

**EXPLANATORY MEMORANDUM TO
THE TEXTILE PRODUCTS (INDICATIONS OF FIBRE CONTENT) (AMENDMENT)
REGULATIONS 2008**

2008 No. 6

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 amend the Textile Products (Indications of Fibre Content) Regulations 1986 (“the Principal Regulations”) which implement Directive 96/74/EC of the European Parliament and of the Council on textile names (“the Principal Directive”) and set the names to be used for different types of textile fibres and fibre descriptions and the percentage allowances to apply to the anhydrous mass of each fibre when determining composition of mixtures by weight.

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

None.

4. Legislative Background

4.1 These Regulations implement Commission Directive 2007/3/EC, which amends Annexes I and II to the Principal Directive.

4.2 The Principal Directive requires all textile products on the European market to be labelled with or accompanied by an indication of fibre content by reference to recognised fibres names, which are contained in the Annexes to the Directive. It is implemented in the UK by the Textile Products (Indications of Fibre Content) Regulations 1986.

4.3 From time to time, as new fibres are developed, it is necessary to amend the Principal Directive by adding these new fibres to the lists contained in the Annexes. Directive 2007/3/EC so amends the Principal Directive adding an entry in relation to elastolefin.

4.4 These Regulations amend the Principal Regulations by inserting definitions of the Principal Directive and Annex I and Annex II to the Principal Directive.

4.5 Section 20A of the Interpretation Act 1978 has effect so that a reference to the Annexes in these Regulations is to the Annexes as amended at the date of these Regulations, including the amendments made by Directive 2007/3/EC.

4.6 In addition these Regulations use the power in paragraph 1A of Schedule 2 to the European Communities Act 1972 to make an ambulatory reference by providing in regulation 2(3) that references to Annex I and Annex II to the Principal Directive shall be to those annexes as amended from time to time. This means that future amendments to Annex I and Annex II to the Principal Directive shall have effect in the Principal Regulations without the need for further amendment of those Regulations.

4.7 A Transposition Note is attached as an annex.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 Without harmonisation of textile names and particulars within the European Community there is a risk that this would create a hindrance to the proper functioning of the internal market. Directive 96/74/EC therefore aims to facilitate the better functioning of the internal market by harmonising the names, composition and labelling of textile products.

7.2 The Directive is implemented in the UK by the Principal Regulations. Under the Regulations manufacturers, importers, traders and retailers are obliged to provide an accurate indication of the fibre content of textile products. The enforcement authorities (local authority trading standards officers) are obliged to take action where this requirement is not met.

7.3 Directive 2007/3/EC introduces a minor amendment which does not add to these obligations, nor to the processes involved in meeting them.

7.4 The addition of a new textile fibre benefits those subject to the regulations by accommodating the use in textile products of the fibre. This will therefore be to the advantage of UK firms manufacturing this product in that it will enable them to describe accurately, and in a way which is acceptable to other Member States, when marketing.

7.5 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 remove the need to make amending regulations every time the Principal Directive is amended to add another name of a textile fibre. This is considered a major saving in terms of administrative resources and costs of making a statutory instrument.

7.6 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

names of textile fibres on its website so that manufacturers and enforcement authorities and any other interested parties are kept informed of the current regulatory position.

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

7.8 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 is attached to this Memorandum.

8.2 There is no impact on the public sector.

9. Contact

David Evans
BERR/CCP1
Bay 435
1 Victoria Street
London
SW1H 0ET
Tel: 0207 215 0335
Fax: 0207 215 0357
Email: david.a.evans@berr.gsi.gov.uk

Summary: Intervention & Options

Department /Agency: Business, Enterprise and Regulatory Reform	Title: Impact Assessment of new Regulations on permitted fibre names and related test methods.
---	---

Stage: 1

Version: 3

Date: 08 January 2008

Related Publications:

Available to view or download at:

<http://www.berr.gov.uk/consultations>

Contact for enquiries: David Evans

Telephone: 020 7215 0335

What is the problem under consideration? Why is government intervention necessary?

Two EC Directives (Directive 96/73/EC, and Directive 96/74/EC) respectively require all textile products on the European market to be labelled with or accompanied by an indication of fibre content, by reference to a list of approved generic fibre names; and set out approved test methods for identification of these fibres. They have been amended by Directives 2007/3/EC and 2007/4/EC, to add a new fibre name (elastolefin) to the list, and to specify a suitable testing method. It is necessary to transpose these amending Directives into UK law.

What are the policy objectives and the intended effects?

- To implement into UK law Directives 2007/3/EC and 2007/4/EC, updating the list of permissible generic fibre names by the addition of "elastolefin" and providing an appropriate test method.
- To facilitate the better functioning of the internal market by harmonising the fibre names used in labelling of textile products

What policy options have been considered? Please justify any preferred option.

1. Do nothing.
2. Amend the UK Regulations only so far as is necessary to permit use of the new name.
3. Amend the UK Regulations so as to permit the use of the new name and to track future changes to the Directives by use of "ambulatory" references.

Option 1 is not possible and would risk infraction action by the European Commission. Option 3 is the preferred option, as it simplifies handling of any future amendments to the lists of permitted names.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

Ministerial Sign-off For Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Gareth Thomas

.....Date: 8th January 2008

Summary: Analysis & Evidence

Policy Option:	Description:
-----------------------	---------------------

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Textile and apparel makers: familiarisation with labelling requirements for new textile
	One-off (Transition)	Yrs	
	£ 60,000	1	
	Average Annual Cost (excluding one-off)		
	£ 0		Total Cost (PV) £60,000
Other key non-monetised costs by 'main affected groups'			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£ 0		
	Average Annual Benefit (excluding one-off)		
	£ 0		Total Benefit (PV) £ 0
Other key non-monetised benefits by 'main affected groups' Ability to use all permitted generic fibre names in garment labels.			

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit Range (NPV) £ -60,000	NET BENEFIT (NPV Best estimate) £
--------------------	----------------------	--	--

What is the geographic coverage of the policy/option?	UK				
On what date will the policy be implemented?	2 February 2008				
Which organisation(s) will enforce the policy?	Trading Standards				
What is the total annual cost of enforcement for these organisations?	£ 0				
Does enforcement comply with Hampton principles?	Yes				
Will implementation go beyond minimum EU requirements?	No				
What is the value of the proposed offsetting measure per year?	£ None				
What is the value of changes in greenhouse gas emissions?	£ N/A				
Will the proposal have a significant impact on competition?	No				
Annual cost (£-£) per organisation (excluding one-off)	<table style="display: inline-table; border: none;"> <tr> <td style="border: none; padding: 0 10px;">Micro</td> <td style="border: none; padding: 0 10px;">Small</td> <td style="border: none; padding: 0 10px;">Medium</td> <td style="border: none; padding: 0 10px;">Large</td> </tr> </table>	Micro	Small	Medium	Large
Micro	Small	Medium	Large		

Are any of these organisations exempt?	No	No	N/A	N/A
--	----	----	-----	-----

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of £ 0	Decrease £ 0	Net Impact	£ 0

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

Evidence Base (for summary sheets)

Risk assessment

Failure to implement Directives 2007/3/EC and 2007/4/EC would put the UK in breach of European Community legal obligations, which would mean risking infraction proceedings.

More broadly, an absence of harmonisation of textile fibre names within the European Union would harm consumer interests since there would be no common standards for fibre identification and description.

If the updating were effected through traditional amending Regulations without making use of the new power to create “ambulatory” references to Community instruments, a further set of amending regulations would be needed on each occasion that additions are agreed to the lists of permitted generic fibre names.

Business sectors affected

Textiles and apparel industries. It is estimated that around 2,190 businesses will be affected.

Benefits

The amendment made by under the proposed regulations will benefit those subject to the regulations by permitting the use of a new generic fibre name “elastolefin”. The amendment will therefore be to the advantage of UK firms manufacturing this product in that it will enable them to make use of all permitted fibre names.

Total costs

The Administrative Burdens Measurement Exercise (ABME) by Price Waterhouse Coopers estimated that compliance with current labelling regulations places a burden on approximately £700,000 annually on textiles and apparel industries. The amendment to the labelling requirement by addition of another generic fibre will not impose additional administrative burdens.

There will be some one-off transitional costs. Textile businesses will have to adapt or update their reference materials or computer files showing the list of permitted fibre names. It is estimated that these costs will be approximately £60,000.

Costs for a typical business

The ABME estimated that the annual cost of labelling for an average company is £400. Most of this is in the cost of the label itself. Therefore, as the regulation will not vary the obligation to label textiles with fibre content, the Regulation will not increase costs for a typical business. The amendment to Directive 96/74/EC is a minor technical one that industry will already well aware of. Results from previous consultations with industry on other technical amendments of this nature have concluded that the costs to all businesses in terms of costs and burden will be negligible.

Equality Impact Assessment

After initial screening as to the potential impact of these regulations on race, disability and gender equality it has been decided that there will not be a major impact upon minority groups in terms of numbers affected or the seriousness of the likely impact, or both.

Competition assessment

We have considered the competition filter test and the proposal has no significant effect on competition.

Enforcement and sanctions

The 1986 Regulations are enforced by local authority trading standards services. An offence under the Regulations is subject to the sanctions set out in the Trade Descriptions Act 1968.

CONSULTATION

Public consultation

We have sought industry views on how we intend to implement Directive 2007/3/EC and Directive 2007/4/EC from representatives of the textile industry, and they are broadly content. Conclusions from implementing previous such technical amendments of this nature have shown proposed implementing proposals to have a negligible impact, in terms of costs and burden, on the industry. Therefore we estimate no additional costs to those subject to the Regulations or to those enforcing them. We have also carried out a formal, wider public consultation which closed on 4 January 2008. No substantive responses were received.

Small Firms Impact Test

We have not consulted specific small business representatives of the textile industry on this amendment, since the amendment to the main Directive is a minor technical one that industry will already well aware of, and most businesses in the textile industry fall into the SME bracket (e.g between 0 to 249 employees). In addition, results from previous consultations with industry on other technical amendments of this nature have concluded that the costs to all businesses in terms of costs and burden will be negligible. No small business stakeholder views were received as part of the wider public consultation.

Summary and recommendation

The Textile Products (Indications of Fibre Content) (Amendment) Regulations 2007 will amend the 1986 Regulations and implement Directive 2007/3/EC by using the power in Schedule 2 of the ECA to make ambulatory references to Community instruments. The ambulatory reference will have effect as a reference to Community instrument Directive 96/74/EC Directive as amended from time to time. This means all subsequent amendments made to that Community instrument are automatically transposed. We expect the impact to industry and to enforcers as a result of the transposition of this Directive will be negligible.

However, the use of an ambulatory reference seems particularly appropriate where a Community instrument contains lists or tables of technical details which might be the subject of frequent updating or amendment. We therefore consider the 1986 Regulations to be a good candidate for the use of this power. By implementing Directive 2007/3/EC under the proposed Regulations, the amendment to the 1986 Regulations benefits those subject to those regulations by accommodating the use in textile products of the new fibre. We therefore

consider **Option 3** to be the preferred option. It is therefore recommended that Directive 2007/3/EC be implemented as set out in the proposed Regulations.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	No	No

TRANSPOSITION NOTE
DIRECTIVE 2007/3/EC, AMENDING DIRECTIVE 96/74/EC ON TEXTILE NAMES

This Transposition Note show how the Department has implemented Commission Directive 2007/3/ECC of 2 February 2007 (O.J. No. L28, 3.2.2007, p.12) amending, for the purposes of their adaptation to technical development, Annexes I and II to Council Directive 96/74/EC of the European Parliament and of the Council (O.J. No. L32, 3.2.1997, p.38) as last amended by Commission Directive 2004/34/EC (O.J. No. L98, 26.3.2004, p, 35), and Directive 2006/3/EC (O.J. No.L 5, 10.1.2006, p.14).

Council Directive 96/74/EC on textile names lays down rules governing the labelling or marking of products as regards their textile fibre content, in order to ensure that consumer interests are thereby protected. Textile products may be placed on the market within the Community only if they comply with the provisions of that Directive.

Council Directive 96/74/EC has been implemented in the UK by the Textile Products (Indications of Fibre Content) Regulations 1986 (1986/26) (the “1986 Regulations”) as last amended by the Textile Products (Indications of Fibre Content) (Amendment and Consolidation of Textile Names and Allowances) Regulations 2006 (2006/3297).

The Regulations introduce a definition for Directive 96/74/EC and for Annex I and Annex II to the Directive. References to these 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 2007/3/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 96/74/EC 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 & Regulatory Reform has lead responsibility for the implementation of Directives 96/74/EC and 2007/3/EC. These Regulations do what is necessary to implement the Directive 2007/3/EC, including making consequential changes to domestic legislation to ensure its coherence in the area to which they apply. The table shows how Directive 2006/3/EC has been implemented in the UK.

Article	Objective	Implementing regulation	Responsibility
1	Amends Directive 96/74/EC by adding the new textile fibre elastolefin and a description of that fibre to Annex I to that Directive	Regulation 2(2) inserts a definition for Directive 96/74/EC and Annex I and Annex II to the Directive.. Regulation 2(4)(a) replaces paragraph 2(1) of Schedule 1 to the 1986 Regulations, and refers to Annex I to the Directive which includes names for textile fibres and a description of fibres of	Secretary of State

		that name.	
2	Amends Directive 96/74/EC by adding the new textile fibre elastolefin and the percentage tolerance for that fibre to Annex II of that Directive.	Regulation 2(4)(b) replaces paragraph 7(3) to Schedule 1 of the 1986 Regulations, and refers to the percentage tolerance for that fibre to the lists contained in Annex II to the Directive.	Secretary of State
3	Entry into force etc	Do not require implementation	