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## STATUTORY INSTRUMENTS

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# 1985 No. 2043

## The Nightwear (Safety) Regulations 1985

### Citation and commencement

1. These Regulations may be cited as the Nightwear (Safety) Regulations 1985 and shall come into operation on 1st March 1987.

### Revocation

2. The Nightdresses (Safety) Regulations 1967 and the Nightdresses (Safety) Regulations (Northern Ireland) 1968 are hereby revoked.

### Interpretation

3.—(1) In these Regulations—

“adults' nightwear” means any nightwear which is not children's nightwear;

“baby's garment” means any garment which has a chest measurement not exceeding 53 centimetres and which would normally be worn only by a child under the age of 3 months;

“BS 5651” means the British Standard Specification for cleansing and wetting procedures for use in the assessment of the effect of cleansing and wetting on the flammability of textile fabrics and fabric assemblies BS 5651:1978 published by the British Standards Institution on 29th December 1978(1);

“BS 5722” means the British Standard Specification for flammability performance of fabrics and fabric assemblies used in sleepwear and dressing gowns BS 5722:1984 published by the British Standards Institution and which came into effect on 31st August 1984(2);

“chest measurement” means twice the measurement of the garment across the chest when the garment is laid out as flat as possible without distorting its natural two-dimensional shape;

“children's nightwear” means any nightwear—

- (a) which is designed for wear by and would normally be worn by a person under the age of 13 years; and
- (b) which, in the case of any item of nightwear mentioned in Schedule 1, has no measurement in excess of the relevant measurement set out in that Schedule;

“fabric assembly” means a series of fabrics (including threads and trimmings) combined at the garment manufacturing stage;

“flammability performance requirements” means the flammability performance requirements specified in clauses 3.1.1 and 3.2.1 of BS 5722;

“length” in relation to any nightwear means the full length of the garment, when measured at the back;

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(1) ISBN 0 580 10449 4.

(2) ISBN 0 580 14012 1.

“nightwear” means nightdresses, pyjamas, dressing gowns, bath robes and other garments of a like nature and use and includes babies' garments.

(2) References in these Regulations to Schedules are references to Schedules to these Regulations.

(3) For the purposes of these Regulations references in BS 5722 to “BS 5438” shall be construed as references to the British Standard Methods of test for flammability of vertically oriented textile fabrics and fabric assemblies subjected to a small igniting flame BS 5438:1976 published by the British Standards Institution on 30th November 1976, as amended on 30th April 1981(3).

### **Requirements relating to children's nightwear**

4.—(1) Children's nightwear, with the exception of pyjamas, babies' garments and cotton terry towelling bath robes, shall not be made of any fabric of a kind which after having been washed in accordance with Regulation 11 is not capable of complying with the flammability performance requirements.

(2) Pyjamas, babies' garments and cotton terry towelling bath robes (being children's nightwear) shall be labelled in accordance with the requirements of Schedule 2.

### **Compliance with flammability performance requirements**

5.—(1) Subject to paragraphs (2) and (3), nightwear shall be regarded as not being made of fabric of a kind which is capable of complying with the flammability performance requirements unless all fabric and fabric assemblies of which the nightwear is composed comply with those requirements.

(2) Where a fabric out of which nightwear is made or with which nightwear is trimmed consists wholly of fibres of a synthetic substance of a kind which on the application of heat will melt without decomposing, that fabric shall be taken as complying with the flammability performance requirements, provided that—

- (a) any fabric stitched to that fabric consists wholly of fibres made of a synthetic substance of a kind which on the application of heat will melt without decomposing; and
- (b) any thread used for the purpose of stitching is of a kind which on the application of heat will melt without decomposing.

(3) Nothing in these Regulations shall prevent the use of elastic or elastic thread for shirring.

### **Labelling of adults' nightwear**

6. Adults' nightwear shall be labelled in accordance with the requirements of Schedule 2.

### **Labelling of nightwear treated with a flame retardant chemical**

7. Nightwear which includes any fabric which has been treated with chemicals to make it safer from fire shall be labelled in accordance with the requirements of Schedule 3.

### **Prohibition of supply**

8.—(1) Subject to paragraphs (2) and (3), no person shall supply, offer to supply, agree to supply, expose for supply or possess for supply any children's or adults' nightwear in respect of which any of the requirements of these Regulations are not satisfied.

(2) Paragraph (1) does not apply in any case where the person supplying the nightwear, offering or agreeing to supply the nightwear or exposing or possessing the nightwear for supply reasonably believes that it will not be worn in the United Kingdom.

(3) Paragraph (1) does not apply to second-hand nightwear.

### **Advertisements**

**9.** Where any person publishes or causes to be published on his behalf any printed advertisement which—

- (a) contains a description of pyjamas, babies' garments, cotton terry towelling bath robes (being children's nightwear) or adults' nightwear which is sufficient to enable such nightwear to be ordered by reference only to that description; and
- (b) indicates that he is willing (with or without restrictions) to accept offers made other than by persons who attend for that purpose at his place of business and to send such nightwear to an address nominated by the person making the offer,

he shall not supply, offer to supply, agree to supply, expose for supply or possess for supply any nightwear so described in any such advertisement unless the requirements of Schedule 4 in relation to that advertisement are satisfied.

### **Test of goods by enforcement authority**

**10.** Any test of goods seized or purchased by or on behalf of an enforcement authority pursuant to Schedule 2 to the Consumer Safety Act 1978 (which relates to the enforcement of safety regulations) shall in all cases be carried out in the manner specified in BS 5722 and BS 5651 by the authority or, at the expense of the authority, by such person as may be determined by the Secretary of State.

### **Washing of nightwear prior to testing**

**11.** Before being tested for compliance with the flammability performance requirements—

- (a) any fabric treated with chemicals to make it safer from fire shall be washed using the procedure specified in clause 6.5.2 of BS 5651;
- (b) any fabric not so treated shall be washed using the same procedure, except that the requirements of clause 6.5.2.7 of BS 5651 shall not be observed.

20th December 1985

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