STATUTORY INSTRUMENTS

2012 No. 1102

CONSUMER PROTECTION

The Textile Products (Labelling and Fibre Composition) Regulations 2012

Made - - - -	*17th April 2012*
Laid before Parliament	*18th April 2012*
Coming into force - -	*8th May 2012*

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to consumer protection [M1].

These Regulations make provision for a purpose mentioned in section 2(2) of that Act and it appears to the Secretary of State that it is expedient for any reference to Annex I and Annexes III to IX to Regulation (EU) No 1007/2011 of the European Parliament and of the Council of 27th September 2011 on textile fibre names and related labelling and marking of the fibre composition of textile products and repealing Council Directive 73/44/EEC and Directives 96/73/EC and 2008/121/EC of the European Parliament and of the Council [M2] to be construed as a reference to those Annexes as amended from time to time.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and by paragraph 1A of Schedule 2 to that Act [M3].

Marginal Citations

M1 S.I. 1993/2661.

M2 OJ No L272, 18.10.2011, p.1.

M3 1972 c.68. section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).

Citation and commencement U.K.

1. These Regulations may be cited as the Textile Products (Labelling and Fibre Composition) Regulations 2012 and they come into force on 8th May 2012.

Revocation and transitional provision U.K.

2.—(1) The Regulations in Schedule 1 are revoked.

(2) An offence will not be committed under regulation 5 in respect of a product which—

(a) was placed on the market in the United Kingdom before 8th May 2012,

(b) continues to be made available on the market in the United Kingdom until 9th November 2014, and

(c) complies with the Regulations listed in Schedule 1.

Interpretation U.K.

3.—(1) In these Regulations—

“"business”” includes a trade, craft or profession;

“"enforcement authority”” means a local weights and measures authority in Great Britain (within the meaning of section 69 of the Weights and Measures Act 1985 [M4]) and the Department of Enterprise, Trade and Investment in Northern Ireland;

“"EU Regulation”” means Regulation (EU) No 1007/2011 of the European Parliament and of the Council of 27th September 2011 on textile fibre names and related labelling and marking of the fibre composition of textile products and repealing Council Directive 73/44/EEC and Directives 96/73/EC and 2008/121/EC of the European Parliament and of the Council [M5] and a reference in these Regulations to Annex I and Annexes III to IX to that EU Regulation is to be construed as a reference to those Annexes as amended from time to time.

“"product”” means any textile product (defined in Article 3(1)(a) of the EU Regulation) and includes the products listed in Article 2(2) of the EU Regulation.

(2) Any expression used both in these Regulations and in the EU Regulation has the meaning that it bears in the EU Regulation.

Marginal Citations

M4 1985 c.72 section 69 was amended by paragraph 75 of Schedule 16 to the Local Government (Wales) Act 1994 (c.19) and by paragraph 144 of Schedule 13 of the Local Government etc (Scotland) Act 1994 (c.39).

M5 OJ No L272, 18.10.2011, p.1.

Market surveillance of the EU Regulation U.K.

4.—(1) An enforcement authority is a market surveillance authority for the purposes of the EU Regulation.

(2) The market surveillance checks to be carried out by a market surveillance authority, referred to in Article 18 of the EU Regulation, are to be carried out in accordance with Articles 19 and 20 and Annexes VII, VIII and IX to the EU Regulation.

Offence U.K.

5.—(1) A person who makes a product available on the market in the United Kingdom in breach of one or more of the provisions of the EU Regulation described in Schedule 2, is guilty of an offence.

(2) Paragraph 1 does not apply to—

(a) persons described in Article 2(3) of the EU Regulation (persons working in their homes, to whom products are contracted out or independent firms that carry out work from materials supplied without property being transferred for consideration),

(b) persons described in Article 2(4) of the EU Regulation (self employed tailors making up customised products).

Penalty for offences U.K.

6. A person guilty of an offence under regulation 5 is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment, to a fine.

Time limit for prosecutions U.K.

7.—(1) No proceedings for an offence under these Regulations are to be commenced after—

(a) the end of the period of three years beginning with the date of the commission of the offence; or

(b) the end of the period of one year beginning with the date of discovery of the offence by the prosecutor,

whichever is earlier.

(2) For the purpose of paragraph 1(b), a certificate signed by or on behalf of the prosecutor and stating the date on which the offence was discovered by the prosecutor is to be conclusive evidence of that fact and a certificate stating that matter and purporting to be so signed is to be treated as so signed unless the contrary is proved.

(3) Notwithstanding anything in section 127(1) of the Magistrates' Courts Act 1980 [M6] (limitation of time), an information relating to an offence under these Regulations which is triable by a magistrates' court in England and Wales may be so tried if it is laid at any time before the end of the period of twelve months beginning with the date of the commission of the offence.

(4) Notwithstanding anything in section 136 of the Criminal Procedure (Scotland) Act 1995 [M7] (time limit for certain offences) summary proceedings in Scotland for an offence under these Regulations may be commenced at any time before the end of the period of twelve months beginning with the date of the commission of the offence.

(5) For the purposes of paragraph (4) section 136(3) of the Criminal Procedure (Scotland) Act 1995 shall apply as it applies for the purposes of that subsection.

(6) Notwithstanding anything in Article 19(1) of the Magistrates' Courts (Northern Ireland) Order 1981 [M8] (time within which complaint charging offence must be made to give jurisdiction), a complaint charging an offence under these Regulations which is triable by a magistrates court in Northern Ireland may be so tried if it is made at any time before the end of the period of twelve months beginning with the date of the commission of the offence.

Marginal Citations

M6 1980 c 43.

M7 1995 c 46.

M8 S.I. 1981/1675 (N.I. 26).

Offences committed by bodies of persons U.K.

8.—(1) Where an offence under these Regulations committed by a body corporate is proved—

(a) to have been committed with the consent or connivance of an officer of the body, or

(b) to be attributable to any neglect on his part,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) In paragraph (1) a reference to an officer of a body corporate includes a reference to—

(a) a director, manager, secretary or other similar officer; and

(b) a person purporting to act as a director, manager, secretary or other similar officer.

(3) Where an offence under these Regulations committed by a Scottish partnership is proved—

(a) to have been committed with the consent or connivance of a partner, or

(b) to be attributable to any neglect on his part,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(4) In paragraph (3) a reference to a partner includes a person purporting to act as a partner.

Offence due to fault of another person U.K.

9.—(1) This regulation applies where a person ""X""—

(a) commits an offence under regulation 5, or

(b) would have committed an offence under that regulation but for the defence under regulation 10,

and the commission of the offence, or of what would have been an offence but for X being able to rely on a defence under regulation 10, is due to the act or default of some other person ""Y"".

(2) Where this regulation applies Y is guilty of the offence, subject to regulation 10.

(3) Y may be charged with and convicted of the offence by virtue of paragraph (2) whether or not proceedings are taken against X.

Due diligence defence U.K.

10.—(1) In any proceedings against a person for an offence under regulation 5 it is a defence for that person to prove—

(a) that the commission of the offence was due to—

(i) a mistake;

(ii) reliance on information supplied to him by another person;

(iii) the act or default of another person;

(iv) an accident; or

(v) another cause beyond his control; and

(b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

(2) A person shall not be entitled to rely on the defence provided by paragraph (1) by reason of the matters referred to in paragraph (ii) or (iii) of paragraph (1)(a) without leave of the court unless—

(a) he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was in his possession; and

(b) the notice is served on the prosecutor at least seven clear days before the date of the hearing.

Duty to enforce U.K.

11.—(1) It shall be the duty of every enforcement authority to enforce the EU Regulation or these Regulations.

(2) Where the enforcement authority is a local weights and measures authority the duty to enforce applies to the enforcement of the EU Regulation or these Regulations within the authority's area.

(3) Where the enforcement authority is the Department of Enterprise, Trade and Investment in Northern Ireland the duty to enforce applies to the enforcement of the EU Regulation or these Regulations within Northern Ireland.

(4) Nothing in this regulation authorises any enforcement authority to bring proceedings in Scotland for an offence.

Power to make test purchases U.K.

[F1]12. . . . . . .

Textual Amendments

F1 Regs. 12-18 revoked (1.10.2015) by The Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015 (S.I. 2015/1630), art. 1, **Sch. 2 para. 130** (with art. 8)

Power of entry and investigation, etc U.K.

[F1]13. . . . . . .

Textual Amendments

F1 Regs. 12-18 revoked (1.10.2015) by The Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015 (S.I. 2015/1630), art. 1, **Sch. 2 para. 130** (with art. 8)

Notice U.K.

[F1]14. . . . . . .

Textual Amendments

F1 Regs. 12-18 revoked (1.10.2015) by The Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015 (S.I. 2015/1630), art. 1, **Sch. 2 para. 130** (with art. 8)

Power to enter premises with a warrant U.K.

[F1]15. . . . . . .

Textual Amendments

F1 Regs. 12-18 revoked (1.10.2015) by The Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015 (S.I. 2015/1630), art. 1, **Sch. 2 para. 130** (with art. 8)

Obstruction of authorised officers U.K.

[F1]16. . . . . . .

Textual Amendments

F1 Regs. 12-18 revoked (1.10.2015) by The Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015 (S.I. 2015/1630), art. 1, **Sch. 2 para. 130** (with art. 8)

Notice of test and intended proceedings U.K.

[F1]17. . . . . . .

Textual Amendments

F1 Regs. 12-18 revoked (1.10.2015) by The Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015 (S.I. 2015/1630), art. 1, **Sch. 2 para. 130** (with art. 8)

Compensation U.K.

[F1]18. . . . . . .

Textual Amendments

F1 Regs. 12-18 revoked (1.10.2015) by The Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015 (S.I. 2015/1630), art. 1, **Sch. 2 para. 130** (with art. 8)

Crown U.K.

19.—[F2](1) . . . . . .

(2) The Crown is not criminally liable as a result of any provision of these Regulations.

(3) Paragraph (2) does not affect the application of any provision of these Regulations in relation to a person in the public service of the Crown.

Textual Amendments

F2 Reg. 19(1) omitted (1.10.2015) by virtue of The Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015 (S.I. 2015/1630), art. 1, **Sch. 2 para. 131** (with art. 8)

Review U.K.

20.—(1) Before the end of each review period, the Secretary of State must—

(a) carry out a review of regulations 1 to 19,

(b) set out the conclusions of the review in a report, and

(c) lay the report before Parliament.

[F3](2) . . . . . .

(3) The report must in particular—

(a) set out the objectives intended to be achieved by the rules on penalties applicable to infringements of the provisions of the EU Regulation established by those regulations and the measures taken to implement them,

(b) assess the extent to which those objectives are achieved, and

(c) assess whether these objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) “"Review period”” means—

(a) the period of five years beginning with the day on which regulations 1 to 19 come into force, and

(b) subject to paragraph 5, each successive period of five years.

(5) If a report under this regulation is laid before Parliament before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is laid.

Textual Amendments

F3 Reg. 20(2) omitted (31.12.2020) by virtue of The Textile Products (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1398), regs. 1, **2(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Norman Lamb
Parliamentary Under Secretary of State for Employment Relations, Consumer and Postal Affairs

Department for Business, Innovation and Skills

SCHEDULE 1 U.K.

Regulation 2(1)

Revocations

Title	***Reference***
The Textile Products (Indications of Fibre Content) Regulations 1986	S.I. 1986/26
The Textile Products (Indications of Fibre Content) (Amendment) Regulations 1988	S.I. 1988/1350
The Textile Products (Indications of Fibre Content) (Amendment) Regulations 1994	S.I. 1994/450
Textile Products (Indications of Fibre Content) (Amendment) Regulations 1998	S.I. 1998/1169
Textile Products (Indications of Fibre Content) (Amendment) Regulations 2005	S.I. 2005/1401
The Textile Products (Indications of Fibre Content) (Amendment) Regulations 2008	S.I. 2008/6
The Textile Products (Determination of Composition) Regulations 2008 Regulations 2008	S.I. 2008/15
The Textile Products (Indications of Fibre Content) (Amendment) (No 2) Regulations 2009	S.I. 2009/1034

SCHEDULE 2 U.K.

Regulation 5(1)

Provisions of EU Regulation

Provision of EU Regulation	***Description***
1. Article 4	Products shall only be made available on the market provided that they are labelled, marked or accompanied with commercial documents complying with the EU Regulation
2. Article 5	Only textile fibre names listed in Annex I to the EU Regulation shall be used for the description of fibre compositions on labels and markings
3. Article 7	Provisions relating to the use of the terms ““100%””, ““pure”” or ““all””
4. Article 8	Provisions relating to the labelling or marking of fleece wool or virgin wool products **F4** ...
5. Article 9	Provisions relating to labelling or marking of multi fibre products
6. Article 11	Provisions for the labelling of multi component products

7. Article 12	Provisions for the labelling of products containing non textile parts of animal origin
8. Article 13	Provisions for the labelling and marking of products listed in Annex IV to the EU Regulation
9. Article 14	Provisions on labelling and marking of fibre composition whenever products are made available on the market and provisions for types of labels and commercial documents supplementing or replacing labels
10. Article 15 (1) to (4)	Obligations to ensure the accuracy of label or marking and information contained therein when placing a product on the market and making a product available on the market
12. Article 16	Provisions on legibility etc of textile fibre names and fibre composition descriptions
13. Article 17	Derogations from the provisions in Articles 11, 14, 15 and 16. Annex V to the EU Regulation setting out the products for which labelling or marking is not mandatory. Annex VI to the EU Regulation describes the products for which inclusive labelling is sufficient.

Textual Amendments

F4 Words in Sch. 2 omitted (31.12.2020) by virtue of The Textile Products (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1398), regs. 1, **2(3)**; 2020 c. 1, Sch. 5 para. 1(1)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the enforcement provisions including the sanctions that will apply to Regulation (EU) No 1007/2011 of the European Parliament and of the Council of 27th September 2011 on textile fibres and related labelling and marking of the fibre composition of textile products and repealing Council Directive 73/44/EEC and Directives 96/73/EC and 2008/121/EC of the European Parliament and of the Council (“"the EU Regulation”") (OJ No L272, 18.10.2011, p.1.). The EU Regulation comes into force on 8th May 2012.

Regulation 2(1) revokes the existing Regulations on the labelling of textile products, listed in Schedule 1. The revoked Regulations had implemented the three Directives repealed by the EU Regulation. Regulation 2(2) sets out a transitional provision. There will be no offence under these Regulations in respect of textile products which were placed on the market in the United Kingdom before 8th May 2012, which continue to be made available on the market in the United Kingdom until 9th November 2012, if those products complied with the now revoked Regulations listed in Schedule 1.

Regulation 3 sets out the relevant definitions including the definition of the EU Regulation. This definition contains an ambulatory reference, so that references in these Regulations to the Annexes to the EU Regulation are references to those Annexes as amended from time to time.

Regulation 4 provides that local weights and measures authorities and the Department of Enterprise, Trade and Investment in Northern Ireland (also ""the enforcement authorities"" under these Regulations), are market surveillance authorities for the purposes of carrying out market surveillance checks on fibre composition and labelling under the EU Regulation. Those market surveillance checks are to be carried out in accordance with Articles 19 and 20 and Annexes VII, VIII and IX to the EU Regulation.
Regulation 5 makes it an offence for a person to make a relevant textile product available on the market in the United Kingdom, in breach of the provisions of the EU Regulation and regulation 6 sets out the penalties that apply. The offence will not apply to the persons referred to in Regulation 5(2).
Regulations 7 to 10 contain provisions related to the offence, including a due diligence defence in regulation 10.
Regulations 11 to 18 set out the investigation powers available to the enforcement authorities and penalties for non compliance (regulation 16).
Whilst the EU Regulation does apply to the Crown, Regulation 19 disapplies the criminal offences and investigation powers as far as concerns the Crown. Those powers and criminal offences do however apply to persons in the public service of the Crown.
Regulation 20 requires the Secretary of State to review the operation and effect of these Regulations and lay a report before Parliament within five years after they come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or amended. A further instrument would be needed to revoke the Regulations or to amend them.
The Department for Business Innovation and Skills intends to maintain up to date information on the amendments to the Annexes to the EU Regulation as they are made and come into force by publishing these on the BIS website (www.bis.gov.uk).
An impact assessment of the effect that the instrument will have on the costs to business and the voluntary sector is available from the BIS website (www.bis.gov.uk). It is also annexed to the Explanatory Memorandum which is available alongside the instrument on www.legislation.gov.uk. A copy has also been placed in the Libraries of both Houses of Parliament.

Changes to legislation:
There are currently no known outstanding effects for the The Textile Products (Labelling and Fibre Composition) Regulations 2012.