

**EXPLANATORY MEMORANDUM TO**  
**THE TEXTILE PRODUCTS (DETERMINATION OF COMPOSITION)**  
**REGULATIONS 2008**

**2008 No. 15**

**1.** This explanatory memorandum has been prepared by the Department for Business, Enterprise & Regulatory Reform (BERR) and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 These Regulations implement Council Directive 73/44/EEC on the approximation of laws of the Member States relating to the quantitative analysis of ternary fibre mixtures and Council Directive 96/73/EC on certain methods for the quantitative analysis of binary textile fibres as amended by Regulation (EC) No. 1882/2003 and Directives 2006/2/EC and 2007/4/EC.

**3. Matters of special interest to the Joint Committee on Statutory Instruments.**

3.1 None.

**4. Legislative Background**

4.1 Directive 96/73/EC on certain methods for quantitative analysis of binary textile fibres (“the Principal Directive”), was implemented in the UK by the Textile Products (Determination of Composition) Regulations 1976 (S.I. 1976/202) (“the 1976 Regulations”). The 1976 Regulations also implemented Directive 73/44/EEC on the approximation of laws of the Member States relating to the quantitative analysis of ternary fibre mixtures. The 1976 Regulations were revoked and replaced by the Textile Products (Determination of Composition) Regulations 2006 (“the 2006 Regulations”). The 2006 Regulations provided for uniform (i.e. standard) testing methods for sampling and analysis to be used in the EU for the purpose of determining the fibre composition of binary textile fibre mixtures and ternary fibre mixtures.

4.2 From time to time, amendments were made to the Principal Directive by adding new uniform test methods for certain binary textile mixtures to those contained in the Annexes to the Directive. Directive 2007/4/EC amends the Principal Directive, adding additional uniform test methods for a new fibre, elastolefin.

4.3 These Regulations revoke and replace the 1986 Regulations. Section 20A of the Interpretation Act 1978 has effect so that the references in these Regulations to Annex I and Annex II to the Principal Directive and to Annex I and Annex II to Directive 73/44/EEC are references to those Annexes as amended at the date of these Regulations including the amendments to Annex II to the Principal Directive made by Directive 2007/4/EC adding uniform test methods for the new generic fibre elastolefin.

4.4 Regulation 3 relies on the power in Paragraph 1A in Schedule 2 to the European Communities Act 1972 (inserted by the Legislative and Regulatory Reform Act 2006) to make an ambulatory reference to a Community instrument so that any reference in implementing legislation to a Community instrument has effect as a reference to the Community instrument as amended from time to time. The regulation provides that the references in Annex I and Annex II to Directive 96/73/EC and Annex I and Annex II to Directive 73/44/EEC are to those Annexes as amended from time to time.

4.5 A Transposition Note is attached as an annex.

## **5. Territorial Extent and Application**

5.1 The instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 Without uniform methods for sampling and analysis to be used in the European Community for the purpose of determining fibre composition there is a risk that this would create a hindrance to the proper functioning of the internal market. Directive 96/73/EC therefore aims to facilitate the better functioning of the internal market by adding new uniform test methods for newly permitted generic fibres.

7.2 It was considered that use of the power to make ambulatory references in paragraph 1A in Schedule 2 to the European Communities Act 1972 was expedient and a significant innovation in the implementation of the Principal Directive which is amended from time to time. This would mean that future amendments to the Directive and to Directive 73/44/EC would not have to be implemented by amending Regulations on each occasion to reflect technical amendments to the relevant Annexes thus saving administrative resources and costs.

7.3 The consultation on the use of the ambulatory power did not elicit any negative responses in the light of the Department's undertaking to provide an updated list of textile names of fibres on its website so that manufacturers and enforcement authorities and any other interested parties are kept informed of the current regulatory position.

7.4 It was concluded that there were no additional costs to those subject to the Regulations or those enforcing them.

7.5 An informal consultation with the British Apparel and Textile Confederation, which represents the whole of the UK apparel and textiles industry, has confirmed that this proposal will also have a negligible impact, in terms of costs and burden, on the industry.

## **8. Impact**

8.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business.

8.2 There is no impact on the public sector.

## **9. Contact**

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**TRANSPOSITION NOTE**  
**COUNCIL DIRECTIVE 96/73/EC AS AMENDED BY EUROPEAN DIRECTIVE 2007/4/EC, AND**  
**COUNCIL DIRECTIVE 73/44/EEC**

This Transposition Note shows how the Department has implemented Council Directive 96/73/EC (O.J. No. L32, 3.2.1997, p.1), as amended by Directive 2007/4/EC, (O.J. No. L28 3.2.2007, p.14) which provides for uniform methods for sampling and analysis to be used in Member States for the purpose of determining the fibre composition of *binary* textile fibre mixtures, in order to implement Council Directive 96/74/EC (O.J. No. L32 3.2.1997, p. 38) on textile names. Directive 96/74/EC requires labelling to indicate the fibre composition of textile products, with checks being carried out by analysis on the conformity of these products, with checks being carried out by analysis on the conformity of these products with indications given on the label.

This Transposition Note also shows how the Department has implemented Council Directive 73/44/EEC (O.J. No. L83, 30.3.1973 p. 1), which provides for uniform methods for sampling and analysis to be used in Member States for the purpose of determining the fibre composition of *ternary* textile fibre mixtures.

Council Directives 96/73/EC and 73/44/EEC as amended by Directive 2006/2/EC were previously implemented in the UK by the Textile Products (Determination of Composition) Regulations 2006 (S.I. No. 2006/3298).

The Regulations define Directive 73/44/EEC and Directive 96/73/EC. References to the Directives and Annexes to the Directives are references to the Directives as amended at the date of these Regulations and therefore include amendments made by Directive 2007/4/EC.

The Regulations rely on the power in paragraph 1A in Schedule 2 to the European Communities Act to make an ambulatory reference to a Community instrument to provide that references to Annex I and Annex II to Directive 96/73/EC and to Annex I and Annex II to Directive 73/44/EEC are references to those annexes as amended from time to time. This means that future amendments to those Annexes shall have effect in these Regulations without the need for further amendment.

The Department for Business, Enterprise and Regulatory Reform has lead responsibility for the implementation of Directives 96/73/EC, 2007/4/EC and 73/44/EEC. The Textile Products (Determination of Composition) Regulations 2007 do what is necessary to transpose the requirements of these Directives. The tables below show how directive 96/73/EC as amended by 2006/2EC, 2007/4/EC and 73/44/EEC, have been implemented in the UK.

**TRANSPOSITION OF DIRECTIVE 73/44/EEC ON THE APPROXIMATION OF THE LAWS OF MEMBER STATES RELATING TO THE QUANTITATIVE ANALYSIS OF TERNARY FIBRE MIXTURES**

Article	Objective	Implementing regulation	Responsibility (Secretary of State if not specified)
1	Sets out the scope of the Directive	Not necessary to transpose.	
2	Preparation of test samples and test specimens.	Regulation 5(1) implements Article 2 on the preparation for analysis of test samples and test specimens.  Regulation 5(2) defines “test sample” and “test specimen”.	
3	Sets out test methods to be used for the quantitative analysis of ternary textile fibres.	Regulation 6(3) and 5(1) implement Article 3 on the analysis of a ternary textile fibre mixture.	
4	Sets out requirements for Test Reports on the testing of ternary mixtures.	Regulation 6(3) implements Article 4 on reporting requirements for testing of ternary textile fibre mixtures.	
5 and 6	Future Amendments, Entry in force etc	Do not require implementation.	

**TRANSPOSITION OF DIRECTIVE 96/73/EC ON CERTAIN METHODS FOR THE QUANTITATIVE ANALYSIS OF BINARY TEXTILE FIBRE MIXTURES**

Article	Objective	Implementing regulation	Responsibility (Secretary of State if not specified)
1	Sets out the scope of the Directive	Not necessary to transpose.	
2	Definitions of “test sample” and “test specimen”.	Regulation 5(2) transposes Article 2.	
3	Sets out test methods to be used for the quantitative analysis of binary textile fibre mixtures	Regulations 5(1) and 6(1) transpose Article 3	
4	Sets out test methods for binary textile mixtures where there is no uniform method of analysis at Community level.	Regulation 6(2) transposes Article 4	
5	Establishes a Committee relating to Textile Names and Labelling to assist the Commission.	Does not require implementation.	
6, 7, 8 and 9	Relate to procedural and representational matters, entry in force etc.	Articles do not require implementation.	

**TRANSPOSITON NOTE**  
**DIRECTIVE 2007/4/EC AMENDING DIRECTIVE 96/73/EC ON CERTAIN METHODS FOR**  
**QUANTITATIVE ANALYSIS OF BINARY TEXTILE FIBRE MIXTURES**

Article	Objective	Implementing regulation	Responsibility (Secretary of State if not specified)
1	Amends Annex II to Directive 96/73/EC.	Regulation 2 defines Directive 96/73/EC. Article 1 transposed by Regulation 6(1).	
2, 3 and 4	Entry in force etc	Do not require implementation.	