) non-acceptance of products offered for donation;
- (e) unsuitability of products for preparing for reuse or for remanufacturing;
- (f) unsaleability of products due to infringement of intellectual property rights, including counterfeit products;
- (g) destruction being the option with the least negative environmental impacts.

Under these derogations, economic operators will be allowed to destroy unsold apparel and footwear products. Conditions for destruction are formulated in such a way that it is possible to check whether they have been met. Setting out the conditions under which businesses can

¹ OJ L, 2024/1781, 28.6.2024, ELI: <http://data.europa.eu/eli/reg/2024/1781/oj>.

derogate from this prohibition is intended to help implement the prohibition by ensuring that the prohibition applies in so far as it is needed and proportionate, thereby minimising negative effects on businesses while preventing possible loopholes to circumvent it.

The delegated act takes into account new rules on managing textile waste proposed under Directive 2008/98/EC of 19 November 2008 on waste² (Waste Framework Directive). The delegated act is also consistent with the obligation on economic operators under the ESPR to disclose information on the unsold consumer products they discard, such as information on the reasons for discarding products including, where applicable, the relevant derogation under Article 25(5) ESPR.

Legal background

The legal basis for the ESPR is Article 114 of the Treaty on the Functioning of the European Union (internal market). Article 25(5) ESPR requires the Commission to adopt a delegated act setting out derogations to the prohibition on destroying unsold consumer products listed in Annex VII to the ESPR, covering textile and leather apparel and clothing accessories as well as footwear products. The subsidiary principle is met as these derogations cannot be decided upon by individual Member States.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT AND ASSESSMENT OF IMPACTS

This delegated act builds on the recommendations by a support study that provided technical assistance on derogations as regards a prohibition on destroying unsold apparel and footwear³. This study aimed to determine the applicability of each potential derogation as well as how derogations could be specified and implemented in practical terms. To achieve these objectives, a strong emphasis was placed on stakeholder consultation.

An online survey was first conducted in June 2024 with questions on the specification, implementation and potential economic impact of each derogation. This survey gathered input from 56 respondents including trade and business associations, NGOs and Member State experts. Feedback from this consultation, along with a literature review, was used to specify in which cases each derogation could be needed and how these derogations could be used.

To validate an initial draft of the derogations, a stakeholder workshop took place in September 2024 to collect views on how each derogation should be formulated and how economic operators could implement the derogations, including how to substantiate their applicability. Subsequent in-depth interviews and written stakeholder feedback provided further specific information from the apparel and footwear sector.

The support study also provided qualitative insights into the expected economic impacts of the derogations on economic operators. While the derogations introduced under this delegated act entail a limited cost in terms of substantiating their applicability as outlined below, their overall effect is positive when compared to a situation where no derogations to the prohibition on destruction would be provided for.

The overall conclusion of the support study was that the derogations' impacts are embedded in a larger package of provisions under other legal instruments and the ESPR, particularly: i)

² OJ L 312, 22.11.2008, p. 3.

³ European Commission: Directorate-General for Environment, Ecoinnovazione, Vito, Öko-Institut e.V, Moch, K. et al., *Technical assistance on derogations for a prohibition on the destruction of unsold apparel and footwear – Final report*, Publications Office of the European Union, 2024, <https://data.europa.eu/doi/10.2779/4652493>.

Article 23 ESPR, which requires economic operators to take necessary measures that can reasonably be expected to prevent the need to destroy unsold consumer products; and ii) Article 24(1), point (a) and point (b) ESPR, which requires economic operators to disclose information on the amount of products they discard and the reasons for discarding. Under this provision economic operators are already expected to keep track of the reasons for product destruction that may justify the application of derogations.

Impacts on economic operators assessed under the support study that are relevant for this delegated act primarily concern the costs of substantiating the applicability of specific types of derogations. These impacts are closely related to existing practices concerning the quality assurance of products carried by economic operators and compliance costs with respect to, inter alia: i) Regulation (EU) 2023/988 (General Product Safety Regulation); ii) Regulation (EC) 1907/2006 (REACH); iii) Regulation (EU) 2019/1020 (Market Surveillance Regulation); and iv) intellectual property rights. Alignment with these practices and frameworks ensures legal coherence and allows businesses to benefit from existing information systems, for instance, those resulting from assessments on whether a product is safe under the General Product Safety Regulation. This minimises administrative burden associated with the derogations under this delegated act.

The support study suggested that information requirements be provided per derogation on measures taken to prevent the use of such derogations in the future. This is sufficiently covered by Article 24(1), point (d) ESPR which already requires economic operators to include in their disclosure on discarded unsold consumer products information on measures taken and measures planned for the purpose of preventing the destruction of unsold consumer products.

In terms of positive impacts in the medium to long term, the support study noted that the derogations and associated substantiation and disclosure requirements may incentivise economic operators to take strengthened and improved internal quality assurance measures to minimise non-conformity of unsold products. These measures could contribute to higher production standards and product quality.

On the basis of the support study, the Commission prepared a discussion paper with preliminary proposals on each derogation. The Commission presented this paper during the first meeting of the Ecodesign Forum on 20 February 2025. Over 200 participants attended this meeting in person and online, including representatives from various sectors of industry, NGOs, academics, international partners, as well as attendees from Member States and EEA countries. Further discussion took place during the meeting of the Member State Expert Group on 21 February 2025.

Members of the Ecodesign Forum were also invited to provide comments on the discussion paper through an online EU survey. This yielded replies from 14 trade and business associations, four NGOs and seven Member States. The replies indicated general support from a majority of stakeholders for the approach taken towards the derogations but also identified points on which refinement of the derogations was considered necessary. This feedback was thoroughly examined, along with the results from the support study, in order to finalise the delegated act.

As regards destruction of products due to health, hygiene and safety reasons as indicated under Article 25(5), point (a) ESPR, over 70% of the respondents provided no or only minor comments on the proposed approach. These comments included requests for: i) further clarity on the interplay with EU product safety legislation and, ii) formulating this derogation in a manner consistent with other derogations.

As regards destruction of products due to any of the reasons listed in Article 25(5), point (b) ESPR, particularly due to damage caused to products during handling or detected after return that cannot be repaired in a cost-effective manner, over 65% of the respondents provided no or only minor comments on the proposed approach. In the comments that were provided, stakeholders asked to exclude or limit the application of cost-effectiveness considerations, arguing that this would incentivise destruction over repair, particularly of low value fast-fashion products. As cost-effectiveness is explicitly mentioned in the ESPR, it could not be removed from the derogation. However, to prevent such products from being destroyed outright on the basis of cost-effectiveness considerations, the delegated act requires that products subject to this derogation have undergone a quality assessment procedure, including, where relevant, technical tests, practical evaluations or sorting operations prioritising restocking and repairs. Such procedures are effective in preventing products returned by consumers from being destroyed, and economic operators called for these procedures to be recognised in order to substantiate the applicability of this derogation rather than to document and keep records of assessments related to individual products sent for destruction.

As regards destruction of products due to reasons listed in Article 25(5), point (c) ESPR, in particular due to the products being unfit for the purpose for which they are intended, over 60% of the respondents provided no or only minor comments on the proposed approach. The comments that were provided were primarily related to the proposal to include under this derogation the destruction of products due to non-compliance with voluntary requirements. Stakeholders argued against this derogation as the concerned products are fully compliant with Union law and expressed concerns that this could create loopholes, allowing companies to develop stricter internal policies solely to justify product destruction.

In view of these comments, the scope of this derogation has been narrowed down to voluntary standards related to chemical safety only. This is in line with the outcome of the support study, where stakeholders emphasised that recognition of voluntary chemical safety standards is needed to prevent a negative impact on the industry's self-regulation in this area. To address the concern over the possible use of this derogation for circumvention purposes, the delegated act requires that such voluntary requirements be well-established and are enforced by the economic operator.

As regards destruction of products due to reasons listed under Article 25(5), point (d) ESPR, i.e. due to non-acceptance of products offered for donation, 45% of the respondents had major comments on the proposed approach. Most respondents support the inclusion of this derogation, but many expressed concerns that it was formulated in a manner that is too strict, for instance, requiring the unsold product to be offered for donation to at least three suitable donees. However, others called for a more stringent formulation, specifically with more requirements on the conditions under which products are offered for donation and the amount of effort taken by economic operators to find a suitable donee. Based on these comments, the derogation was revised by: i) reducing the number of potential donees to whom unsold products should be offered; and ii) extending the period during which products are publicly offered for donation. In order to prevent undue negative effects on social economy entities, a derogation was added to address circumstances where these entities received unsold products as a donation and are not able to find a recipient for these products.

As regards destruction of products due to reasons listed under Article 25(5), point (e) ESPR, particularly if such products are unsuitable for preparing for reuse or remanufacturing, 45% of the respondents had major comments on the proposed approach. These included a call from various stakeholders to remove from the derogation products that include elements that conflict with commonly recognised social norms and sensitivities for which corrective measures are not technically feasible. This derogation, however, will remain to prevent

unintended negative impacts on economic operators and the requirement to take corrective measures where technically feasible should prevent this derogation from being unduly used.

As part of the considerations related to a product's unsuitability as regards its preparing for reuse or remanufacturing, to ensure consistency with the Waste Framework Directive, particularly proposed amendments related to textile waste, products made available on the market following preparation for reuse (and which subsequently cannot be sold) should no longer be covered by the prohibition of destruction. This derogation is included as a separate point.

As regards destruction of products due to reasons listed under Article 25(5), point (f) ESPR, i.e. due to infringement of intellectual property rights, including counterfeit products, 57% of the respondents expressed no or only minor comments on the proposed approach. Some respondents cautioned against including this derogation as it would allow the destruction of products that are in principle fit for use. More specifically, they did not agree including a derogation in the case of licensing agreements, stating that products subject to such agreements are neither counterfeit nor produced to infringe on intellectual property rights, and should not be allowed to be destroyed. Despite these comments, this derogation was considered necessary, as infringements of intellectual property rights as well as specific licences or contractual arrangements restricting the sale or distribution of a product may justify the destruction of unsold consumer products.

A derogation based on reasons listed under Article 25(5), point (g) ESPR, i.e. where destruction is the option with the least negative environmental impacts, is not included in the delegated act. Based on the current list of products in Annex VII to the ESPR, the support study pointed out that the reuse of these products is always the best environmental solution compared to recycling or other forms of destruction. 77% of the respondents expressed no or only minor comments on this. Recycling may still take place where products are not fit for use and are thus covered by other derogations, which aligns with the prioritisation of waste prevention and preparation for reuse under the waste hierarchy as set out in Article 4 of the Waste Framework Directive.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The empowerment to adopt delegated acts is provided in Article 25(5) of Regulation (EU) 2024/1781.

Article 1 lays down definitions applying to the delegated act.

Article 2 specifies derogations from prohibition of destruction of unsold consumer products.

Article 3 specifies evidence to be provided by economic operators to enable verification that the destruction of an unsold product is justified.

Article 4 requires economic operators to provide information on the applicable derogation to waste treatment operators.

Article 5 specifies the date of the entry into force and application of the delegated act.

COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

supplementing Regulation (EU) 2024/1781 of the European Parliament and of the Council by setting out derogations from the prohibition of destruction of unsold consumer products

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2024/1781 of the European Parliament and of the Council of 13 June 2024 establishing a framework for the setting of ecodesign requirements for sustainable products, amending Directive (EU) 2020/1828 and Regulation (EU) 2023/1542 and repealing Directive 2009/125/EC⁴, and in particular Article 25(5) thereof,

Whereas:

- (1) Article 25(1) of Regulation (EU) 2024/1781 prohibits the destruction by an economic operator of certain unsold consumer products from 19 July 2026.
- (2) In order to allow economic operators to destroy unsold consumer products where this is justified and appropriate for any of the reasons listed in Article 25(5) of Regulation (EU) 2024/1781, it is necessary to set out derogations from the prohibition of destruction of unsold consumer products listed in Annex VII to that Regulation.
- (3) Irrespective of the circumstances justifying destruction, economic operators are still able to remanufacture, refurbish or donate the relevant unsold consumer products as well as to discard them for the purpose of preparing them for reuse, in accordance with the definition of ‘destruction’ set out in Article 1(34) of Regulation (EU) 2024/1781.
- (4) The aim of Regulation (EU) 2024/1781 is to improve the environmental sustainability of products. However, the prohibition set out in Article 25(1) of that Regulation should not prevent or limit economic operators from taking the necessary action to ensure a high level of safety and to destroy unsold consumer products when they pose a danger to health or safety and when no other mitigation measures are possible.
- (5) Consumer products might also be non-compliant with Union or national law for reasons other than those related to consumer health or safety, for example for ethical reasons, such as forced labour. In such cases, destruction might be required by that law or might be an appropriate mitigation measure and should therefore be allowed.
- (6) The protection of intellectual property rights is fundamental to maintain the integrity of the internal market and to incentivise the development and commercialisation of new products and technologies. In cases where unsold consumer products are found to infringe intellectual property rights, destruction may be necessary to prevent further infringement or to comply with valid and enforceable contractual obligations, such as

⁴ OJ L, 2024/1781, 28.6.2024, ELI: <http://data.europa.eu/eli/reg/2024/1781/oj>.

licences restricting the sale or distribution of a product beyond a specific date. Some consumer products may be unsuitable for reuse or remanufacturing due to the technical unfeasibility of removing or rendering permanently inaccessible labels, logos, or product design characteristics that are necessary for respect of intellectual property rights or social values, including national, local or ethical sensitivities. In such cases, destruction should be possible where it is the most effective and proportionate solution to address such technical challenges.

- (7) It should be possible to destroy damaged products, where they have been physically damaged, contaminated, or have deteriorated, during activities and processes taking place throughout the supply chain. This would include during handling, storage, transport, retailing, or return by consumers where such products were returned on the basis of the right of withdrawal provided by Directive 2011/83/EU of the European Parliament and of the Council⁵ or, where applicable, during a longer withdrawal period provided by the trader, provided that repair is not technically feasible or cost-effective.
- (8) It should be possible to destroy products which are unfit for their intended purpose due to design or manufacturing defects that render the product non-functional. A product should be considered non-functional where it lacks essential properties reasonably expected by consumers or where the defect undermines the core purpose of the product. Destruction should only be allowed where such products cannot be repaired, refurbished or remanufactured.
- (9) In addition to mandatory rules stemming from applicable laws, some economic operators choose to apply stricter voluntary corporate policies or third-party standards. In order to foster responsible business conduct and encourage companies to go beyond minimum legal requirements, it should be possible to destroy a product which is found to be non-compliant with such policies or standards concerning chemical safety and when no other mitigation measures are possible.
- (10) Extended producer responsibility (EPR) schemes that prioritise preparation for reuse are a key policy tool supporting the Union's transition to the circular economy and ensuring that producers take responsibility for the sorting and proper management of products, including unsold consumer products, at their end-of life. They can also extend products' lifetimes, by assessing them as fit for preparation for reuse and making them available on the market. Unsold consumer products that are covered by an EPR scheme that prioritises their preparation for reuse can be handed over to such EPR schemes for sorting and proper management.
- (11) In the absence of EPR schemes, economic operators might donate unsold consumer products, for the purpose of using or reusing them, to social economy entities that, by statute or habitual practice, accept donations of the relevant consumer products. Where such an offer has been made, either directly to at least two suitable social economy entities or on an easily accessible page of the website of the economic operator for a minimum period of eight weeks, and no social economy entity has accepted the products, the products could be destroyed. Social economy entities that receive unsold

⁵ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64, ELI: <http://data.europa.eu/eli/dir/2011/83/oj>).

consumer products as a donation should be allowed to destroy these products if they cannot find recipients for them through sale, donation or other forms of transfer.

- (12) To prevent unintended negative consequences for circular business models that involve the sale of products after their preparation for reuse, it should be possible to destroy unsold consumer products that were made available on the market following operations carried out by waste treatment operators that possess a permit in accordance with Directive 2008/98/EC of the European Parliament and of the Council⁶. In accordance with that Directive, for waste to cease to be waste, a market or demand must exist for the recovered product. In the absence of such a market, it should therefore be possible to destroy the product.
- (13) To prevent abuse, to ensure that derogations applied by economic operators are justified and proportionate and to ensure that destruction remains a measure of last resort, there should be adequate verification mechanisms that are based, where relevant, on existing product quality assurance practices. To enable competent authorities to carry out appropriate checks, economic operators should for 10 years retain all relevant documentation used by the economic operators for verification.
- (14) Economic operators that are aware of circumstances determining the applicability of any of the derogations set out in this Regulation to unsold products, should provide a statement informing about the applicable derogation to the recipient waste treatment operator to support more effective sorting processes, to improve reuse and recycling rates and reduce unnecessary waste treatment costs,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) ‘social economy entity’ means a private law entity that provides goods or services and that operates in accordance with all of the following principles:
 - (a) primacy of people as well as social or environmental purpose over financial profit;
 - (b) reinvestment of all or most of any profits and surpluses in further pursuing their social or environmental purposes and carrying out activities that are in the interest of their members or users or of society at large;
 - (c) democratic or participatory governance;
- (2) ‘extended producer responsibility scheme’ means an extended producer responsibility scheme as defined in Article 3, point (21), of Directive 2008/98/EC;
- (3) ‘waste treatment operator’ means an establishment or undertaking which has obtained a permit from the competent authorities in accordance with Article 23 of Directive 2008/98/EC.

Article 2

Derogations from the prohibition of destruction of unsold consumer products

⁶ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3, ELI: <http://data.europa.eu/eli/dir/2008/98/2018-07-05>).

Unsold consumer products listed in Annex VII to Regulation (EU) 2024/1781 may, provided that the documentation referred to in Article 3 can be presented, be destroyed under any of the following circumstances:

- (a) the product is a dangerous product within the meaning of Regulation (EU) 2023/988 of the European Parliament and of the Council⁷ and destruction is the appropriate and proportionate corrective action;
- (b) the product is unfit for purpose by reason that it is non-compliant with Union or national law, for reasons other than those referred to in point (a) and destruction is required by law or is the appropriate and proportionate corrective action;
- (c) it is found that the product infringes intellectual property rights by a final judicial decision, a notification by a right holder, competent authority or an entity authorised to act on behalf of a right holder or an internal investigation carried out by the economic operator, provided that the economic operator can duly substantiate the infringement and can demonstrate that destruction is a proportionate measure;
- (d) the product is subject to a valid and enforceable licence or similar contractual requirement, according to which the sale, distribution or any other form of transfer of the product after a specified period constitutes an infringement of intellectual property rights, and that specified period has expired;
- (e) the product is unsuitable for preparing for reuse or remanufacturing because it is technically unfeasible either to remove or render permanently inaccessible labels, logos or recognisable product design characteristics that are necessary to ensure compliance with intellectual property rights, or to remove or render permanently inaccessible labels, logos and recognisable product design characteristics that are considered inappropriate or conflicting in the light of commonly recognised social norms and values;
- (f) the product can reasonably be considered unacceptable for consumer use due to damage, including physical damage, deterioration or contamination, whether it is caused by consumers or occurs unintentionally during the handling of the product by the economic operators or other actors involved in the supply chain, transport, retail or storage and repair is not technically feasible or cost-effective;
- (g) the product is unfit for the purpose for which it was intended due to design or manufacturing defects for which corrective measures, including repair, refurbishment and remanufacturing, are not technically feasible;
- (h) the product is non-compliant with applicable, well-established voluntary company policies or third-party standards related to chemical safety, and destruction is the appropriate and proportionate corrective action;

⁷ Regulation (EU) 2023/988 of the European Parliament and of the Council of 10 May 2023 on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council and Directive (EU) 2020/1828 of the European Parliament and the Council, and repealing Directive 2001/95/EC of the European Parliament and of the Council and Council Directive 87/357/EEC (OJ L135, 23.5.2023, p. 1, ELI: <http://data.europa.eu/eli/reg/2023/988/oj>).

- (i) the product was offered for donation either directly to at least two suitable social economy entities or on an easily accessible page of the website of the economic operator, for a period of at least eight weeks, and no social economy entity has accepted it, provided that the product is not covered by any extended producer responsibility scheme that prioritises preparing for reuse over other waste treatment operations;
- (j) the product was received by a social economy entity as a donation, but no recipient could be found for them through sale, donation or other forms of transfer;
- (k) the product was made available on the market after being prepared for reuse by a waste treatment operator, but no recipient could be found for them through sale, donation or other forms of transfer.

Article 3

Verification

Economic operators shall, for a period of 10 years after an unsold consumer product subject to a derogation pursuant to Article 3 has been destroyed directly or through a third party, keep, and, upon request, put at the disposal of the competent authorities, the following documentation:

- (a) for dangerous products referred to in Article 2, point (a), either of the following:
 - (i) a description of a health or safety concern that compromises compliance with the general safety requirement referred to in Article 5 of Regulation (EU) 2023/988, including an assessment of the safety of the product in accordance with Articles 6, 7 and 8 of that Regulation;
 - (ii) a test report indicating the presence in a product, part of the batch in question, of non-compliant chemicals and stating the applicable Union or national law;
- (b) for products referred to in Article 2, point (b), a self-assessment statement that indicates the type and severity of the non-compliance and the applicable Union or national law;
- (c) in the case referred to in Article 2, point (c), the final judicial decision or notification referred to in that point, or documentation of an internal investigation substantiating the infringement, accompanied by a justification that destruction is proportionate and necessary;
- (d) in the case referred to in Article 2, point (d), a licence, contract or agreement that has been concluded with the rightsholder and that explicitly specifies the restrictions on the distribution or other forms of transfer of the product after a specified period;
- (e) in the case referred to in Article 2, point (e), an inspection report or supporting documentation demonstrating that technical options for preparing the product for reuse or remanufacturing have been assessed and found to be unfeasible, including, as appropriate, visual evidence, technical analysis or expert opinions substantiating the technical unfeasibility of removing or permanently rendering inaccessible labels, logos or recognisable characteristics that are necessary for

compliance with intellectual property rights or that are considered inappropriate by reference to commonly recognised social norms and sensitivities;

- (f) in the case of a damaged product referred to in Article 2, point (f), or of a product unfit for purpose referred to in point (g) of that Article, either of the following documentation:
 - (i) evidence that the product has been subject to quality assessment procedures including visual inspection and sorting that prioritises restocking and repairs, including a description of the quality assessment procedure, standardised remediation plans for specific types of damage and a description of specific cases in which repair, refurbishment or remanufacturing are not possible for technical or cost-effectiveness considerations;
 - (ii) an inspection record, in the form of a technical test, results from applicable practical evaluations or other expert judgements, that documents the type and severity of the damage identified for the compromised items or batches and the unfeasibility of corrective measures due to technical or cost-effectiveness considerations;
- (g) in the case referred to in Article 2, point (h), reference to a well-established and applicable company policy, procedure or third-party standard with which the product is considered non-compliant and to which the economic operator publicly adheres;
- (h) in the case referred to in Article 2, point (i), evidence of the offer for donation;
- (i) in the case referred to in Article 2, point (j), documentation demonstrating that the product was received as a donation and that no recipient could be found for the product;
- (j) in the case referred to in Article 2, point (k), documentation demonstrating that the product was received from a waste treatment operator and that no recipient could be found for the product.

Article 4

Statement to waste treatment operators

Economic operators shall provide a statement on the applicable derogation to the waste treatment operator to which they deliver unsold consumer products covered by one of the derogations set out in Article 2.

Article 5

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 19 July 2026.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President
[\[...\]](#)

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