

**EXPLANATORY MEMORANDUM TO
THE TEXTILE PRODUCTS (LABELLING AND FIBRE COMPOSITION)
REGULATIONS 2012**

2012 No. 1102

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

- 2.1 The Textile Products (Labelling and Fibre Composition) Regulations 2012 provide enforcement powers and sanctions for breaches of Regulation (EU) 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 (“EU Regulation”). The EU Regulation comes into force on 8th May 2012.

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

- 3.1 In laying the Regulations the 21-day rule mentioned in section 4.13 of Statutory Instrument Practice will not be complied with. This is necessary to ensure that the Regulations come into force on 8th May 2012 – the date the EU Regulation comes into force across the EU. The Regulations were ready to be laid on 17th April (in compliance with the 21-day rule) but the earlier closure of the Printed Paper Office because of recess resulted in the Department being unable to lay the instrument on 17 April. The Department very much regrets that the 21-day rule wasn’t observed on this occasion.

4. **Legislative Context**

- 4.1 The EU Regulation is directly applicable in all Member States so it does not require transposition into UK law. However we are under an obligation to provide for sanctions and enforcement powers that are proportionate, effective and dissuasive. The EU Regulation revokes three EU Directives which had been the basis for the old textile labelling regime. We will therefore be revoking eight Regulations which implemented that regime in the United Kingdom.
- 4.2 The previous EU textile labelling regime was enforced in the UK through the investigatory powers in the Trade Descriptions Act 1968 (“TDA”). We have replicated those investigatory powers in our Regulations, though we have updated them in a number of ways. In particular, we have updated the language of the TDA and adopted the language that was used in the Consumer Protection from Unfair Trading Regulations 2008 (“the CPRs”). The CPRs in fact updated the powers in the TDA and are well known to the enforcement authorities in the consumer field. We have also updated the powers by including a number of provisions designed to ensure Human Rights compliance. Regulation 13(6) provides that before an officer exercises an enforcement power they must

produce evidence of their identity and authority. In addition, Regulation 13 (7) limits the time for which products or documents can be detained. There are also two further safeguards which reflect the current baseline Government policy on the protection of freedoms and civil liberties, namely the inclusion of a revised description for a dwelling and the requirement for a notice before the enforcement powers are exercised.

- 4.3 Further, the sanctions for an offence under the EU Regulation have been reviewed and reduced so that the sanction of imprisonment will no longer apply. This will mean that the sanctions are brought into line with those that apply to the similar regime for footwear labelling under the Footwear (Indication of Composition) Labelling Regulations 1995.
- 4.4 Consistent with the enforcement provisions in the previous textile regime under the TDA, the enforcement powers also create a number of criminal offences relevant to the enforcement process. For example, it is an offence to impersonate an authorised officer (regulation 13(11)), or to obstruct an enforcement officer (regulation 16). In addition, regulation 9 allows an enforcement authority to bring a prosecution against a person who has not breached the EU Regulation, but may have caused another person (who can rely on the due diligence defence), to breach the EU Regulation. As a result the enforcement powers in the UK Regulations will be needed to enforce these provisions as well as the provisions in the EU Regulation.

5. Territorial Extent and Application

- 5.1 This instrument applies to the United Kingdom.
- 5.2 The transitional provisions are set out in regulation 3 (2) of the Regulations. These state that products which complied with the old regime and which were placed on the market in the United Kingdom before 8th May 2012 will not be in breach of these Regulations and can continue to be made available on the market until 9th November 2014.

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 legal acts of the European Union on textile fibre names and related labelling and marking of fibre composition of textile products are technical in content, with detailed provisions that need to be amended regularly. Currently this is a lengthy process and Member States are required to implement these amendments into national law. The UK had taken the step of ensuring technical amendments to the Annexes to the Directives (which list the textile names that can be used, the products that are covered and the testing procedures that should apply) could be made through ambulatory references. However, the process for adopting textile fibre names was unnecessarily cumbersome. It was therefore deemed necessary to replace the existing EU Directives with an EU Regulation to simplify the process to the benefit of businesses and national Governments.

Member States will no longer need to transpose the technical amendments into national legislation and faster adoption of new textile fibre names to be used simultaneously throughout the Union, will benefit business. Businesses will continue to benefit from EU-wide harmonised labelling requirements.

- 7.2 The requirements for the labelling of textiles will remain largely similar to those under the existing legislation but with an additional requirement to label non-textile parts of animal origin. Further, the labelling of textile parts of footwear will no longer be in scope as these are covered by the Footwear (Indication of Composition) Labelling Regulations 1995).

- ***Consolidation***

- 7.3 Not applicable.

8. Consultation outcome

- 8.1 Although there was no requirement to carry out a formal public consultation as the changes are largely technical and do not amount to significant change, an informal consultation with interested stakeholders during the EU negotiations and prior to adoption of the proposal was carried out. This was in addition to later seeking the views of industry, enforcement agencies and the devolved administrations, on the proposed approach to enforcement and sanctions.

9. Guidance

- 9.1 BIS has produced guidance for business and other stakeholders on the new EU Regulation and the UK enforcement powers and sanctions. Guidance will be published as soon as possible once the Regulations have been made.

10. Impact

- 10.1 The area of textiles labelling is one of very low enforcement activity and the impact of the changes is therefore expected to be minimal. Only a small number of products will be affected by the changes to the labelling requirements and we anticipate that the current high levels of compliance will continue.
- 10.2 An Impact Assessment was produced and cleared by the Regulatory Policy Committee and is provided with this Explanatory Memorandum.

11. Regulating small business

- 11.1 This legislation applies to small businesses, however it 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 or where customised textile products are made up by self-employed tailors.
- 11.2 This type of European legislative measure is not in scope for micro-business exemptions.

12. Monitoring & review

12.1 A review of the UK Regulations will be carried out five years after they come into force and further reports will be published at intervals of not more than five years.

13. Contact

Helen Purnell at the Department for Business, Innovation and Skills (Tel: 020 7215 3167 or email: Helen.Purnell@bis.gsi.gov.uk) can answer any queries regarding this instrument.