

EXPLANATORY MEMORANDUM TO
THE AEROSOL DISPENSERS (AMENDMENT) REGULATIONS 2018
2018 No. 29

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to implement the amendments made to Council Directive 75/324/EEC of the European Council of 20 May 1975 on aerosol dispensers (“the 1975 Directive”) by Commission Directive (EU) 2016/2037/EU of the European Parliament and of the Council (OJ L 314, 22.11.2016, p11) (“the 2016 amendments”).

2.2 The 2016 amendments 2016 Directive are to update existing safety requirements by increasing the maximum allowable pressure of certain aerosol dispensers. Additionally, the 2016 Directive amendments align the labelling requirements for aerosols dispensers to with the provisions in the EU Regulation on Classification, Labelling and Packaging (Regulation (EC) No 1272/2008).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 The 1975 Directive is implemented in the UK by the Aerosol Dispensers Regulations 2009 (“the 2009 Regulations”).

4.2 The 2009 Regulations have been amended in order to reflect changes made at EU level to the 1975 Directive. The 2016 amendments are the latest such changes and these regulations amend the 2009 Regulations in order to them.

5. Extent and Territorial Application

5.1 The territorial extent of this instrument is the United Kingdom.

5.2 The territorial application of this instrument is to the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

- 7.1 The 1975 Directive sets harmonised rules relating to the manufacture of aerosol dispensers. The 2016 amendments make the following changes to the 1975 Directive:-
- They increase the allowable pressure of metal aerosol dispensers with non-flammable propellants to 15 bar.
 - They align the labelling requirements in the 1975 Directive with those in Regulation (EC) No 1272/2008.
- 7.2 Recent technical progress has seen the development of aerosol dispensers with innovative, non-flammable propellants. However, the current maximum allowable pressure limits their use as it negatively affects the spray effectiveness of such aerosols over their lifetime. A higher allowed pressure, which is within the current technical capabilities of manufacturers, would improve the delivery rate and spray quality. It would also encourage a switch from flammable to non-flammable propellants, potentially improving environmental performance.
- 7.3 Aligning the labelling requirements for aerosols dispensers to the provisions in Regulation (EC) No 1272/2008 brings legal clarity.

Consolidation

- 7.4 Due to the minor nature of the amendments to the 2009 Regulations, consolidation is not considered necessary or proportionate at this time.

8. Consultation outcome

- 8.1 An industry focused consultation on the implementing proposals and the implementing draft 2018 Regulations was sent to the British Aerosols Manufacturer's Association (BAMA) and closed on 30th August 2017. Five responses were received, of which all respondents agreed that the draft 2018 Regulations were effective and proportionate.

9. Guidance

- 9.1 Guidance on the implemented changes will be made available on www.gov.uk.

10. Impact

- 10.1 The impact on business, charities or voluntary bodies is negligible. The 2018 Regulations impose no new obligations on UK business instead presenting an additional opportunity to innovate for those that wish to pursue it. The only potential regulatory burden of this change is the cost to business of familiarising themselves with the amendments, estimated by analysts to be £3,196.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses. The Government considers that the legislation is not expected to impose a disproportionate cost to small business.

12. Monitoring & review

- 12.1 The 2009 Regulations will be reviewed by the Secretary of State and the conclusions of that review will be published in a report to be published no later than 5 years after the 2018 Regulations come into force, and then at intervals of not more than 5 years.

13. Contact

- 13.1 Chris Knox at the Department for Business, Energy and Industrial Strategy
Telephone: 020 8943 7243 or email: chris.knox@beis.gov.uk can answer any queries regarding the instrument.