

Title: Textile Labelling Regulations IA No: BIS 0155 Lead department or agency: BIS Other departments or agencies: N/A	Impact Assessment (IA)		
	Date: 06/03/2012		
	Stage: Final		
	Source of intervention: EU		
	Type of measure: Secondary legislation		
Contact for enquiries: Helen Purnell (x3167)			
Summary: Intervention and Options			RPC Opinion: RPC Opinion Status

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£1.5m	£155k	NA	No
			NA

What is the problem under consideration? Why is government intervention necessary?

New fibres must be added to the annexes of the existing textile Directive before they can be sold on the European market. This process involves a lengthy procedure at European level where businesses can be waiting several years before being able to use the new fibres. This delays the return of investment for the company that has developed the new fibre. It also postpones the benefits for companies that will develop and market products using the new fibre. Additionally, all Member States in the EU must adapt their national laws to reflect the amendments to the annex at a cost to Government. For the textile labelling regime to be effective, proportionate national enforcement powers and sanctions are necessary to ensure compliance.

What are the policy objectives and the intended effects?

- Harmonised textile labelling regime and to reduce the time taken for new fibres to come to the market.
- Ensure accurate labelling and testing of textile products to protect consumers and businesses.
- Reduce administrative costs and the time taken for approval of new fibres so that innovative products come to the market more quickly enabling quicker realisation of profits. This will in turn encourage competition and investment in textiles, boosting growth and trade in the UK and across the EU.
- Reduce burden on national Governments by removing requirements for national transposition of amendments.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0: Do nothing - Existing regulations, enforcement powers and sanctions would remain in place meaning two regimes existing simultaneously as EU Regulations automatically apply in Member States. This would result in duplicative business costs and potentially risk undermining investment, competition and productivity in the textiles sector in the UK. The UK would also be in breach of EU obligations as enforcement powers or sanctions would not apply to the new regime.

Option 1: (Preferred option): UK Regulations to repeal existing textile labelling legislation and to continue to apply enforcement powers broadly similar to the current provisions. Additional safeguards to ensure Human Rights Act 1998 (HRA) compliance and amended penalty provisions to bring the textile regime into line with the Footwear Labelling regulations.

Option 2: UK Regulations to repeal existing textile labelling legislation and to continue to apply the enforcement powers and sanctions set out in the Trade Description Act 1968 as per the current regime. Therefore, option 2 is the same as option 1 in all but the amendments relating to the HRA and the Footwear Labelling Regulations.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 10/2016

Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:		Non-traded:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible SELECT SIGNATORY: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 1

Description: Option 1: (Preferred option): UK Regulations to repeal existing textile labelling legislation and to continue to apply enforcement powers broadly similar to the current provisions. Additional safeguards (see page 11) to ensure Human Rights Act 1998 (HRA) compliance and amended penalty provisions to bring the textile regime into line with the Footwear Labelling regulations.

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £1.23m	High: £1.78m	Best Estimate: £1.5m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

Description and scale of key monetised costs by 'main affected groups'
None.

Other key non-monetised costs by 'main affected groups'

- Potential minimal cost to Government in applying new safeguards to enforcement powers.
- Minimal familiarisation costs for businesses as the new requirements largely replicate the existing ones.
- Potential minor cost to business of new 'animal origin' labelling requirements but major reduction on cost for footwear industry with removal of requirement to label warm linings of footwear.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	£140k	£1.23m
High	Optional	£170k	£1.78m
Best Estimate		£155k	£1.5m

Description and scale of key monetised benefits by 'main affected groups'

Business - quicker approval of new fibres allows earlier realisation of revenue.
- simpler application process reduces admin costs.

Government - savings from no longer having to transpose amendments to the annexes to the Regulation.

Other key non-monetised benefits by 'main affected groups'

Business: Encourages innovation and protects against unfair competition. New fibre names approved across EU at same time benefitting exporters.
Consumers: New products appear on the market quicker. Consumers can make informed purchasing decisions; e.g. avoid certain fibres for health or ethical reasons empowering them to shop with confidence and get value for money, including when shopping cross-border.
Enforcers: Retain effective enforcement powers under new Regulations.
Wider: Facilitating innovation should result in improved incentives to invest in R&D and boost competition, resulting in improved growth and trade in the UK and between EU Member States.

Key assumptions/sensitivities/risks	Discount rate (%)
NA	

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs:	No	NA
Benefits:		
Net:		

Evidence Base (for summary sheets)

Problem under consideration

1. The Commission has identified a need to simplify the associated processes for businesses to submit details of new textile fibre characteristics to the EU Commission and reduce the administrative burden on Member States of transposing technical amendments into national legislation. The new EU Regulation will replace 3 current EU Directives with a single legal instrument which will allow for the faster adoption of new textile fibre names to be used simultaneously throughout the European Union. The Commission also wanted to set out a new requirement to indicate the presence of non-textile parts of animal origin on the labelling or marking of textile products containing such parts, in order to enable consumers to make informed choices.
2. Under the existing legislative regime new textile fibres must be added to the annexes of the existing textile Directive before they can be sold on the European market. This process involves the lengthy procedure of amending the directive at European level before businesses are able to use the new fibres. This delays the return on investment for the company that has developed the new fibre, which in the long term is likely to have a negative effect on the incentives to invest in the area. It also postpones the benefits for companies that will develop and market products using the new fibre. Additionally, all Member States in the EU must in turn adapt their national laws to reflect any amendments to the annex at a cost to Government.
3. The number of requests for new fibre names to be added to EU legislation has increased in recent years and this trend is expected to continue as the European textile sector evolves into a more innovative industry. Member State authorities indicated to the Commission that they expect the number of new fibres requiring names to increase, some suggesting that there could be two or three new fibre name applications per year across the whole of the EU.
4. In order to comply with its EU obligations each Member State must provide effective enforcement powers and sanctions by the date the new Regulations come into force on 8 May 2012 to enable their effective application.

Background

5. Textile labelling has the primary objective of providing transparent and accessible information to consumers, businesses and other interested groups about the content of fabric materials. The fibre composition of a product provides an indication of the quality, properties and value of that product. Furthermore, some consumers may suffer allergies to certain fibres which the labels help them to avoid. A lack of a label is likely to act as a disincentive to consumers and erode consumer confidence in this sector because they cannot test garments to find out what they are made of, or assess the reliability of the retailer. Individual traders further down the supply chain may also not be in a position to test every garment or batch of garments to assure themselves of the properties or quality of the product. Transparent and accessible information also empowers consumers to make informed choices, raising competition and aggregate productivity.
6. The objective of the textile labelling Regulations is to ensure consistency and reliability of such labels both within Member States and, importantly in this sector, across the EU. In drawing up the Regulations Member States have concluded that to ensure the proper functioning of European textiles market, and to ensure consumer protection through accurate labelling, standardisation across Member States is crucial. Without such a regime the benefits of an open and transparent single market and of confident consumers to the sector would be inhibited, and it would be easier for rogue traders to take advantage of these uncertain trading conditions.
7. Directive 2008/121/EC on textile names (recast) currently requires textile products on the European Market to be labelled with, or accompanied by, an indication of fibre content by reference to the list of recognised fibre names and agreed allowances used to calculate fibres in a product as set out in Annexes I and V of the Directive. As new fibres are developed it is necessary to amend the Directive by adding these new fibres to these lists. Directives 96/73/EC and 73/44/EEC specify the methods of analysis to be used to check whether the composition of textile products is in conformity with the information supplied on the label.

Rationale for intervention

8. The current EU legislative framework is causing unnecessary delays with businesses having to go through a lengthy approvals procedure at European level - sometimes waiting up to several years before being able to use any newly developed fibres. This results in increased costs and loss of revenue for business. The use of Directives rather than Regulations also imposes administrative costs on Governments who must ensure all technical amendments to the Annexes, like the addition of new fibre names, are transposed into national law.

9. A harmonised EU regime reduces costs for businesses exporting to other Member States and therefore brings Single Market benefits, such as reduced administrative costs, mutual understanding, and greater incentives to market the use of the new fibres across the Union. The new Regulation supports the Better Regulation agenda by consolidating and simplifying several sets of regulations and also supports BIS's innovation agenda, by enabling business to have new fibres recognised and therefore marketable across the EU to a swifter timescale.

10. As the Regulation will be directly applicable in the UK there will be no need for UK legislation to transpose the Regulation into UK law. However, UK legislation will be needed to repeal the existing UK textile labelling regulations and appropriate enforcement powers and sanctions in relation to the new Regulation will need to be maintained and in place by the coming into force date of 8 May 2012, in order to meet our EU obligations.

Policy objective:

11. The revision of the EU legislation aims to simplify and improve the existing regulatory framework, in particular to:

- I. Shorten the time from investment to return for producers/inventors of a new textile fibre and reduce the costs for businesses of applying for authorisation of a new textile fibre, thereby raising investment incentives.
- II. Allow fibre users (clothing and product manufacturers etc.) and consumers to benefit faster from the use of novel fibres and innovative products.
- III. Reduce the burden for public administrations in relation to the application process and to facilitate the legislative procedures for new fibre additions.
- IV. Ensure consumers and businesses are provided with accurate information on textile composition.
- V. Provide proportionate and effective enforcement powers and sanctions.

12. Apart from simplifying the existing framework described above, the actual provisions of the new Regulation remain largely unchanged from those of the existing regime. There are however two significant changes to requirements which would not be covered under the current UK regime, if the existing Regulations were not repealed and replaced by the new EU Regulations. The two changes are detailed below:

- I. A new requirement for a label to identify non-textile parts of animal origin present in textile products.
- II. The removal of a requirement to label the warm linings of footwear as this is no longer in scope for the textile labelling Regulations. (To note there are separate regulations for footwear: The Footwear (Indication of Composition) Labelling Regulations 1995 which implement a separate directive).

13. The new Regulations also include the following transitional provision: *textile products which comply with the current Directive 2008/121/EC and which are placed on the market before 8 May 2012 may continue to be made available on the market until 9 November 2014.*

Description of options considered:

14. All the options considered in this Impact Assessment are in relation to the Government's approach to enforcement and sanctions and not to the specifics of the legislation itself, the detail of which was negotiated

at Council working group which concluded on 25 May 2011. The costs and benefits for the EU Regulation itself are discussed separately in paragraph 15 at the start of the section on the '**Monetised and non-monetised costs and benefits of each option**'.

Option 0: Do nothing – Existing UK textile regulations would remain in place in addition to the new EU textile regulation which will come into force automatically in the UK (as in all Member States) on 8 May 2012. This type of EU legislation is harmonised across all EU countries and is directly applicable in each. The other options are assessed against this option in relation to the effects, costs and benefits. The Do Nothing option would mean that the UK would be in breach of EU obligations as no enforcement or sanction provisions would apply to the new labelling rules, and the two new changes to requirements could not be satisfactorily implemented or enforced in the UK, which would diverge from the requirements being implemented across the rest of the EU.

Option 1 (Preferred Option): UK Regulations to repeal existing textile labelling legislation and to continue to apply enforcement powers which are broadly similar to the current provisions, to the new regime but with additional safeguards built in to benefit businesses by ensuring enforcement powers are Human Rights Act 1998 (HRA) compliant. To amend the penalty provisions to bring the textile regime penalties in line with those of the Footwear Labelling Regulations 1995.

Option 2: UK Regulations to repeal existing textile labelling legislation and to continue to apply the enforcement powers and sanctions as set out in the Trade Description Act 1968 (TDA). Therefore, option 2 is the same as option 1 in all but the amendments relating to the HRA and the Footwear Labelling Regulations.

Costs / Benefits of the new EU Regulation

15. All three of the options have the following shared cost/benefits which stem from the changes derived from the EU Regulation itself:

The EU Textiles Regulation impact assessment¹ identified the following as the impediments to business of the current regulatory system. The delay between an application for a new fibre name and the time when it can legally be placed on the market may have the following three effects:

- I. Returns to business from the investment are delayed by the (additional and unnecessary) time it takes to get a new fibre approved.
- II. The delay in approval also delays revenues for the downstream firms which would employ the new fibre.
- III. The aforementioned effects on business profitability may be hampering innovation. Not repealing the existing Directives would result in two regimes running concurrently increasing confusion among the industry and lack of clarity; discouraging industry from applying to use a new fibre name as they would assume the delays that currently exist for approval would continue.

16. Under the existing regime the transposition of Directives introducing new textile names leads to costs for the UK Government. Each adaptation to technical progress of the Directives needs to be transposed into national legislation, which is a lengthy and cumbersome process. According to the previous textiles impact assessment (*Textile Products: Determination of Composition Regulations 2008*) the cost of amending the national legislation to implement the Directive was around £0.7m. In some cases an ambulatory reference can be relied on to transpose without the need for legislation, but in the past 25 years since the original Directive was implemented into UK law, 5 pieces of legislation have been required, with an average annual cost to Government of £0.14m. These are incurred whether the new name is introduced by a UK firm or not.

COSTS - Business

17. We would expect that the introduction of the regulation could result in two types of major costs for businesses (i) familiarisation costs and (ii) the costs of changing labelling to comply with the new regulation.

¹ See footnote 1

18. Regarding the familiarisation costs the majority of the new legislation has been expected by the industry for some time (the exception being the new requirement to label non-textile parts of animal origin that are present in textile products), and as such we do not foresee there being a significant costs for businesses. Regarding the labelling costs we have received views from industry experts suggesting that the impact of the new requirement is likely to be minimal. For example the UK Fashion and Textile Association (UKFT) – a major umbrella association in the textile industry in the UK and the UK representative at the European Clothing Association, stated the following:

“We do not expect the change to have any significant impact on the industry. The current requirement to have detailed fibre content labelling should mean that the inclusion of a small amount of extra information in what will be a small amount of garments will have little impact”

BENEFITS – Business:

Simplifying the submission process

19. There will be a benefit gained from changing the nature of how businesses submit details of new textile fibre characteristics to the EU Commission. In their Impact Assessment the EC estimated that the anticipated time saving of between 3 to 12 months resulting from this new legislation could save between £33k-£260k (37.5k- 300k Euros)² per application (see [EC Textiles regulation impact assessment](#) paragraph 5.3.4). Assuming one application for a new fibre name per year, this has a Net Present Value of between £280k-£2.2m for the EU 27. The UK textile industry accounts for 10% of the total EU industry so this would create a saving with an NPV of between £28k-£220k for UK businesses over the 10 years after amendment of the regulations.

20. The new Regulations have seen the removal from scope of the warm linings of footwear. These no longer need to be labelled as textile products. The beneficial impact of this change has been qualified by SATRA Technology Centre³ - a leading authority on international legislation and testing, and the technical aspects of a wide range of products including textiles and clothing. They have confirmed that this will have a “*major impact*” on their members based on numbers of enquiries and information requests they have received in the past on the labelling requirements for footwear, we asked SATRA to quantify this impact but they were not able to provide figures or data to support this as it was impractical for them to do so.

BENEFITS – Wider

21. The central premise of these proposals is the simplification of the existing textile labelling system, so that innovation and investment into research and development are incentivised. These results stem from the fact that a simpler, quicker and less costly application system, improves the incentives for firms to invest in textile development. This in turn should boost competition between textile manufacturers. The overall effect on trade between EU countries and trade partners, and as a result of the effects on R&D, on growth, should be significant and positive. An innovative textiles sector will benefit textile firms, resulting in a competitive offering from UK and EU firms.

Monetised and non-monetised costs and benefits of options under consideration (including administrative burden);

OPTION 0: DO NOTHING

22. This option would mean existing UK textile regulations remain in place in addition to the new EU textile regulation which will come into force automatically in the UK (as in all Member States) on 8 May 2012. In Doing Nothing the UK would be in breach of its EU obligations as no enforcement or sanction provisions would apply to the new labelling rules.

COSTS – Business

² Average exchange rate between 12/11/10-11/11/11 from Oanda.com. These are used for this and the conversions that follow.

³ Research and product testing

23. If the existing Regulations were not repealed there would be two regulatory regimes running concurrently. In effect, neither regime would be enforceable within the UK. This would lead to unnecessary confusion and complexity both for the industry and enforcement bodies due to lack of clarity around which legislation applies to specific instances. The mistaken application of current regulatory processes could see continued delays for the recognition of new textile fibres and benefits to business. The current problems within the textile industry of long delays before new textile fibres can be used and the associated costs to business would continue to exist if businesses were not aware that the UK regulations had been replaced at EU level.

COSTS – Government

24. The Do Nothing option would mean there would be no enforcement powers or sanctions in place in the UK to cover the new EU Regulation, in particular the new requirement to label non-textile parts of animal origin present in textile products. The UK would fail therefore, to comply with its EU obligation to provide appropriate sanctions and enforcement powers for the new Regulation which is required by all Member States by the date it comes into force (8 May 2012). The UK would risk costly infraction proceedings for deviating from EU law by not complying with its EU obligations in relation to the provisions of the new Regulation.

OTHER IMPACTS- Consumers

25. A lack of clarity may discourage the development and adoption of new fibres, which would also ultimately harm consumer interests by reducing choice and access to any technical benefits of goods utilising newly developed fibres.

OPTION 1 (Preferred Option)

26. This option would put in place UK Regulations to repeal existing textile labelling legislation and will continue to apply enforcement powers which are broadly similar to the current provisions, but with additional safeguards⁴ built in to benefit businesses by ensuring enforcement powers are Human Rights Act 1998 (HRA) compliant. Also to amend the penalty provisions to bring the textile regime penalties in line with those of the Footwear Labelling Regulations 1995 (by removing the possibility of imprisonment for offences).

27. Option 1 is the preferred option because it builds in additional safeguards to protect the rights and civil liberties of businesses and individuals in line with recent Government policies. The Coalition Agreement states:

“We will be strong in defence of freedom. The Government believes that the British state has become too authoritarian, and that over the past decade it has abused and eroded fundamental human freedoms and historic civil liberties. We need to restore the rights of individuals in the face of encroaching state power, in keeping with Britain’s tradition of freedom and fairness.”

28. Unlike Option 0 only the new EU regulatory regime would be in place and the confusion, complexity and lack of clarity as to which legislation would apply as in Option 0 would be avoided.

BENEFITS – Business

Benefit of earlier adoption of generic fibre names

29. Generic fibre names can cover a range of products which have a common chemical element. They are usually produced on an industrial scale and are of commercial significance; examples of generic fibres are acrylic and polyester.

30. The EC in its textiles impact assessment identified the main benefit to industry of having a new textile name as being its marketing value. These are the additional revenues to industry from wider adoption of the fibre or its employment in niche or specialist areas. Given the uncertainties around the

⁴ For example the risk of legal seizing of goods by enforcement authorities. See page 11.

launch of a new generic fibre, the EC assumed that annual benefits per fibre per year ranged between £87k-£1.7m (100k-2m Euros).

31. For new fibres that are eventually registered the main effect of the Regulation would be to bring forward this revenue stream of £87k-£1.7m by one year. Assuming that the revenues for the fibre stay the same following the introduction of the new Regulation, this effectively amounts to dropping the year 10 benefits and replacing them with revenues in year 1. The Commission estimate that the benefits of bringing this revenue stream forward by one year amount to an increase in the first year revenue of £3.5k-£67k (4k-77k Euros) per fibre. Assuming a rate of introduction of one fibre per year and evaluating over a 10 year period, the NPV of the additional revenues are £30k-£575k. Note that this is a conservative estimate as it is only accounting for the shift in revenues from the first to the second year, and as such these are estimates of the running costs for the businesses during a period where they have overheads to pay, but no income. Under a scenario where the first year would be lost due to earlier loss of patent protection, this would result in business losses of £85k-£1.7m (100k-2m Euros), that is the first year revenues.

32. The next question is how much of this revenue would accrue to the UK? As assumptions for apportioning the Commission's estimated benefit from advancing cash streams, we have used the size of the UK textile sector as a proportion of EU's. Regardless of whether turnover or value-added are used as the weight, this is around 10% of the EU27 total [Eurostat indicators on Nace 17 and 18 2004]. Therefore the benefit to UK businesses is estimated at £3k-£58k over a 10 year period.

33. Whether this revenue sticks with industry or is competed away to the advantage of consumers is arguable. Current delays in the time taken to approve a new fibre and grant it a new name can result in companies realising a reduced period of patent protection and they are therefore then unable to take advantage of a patent for marketing. This would allow other firms to compete any additional profits away. For fibres where entry into the generic names list is possible though, it is likely that the benefit of bringing goods onto the market earlier accrues mainly to consumers. We have assumed that patent protection means that the additional benefits stay with businesses.

Innovation

34. In addition the Commission estimated that the reduced cost of establishing a generic name and the earlier accrual of revenues would be likely to encourage innovation. The Commission heard from Member State representatives and industry experts that the new regulation would raise the rate of introduction for new fibres. The Commission estimated that the regulation would result in annual benefits ranging between 10m-200m Euros. This is based on the assumption of an additional two new fibres being introduced every year.

35. We have not made assumptions about how many new fibres would be forthcoming or their value to the economy but have included the effect of innovation as an un-quantified benefit which would be likely to impact on growth through increased research and development into new fibres, as well as greater trade in the downstream sectors which employ these fibres. We have not incorporated the Commission's figures into this impact assessment, as these are based on heavy assumptions about the incremental rate of adoption of new fibres through greater innovation, as reflected by the wide estimates attached to these impacts by the Commission. While we expect the impact of the regulation on textile innovation to be significant, this impact is difficult to quantify with any certainty. This is because the rate of new fibre additions depends on many factors, not least the success rate of R&D investment into textiles.

36. Having regard to the proportionality principle in completing impact assessments, we have not sought to quantify the impact of the regulation on textile innovation, particularly noting the difficulties likely to be encountered in constructing reliable estimates of this impact.

BENEFITS – Government

Benefit to Government of not having to transpose directives

37. Under this option, new textile adoptions would no longer require national transposition into UK law. Therefore, the amendment would result in average annual Government savings of £0.14m. The net present value (NPV) of these savings over a 10 year period is circa £1.2m (discount rate of 3.5%).

Total benefits

38. Table 1 below shows how the estimated benefits to business were calculated. The two major benefits to business are in the form of administrative savings and the impact on revenue of earlier adoption of new textiles.

Table 1: Estimated business benefits arising from textile labelling proposals

Benefits	Annual EU-wide (£) ⁵		Total PV EU-wide (£) ⁵		PV of benefits accruing to UK (£)	
	Low	High	Low	High	Low	High
Application savings	32,000	260,000	280,000	2,200,000	28,000	220,000
Revenue effects	3,400	67,000	30,000	580,000	3,000	58,000
Total	35,400	327,000	310,000	2,780,000	31,000	278,000

Note: Column or row calculations may not add up due to rounding errors. Present values calculated over a 10 year period, discounting by 3.5%.

39. The benefits for the UK Government in the form of savings arising from not having to transpose the EC regulations into national legislation, amount to circa £0.14m per annum (see also paragraph 15). The present value of these savings, over a 10 year period, discounting by 3.5% annually, are £1.2m.

40. The savings from government, business processes and earlier adoption of fibres amount to circa between £1.23m-£1.78m, with our best estimate, the average, standing at circa £1.5m.

COSTS - Government

41. Government foresees a very marginal increase in costs from building in the new safeguards to the existing enforcement powers. In particular with regard to the *Requirement to give reasonable notice*. The cost increase will come from the cost of sending out letters giving notice and an increase in time (hourly rate) for the Trading Standard's Officer to make contact with a trader. Though we foresee this increase in cost to be very minimal due to low levels of enforcement activity in relation to these Regulations, we are unable to quantify this fully as specific data of this kind is not held by Trading Standards as it is not easily quantifiable. Confirmation of the expected minimal impact was supported by correspondence received from the Trading Standards Institute and Trading Standards offices in Devon and Hampshire in response to the following questions:

- I. **The current levels of enforcement activity in relation to textile labelling; and**
- II. **Whether you foresee a significant increase in the costs associated with enforcing the new additional safeguards related to:**
 - i. **Seizing of goods.**
 - ii. **Powers of entry .**

OTHER IMPACTS

42. Option 1 would see the application of enforcement powers for the existing regime with further additional safeguards (see below for these) being built in to protect the rights of traders. This approach is aligned with current Government policy to enhance civil liberties and protect citizen's rights in

⁵ Figures as taken from the EU Impact Assessment on simplification of legislation around textile labelling – <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2009:0091:FIN:EN:PDF>

compliance with the Human Rights Act 1998 (HRA). The additional safeguards to be built in are as follows:

Safeguards to be applied as taken from the Consumer Protection from Unfair Trading Regulations 2008 (CPRs):

- I. An officer seeking to exercise a power under this regulation must produce evidence of his identity and authority to a person (if there is one) who appears to the officer to be the occupier of the premises.
- II. Where an officer seizes goods or documents in exercise of a power under this regulation they may not be detained;
 - i. for a period of more than 3 months; or
 - ii. where the goods or documents are reasonably required by the enforcement authority in connection with the enforcement of these Regulations, for longer than they are so required.

New additional safeguards to be applied:

- III. *Restriction to powers of entry* – Powers of entry will not apply to premises which are wholly or mainly private dwellings. A judicial warrant will be required before officers can exercise powers of entry to these premises.
- IV. *Requirement to give reasonable notice* – to businesses before officers can exercise powers of entry, subject to specific exemptions. The exemptions include: where entry is in relation to a provision under EU law which requires inspection without notice; where the requirement has been waived by a trader; where reasonable efforts to agree an appointment have failed; where there is reasonable cause to suspect a breach of the relevant legislation; where giving notice would reasonably be supposed to defeat the purpose of the entry, e.g. evidence may be lost or destroyed; or where there is reasonable cause to suspect that there is imminent risk to public health or safety.

43. Option 1 would also see a reduction in the sanctions i.e. removing the imprisonment penalty. This brings the penalty provisions in line with the Footwear Labelling Regulations and complies with EU obligations to provide appropriate and proportionate enforcement and sanctions. We believe this alignment is proportionate and this approach is supported by case law of the ECJ that rules that; ‘the sanctions put in place by Member states should be consistent with sanctions applied in that Member State to similar provisions’ (*C 68/88 Commission v Greece (Greek Maize) [1989] ECR 2965*). We have sought views on this from stakeholders and have received wide support for this approach from Trading Standards, the Devolved Administrations and Ministry of Justice Gateway teams.

44. Only providing for financial penalties (at their existing levels) rather than potential imprisonment for breach of the labelling requirements is less burdensome for businesses and for the criminal justice system.

OPTION 2

45. This option would put in place UK Regulations to repeal existing textile labelling legislation and to apply the same enforcement powers (as set out in the Trade Description Act 1968 (TDA) to the new Regulation, whilst updating the language, though not the substance of these provisions.

COST/BENEFITS

46. Option 2 repeals the existing textile labelling legislation as under option 1, resulting in the same costs and benefits to business and Government identified above (transposition, application savings and revenue effects). Therefore the analysis which follows focuses on the differential impact of this option in relation to the additional safeguards (see above) proposed under option 1.

OTHER IMPACTS:

47. Under this option (applying the existing regime of enforcement powers and sanctions as per the TDA) there would be no additional safeguards built in to protect the rights of traders. A particular

example would be the risk of legal seizing of goods from enforcement authorities (for a period of up to three months), potentially resulting in lost revenue to the affected trader.

48. The Coalition Agreement promises to be in “*strong defence of freedom*”, promising to “... *restore the rights of individuals in the face of encroaching state power*”.⁶ Option 2 would not be aligned with current Government strategy on enhancing and protecting the Human Rights and civil liberties of citizens. Businesses would not be protected to the level required by Government in the event of the seizure of their goods or the powers to enter their premises by authorised Trading Standards Officers. This lack of protection with regards to their civil liberties would potentially have a negative effect on businesses manufacturing and trading in textile products.

Micro businesses

49. No micro business exemption would apply under any of the options. This is an EU measure and therefore the requirements on micro business exemptions do not apply. However, the regime will not apply in cases where textile products are contracted out to persons working in their own homes or to independent firms that carry out work from materials supplied to them without the property therein being transferred for consideration or where customised textile products are made up by self-employed tailors.

Rationale and evidence that justify the level of analysis used in the IA (proportionality approach);

50. The analysis used in this IA is based upon the analysis and IA undertaken by the Commission. The benefits to business and UK Government have been quantified as far as is possible. The underlying regulatory change is from the EU Textile Labelling Regulation.

Risks and assumptions;

47. Potential future impact and changes to enforcement powers possible following a review of powers across the piece currently being carried out by BIS for the Consumer Bill of Rights work.

Direct costs and benefits to business calculations (following OIOO methodology);

48. EU Measures are outside scope of OIOO methodology.

Review

49. By 30 September 2013 the Commission shall submit a report to the European Parliament and to the Council following a consultation of key stakeholders which will take into account existing related EU and international standards. It will examine potential further legislative proposals on textile labelling with a view to providing consumers with accurate, relevant, intelligible and comparable information on the characteristics of textile products.

50. Separately to this the UK will review the policy within the standard 5 year period (i.e. in October 2016).

Does implementation go beyond minimum EU requirements (goldplating?);

51. Our approach does not go beyond minimum EU requirements. We are not proposing to add to or change anything in relation to the substantive legal provisions of the EU Regulations. The sanctions and enforcement are not prescribed by the EU and as long as they are proportionate, these are for individual Member States to determine.

Wider impacts – Justice Impact Assessment

52. Attached along with clearance from MOJ.

Equality Impact Assessment

⁶ http://www.cabinetoffice.gov.uk/sites/default/files/resources/coalition_programme_for_government.pdf

53. We have assessed the equality impacts and do not consider this to be significant

Environmental:


54. In their Impact Assessment of the proposal, the European Commission have suggested that the development of new man-made fibres may bring environmental benefits if they are used to replace natural fibres whose production process raises environmental concerns (e.g. cotton).

Summary and preferred option with description of implementation plan.

55. To repeal existing textile labelling legislation which is replaced by the new EU Regulation and to apply enforcement powers broadly similar to the current provisions but with additional safeguards⁷ to ensure HRA compliance and to make the penalty provisions more proportionate to the offence by bringing the textile labelling regime penalties into line with those in the Footwear Labelling Regulations. This is the preferred option as it provides more proportionate sanctions and additional protections for business in relation to the powers of enforcers. Regulations will be made under section 2(2) ECA and come into force on the date on which the new EU labelling regime comes into effect (8 May 2012). Current guidance to business will be revised to incorporate the new requirements and minor amendments of the new Regulations.

[RPC Opinion on page 14](#)

⁷ See page 11.

 Regulatory Policy Committee	OPINION	
Impact Assessment (IA)	Textile Labelling Regulations	
Lead Department/Agency	Department for Business, Innovation and Skills	
Stage	Final	
Origin	European	
Date submitted to RPC	06/03/2012	
RPC Opinion date and reference	26/03/2012	RPC12-BIS-1296
Overall Assessment	AMBER	
<p>The IA is fit for purpose. However, the IA should present more clearly the nature of the current proposal and the additional costs and benefits of the proposed changes. It should also explain better why the benefits of the main EU regulations cannot be realised without the removal of the existing UK regulations.</p>		
<p>Identification of costs and benefits, and the impacts on small firms, public and third sector organisations, individuals and community groups and reflection of these in the choice of options</p> <p><i>Costs and benefits.</i> The proposal will remove existing UK regulations which duplicate the new EU regulations. The IA should explain more clearly why the benefits which the EU regulations are intended to deliver can only come about with the removal of UK regulations.</p> <p><i>Enforcement costs.</i> The IA discusses the additional enforcement costs of the new EU regulations. Although these costs are expected to be marginal, as confirmed during the consultation, the IA could still have benefited from attempting to quantify them. The IA says there are 'additional safeguards' built in the enforcement system 'to protect the rights and civil liberties of businesses and individuals'. The IA should explain more clearly what the specific changes being considered in the current enforcement system are.</p> <p><i>Rationale.</i> The IA should explain briefly why it is necessary to regulate the textiles industry, in particular what the benefits of a system of registration of fibres are.</p>		
<p>Have the necessary burden reductions required by One-in, One-out been identified and are they robust?</p> <p>As this proposal is of European origin, with no evidence of going beyond minimum requirements, it is out of scope of 'One-in, One-out'</p>		
Signed	Michael Gibbons, Chairman	
