

DEPARTMENT FOR BUSINESS
ENTERPRISE & REGULATORY REFORM

Consultation on an amendment to the Textile Products (Indications of Fibre Content) Regulations 1986 and the replacement of the Textiles Products (Determination of Composition) Regulations 2006.

OCTOBER 2007

URN 07/1488

Consultation on the implementation of European Directives 2007/3/EC and 2007/4/EC in the United Kingdom

This consultation document seeks your views on our proposals for amendment of the Textile Products (Indications of Fibre Content) Regulations 1986 and the replacement of the Textile Products (Determination of Composition) Regulations 2006 so as to implement into national law Directive 2007/3/EC amending Annexes I and II to Directive 96/74/EC on textile names, and Directive 2007/4/EC amending Annex II to Directive 96/73/EC on certain methods for the quantitative analysis of binary textile fibre mixtures. We propose to implement these changes in a way which will minimise the need for future amendments of these Regulations.

This consultation also invites views on the draft Impact Assessments for the implementation of Directives 2007/3/EC and 2007/4/EC.

The Department is seeking views on the two sets of draft regulations set out in Section 4.

Issued: 8 October 2007

Respond by: 13 weeks after publication

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1. Executive Summary

Purpose of this consultation

- 1.1 This consultation document seeks your views on how we intend to amend the Textile Products (Indications of Fibre Content) Regulations 1986 (“the 1986 Regulations”) and replace the Textile Products (Determination of Composition) Regulations 2006 (“the 2006 Regulations”) and to implement Directives 2007/3/EC and 2007/4/EC in the United Kingdom. Copies of these Directives can be accessed via the weblinks contained at Annex A in this consultation document.
- 1.2 Responses to this consultation will assist in the preparation of a full Impact Assessment for each implementation.
- 1.3 Directive 2007/3/EC amends Annexes I and II of Directive 96/74/EC of the European Parliament and of the Council of 16 December 1996 on textile names to add details for a new generic textile fibre (elastolefin).
- 1.4 Directive 2007/4/EC amends Annex II of Directive 96/73/EC of the European Parliament and of the Council of 16 December 1996 on certain methods for the quantitative analysis of binary textile fibre mixtures, with the effect of adding uniform test methods for a newly permitted generic fibre (elastolefin).
- 1.5 Both Directives requires that Member States bring into force regulations necessary to transpose its provisions by **2nd February 2008**. The Directives themselves came into force on 23 February 2007.
- 1.6 Directive 2007/3/EC will be implemented by **The Textile Products (Indications of Fibre Content) (Amendment) Regulations 2007** and Directive 2007/4/EC will be implemented by **The Textile Products (Determination of Composition) Regulations 2007**. These Regulations will be made using powers under section 2(2) of the European Communities Act 1972. In particular, they will make use of the new statutory powers under paragraph 1A of Schedule 2 to that Act inserted by the Legislative and Regulatory Reform Act 2006 (“LRRRA”) and will benefit from the new section 20A of the Interpretation Act 1978 (“IA”) introduced by section 25 of the LRRRA. These provisions allow the use of “ambulatory” references to EC legislation, that is references to the legislation as amended from time to time. The advantage of using ambulatory references is that it is not then necessary to introduce new UK regulations to implement every new amendment to the EC legislation in question.
- 1.7 The draft Regulations will amend the 1986 Regulations to provide that references in the Regulations to future amendments to Annexes I and II of Directive 96/74/EC are to be ambulatory. By virtue of section 20A of the IA, the references to Directive 96/74/EC will incorporate all amendments including those made by Directive 2007/3/EC to Annexes I and II to Directive 96/74/EC referred to above. Directive 2007/3/EC will be implemented in this way.
- 1.8 Similarly, the 2006 Regulations will be replaced by new Regulations, which will provide for references to amendments to Annexes I and II of Directive 96/73/EC and Annexes I and II of Directive 73/44/EEC to be ambulatory so that such amendments take effect as they are made and come into force from time to time. Again, by virtue of section 20A of the IA the references to Directive 96/73/EC will incorporate all amendments including that made by Directive 2007/4/EC to Annexes I and II to Directive 96/73/EC, implementing

Directive 2007/4/EC.

- 1.9 The use of ambulatory references is expedient and a significant innovation in the implementation of amending Directives which has previously been effected by making a new set of amending Regulations on each occasion, including a consolidated revised schedule of names of textile products in the case of the 1986 Regulations. It is our intention however to continue to make consolidated lists available, through our website.
- 1.10 We propose that the date that future amendments will take effect in national law will be the date the amendments to Directives 96/73/EC, 96/74/EC and 73/44/EEC are made and come into force. This enables industry to use each new name at the earliest possible date.

Your views on the draft Regulations

- 1.11 The draft regulations referred to in 1.6 are set out in section 4 of this consultation document. Views are invited from industry representative bodies, local authority trading standards departments, consumer organisations and other interested parties on all aspects of the draft Regulations. A number of specific questions you may wish to consider are set out in paragraph 1.24 below.

How to respond

- 1.12 When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make clear whom the organisation represents and, where applicable, how the views of members were assembled.
- 1.13 Responses should be submitted to - by email if possible, to:

David Evans
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1 Victoria Street
London
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An electronic version of the response form can be found at:
www.berr.gov.uk/ccp/consultations.htm. Copies sent by post should be marked "*Textile Fibres Consultation*" on the envelope.

All responses will be acknowledged.

- 1.14 This consultation will run for 13 weeks.

Closing date

- 1.15 The closing date for this consultation, by which all responses should be submitted, is **4th January 2008**

Confidentiality

- 1.16 Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA). If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.
- 1.17 In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system, or included as a general statement in your fax cover sheet, will not, of itself, be regarded as binding on the Department and will be taken to apply therefore only to information in your response for which confidentiality has been requested.
- 1.18 The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. If you have comments or complaints about the way this consultation has been conducted, these should be sent to:

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Consultation Coordinator
Better Regulation team
Department for Business, Enterprise and Regulatory Reform
1 Victoria Street
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Email: nick.cooper@berr.gsi.gov.uk

- 1.19 A copy of the Government's Code of Practice on Consultations is attached at Annex B.

Help With Queries

- 1.20 If you have questions about the issues discussed in this consultation document, please contact David Evans on ☎ 020 7215 0335.

Who we have consulted

- 1.21 A list of those organisations and individuals who have received a copy of this consultation document is provided in Chapter 6. We welcome suggestions as to any others who may be interested in this consultation.

Additional copies

- 1.22 Additional copies can be downloaded from the internet or copied without seeking permission. Hard copies can be obtained from David Evans at the address in paragraph 1.16 above.

Impact Assessments

1.23 We have produced an Impact Assessment (IA) at Chapter 3 setting out estimates of the costs and benefits of the proposals for the Textile Products (Indications of Fibre Content) (Amendment) Regulations 2007. As the Textile Products (Determination of Composition) Regulations 2007 does not impose any costs, we believe that an IA is not necessary for this regulation.

Consultation questions

1.24 The following are general questions that you may wish to consider:

- (i) Do you agree with the Department's approach to amending the 1986 Regulations and replacing the 2006 Regulations, providing for future amendments by way of ambulatory reference and implementing the technical amendments made to relevant Annexes of Directives 96/73/EC and 96/74/EC and 73/44/EEC?
- (ii) If the answer to (i) above is no, can you explain the reasons why you do not agree with this approach?
- (iii) Are you content with the proposals for publishing consolidated lists on the Department's website? If not, what other information for industry would you suggest as appropriate?
- (iv) Do you agree that amendments to the Directives should take effect in national law when they are made **and** come into force? Please explain any alternative date you would propose and why.
- (v) Do you believe that the proposals will have any adverse impacts on the textile industry, particularly testing houses and those whose trade includes the manufacture, importation or sale of textiles?
- (vi) What (if any) costs or other burdens could be associated with the introduction of the Regulations (in particular if you are a small or medium enterprise)?
- (vii) Are there any impacts or unforeseen consequences of these proposed measures? If so, can you identify?

2. Proposals

- 2.1 The main objective of introducing the proposed Regulations set out in chapter 4 is to provide that references to Annexes I and II in Directives 96/74/EC and 96/73/EC are ambulatory and to implement Commission Directive 2007/3/EC, which amends Council Directive 96/74/EC, and Directive 2007/4/EC, which amends Council Directive 96/73/EC. Copies of all the relevant Directives can be accessed via the weblinks contained in Annex A in this consultation document.

Background: EC law

- 2.2 Directive 2007/3/EC amends Annexes I and II of Council Directive 96/74/EC on generic textile fibre names. This Directive requires, among other things, all textile products to be labelled with an indication of fibre content by reference to recognised fibre names specified in its Annexes I and II. The UK transposed Directive 96/74/EC into national law in the 1986 Regulations.
- 2.3 As new fibres are developed, Directive 96/74/EC has been amended by adding new fibres to the lists contained in its Annexes. Directive 2007/3/EC makes another such amendment to permit a new generic fibre name, “elastolefin”.
- 2.4 Directive 2007/4/EC amends Annex II of Council Directive 96/73/EC on certain methods for the quantitative analysis of binary textile fibre mixtures. Directive 96/73/EC provides for uniform methods for sampling and analysis to be used in the European Union for the purpose of determining fibre composition of binary textile fibre mixtures. Directive 96/73/EC has been transposed into UK law in the 2006 Regulations.
- 2.5 As new fibres are developed, Directive 96/73/EC has been amended by adding test methods for these new fibres to the lists contained in its Annex. Directive 2007/4/EC makes another such amendment to specify an appropriate test method for a newly permitted generic fibre, “elastolefin”.

Background: UK Law

- 2.6 In order to implement Directive 2007/3/EC the UK proposes to amend the 1986 Regulations on textile fibre names. In order to implement Directive 2007/4/EC the UK proposes to replace the 2006 Regulations which specify the test methods to be used to analyse textile products comprising a binary textile mixture or a ternary textile mixture.
- 2.7 We intend to make the changes to the 1986 Regulations through **The Textile Products (Indications of Fibre Content) (Amendment) Regulations 2007**, and to replace the 2006 Regulations by **The Textile Products (Determination of Composition) Regulations 2007** the drafts of which are set out in chapter 4.

The proposed Regulations

- 2.8 The Textile Products (Indications of Fibre Content) (Amendment) Regulations 2007 will implement Directive 2007/3/EC and the Textile Products (Determination of Composition) Regulations 2007 will implement Directive 2007/4/EC. The power in paragraph 1A of Schedule 2 of the European Communities Act 1972 (ECA) inserted by the Legislative and Regulatory Reform Act 2006 (“LRRRA”) allows for making ambulatory references to Community instruments (e.g legal instruments such as Directives or Regulations) 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.

- 2.9 This means that all subsequent amendments made to the Community instrument in question will be automatically transposed when they come into force, thus allowing for future implementation of Community obligations without the need to introduce or modify a domestic regulation to do so.
- 2.10 The use of an ambulatory reference is seen as appropriate where a Community instrument contains lists or tables of technical details which might be the subject of frequent updating or amendment. We consider the 1986 Regulations and the 2006 Regulations to be good candidates for the use of this power, so avoiding the need for this legislation to have to be amended regularly in the future simply to reflect further technical amendments of this nature made to the relevant annexes of the governing Directives.
- 2.11 We are limiting the ambulatory reference to references to Annexes I and II to each of Directives 96/73/EC and 96/74/EC and 73/44/EEC. Any amendments to provisions other than Annexes I and II to each of Directives 96/73/EC and 96/74/EC and 73/44/EEC will need to be implemented by way of subordinate legislation.
- 2.12 We are further providing that the amendments have effect in domestic legislation when they have been adopted and come into force.

The Textile Products (Indications of Fibre Content) (Amendment) Regulations 2007

- 2.13 These regulations will amend the 1986 Regulations using the power under paragraph 1A of Schedule 2 to the European Communities Act 1972 to introduce definitions for Annexes I and II of Directive 96/74/EC as meaning the relevant annex as amended by amendment that have been adopted and have come into force. This means that any future amendments to Annex I and II of those Directives that come into force will have immediate effect in the 1986 Regulations.
- 2.14 We last consulted (August 2006) on the Textile Products (Indications of Fibre Content) (Amendment and Consolidation of Schedules of Textile Names and Allowances) Regulations 2006 which amended the 1986 Regulations to implement a previous technical amendment made to Directive 96/74/EC and consolidated Schedules 2 and 3 of the 1986 Regulations at the same time. The practice has been to re-produce consolidated versions of those Schedules each time details for a new fibre name are added to them.
- 2.15 The adoption of ambulatory references mean that there would be no need for new Regulations. But for convenience of reference, we intend to continue to produce consolidated lists to reflect amendments made to Annex I and II to Directive 96/74/EC, which would then be published on the BERR website.
- 2.16 We would however welcome views on any alternative means of maintaining up to date lists of permitted fibre names.
- 2.17 The reference to Directive 96/74/EC in the Regulations will be interpreted to mean the Directive as amended at the date of making these Regulations in accordance with section 20A of the IA. Thus the amendments made to Annexes I and II by Directive 2007/3/EC will be implemented in these Regulations.

The Textile Products (Determination of Composition) Regulations 2007

- 2.18 These regulations will replace the 2006 Regulations, and will include a definition of Directives 96/73/EC and 73/44/EEC which in accordance with section 20A of the IA will be interpreted to mean the Directives as amended at the date of the making of these Regulations. Thus the references to these Directives in the body of the Regulations will include the amendments made by Directive 2007/4/EC to Annex II of Directive 96/73/EC, adding uniform test methods for the new generic fibre elastolefin.
- 2.19 Moreover the amendments to regulations 4 and 5 using the power under paragraph 1A of Schedule 2 to the European Communities Act 1972 mean that any future amendments to Annexes I and II to each of Directives 96/73/EC and 73/44/EEC that are made and come into force will have immediate effect under the new Regulations.
- 2.20 When the Regulations were last revised on 13th December 2006, there was a clear preference by industry to retain the then link to a British Standard (in whatever initial form) rather than to the Directives, as industry was familiar with the Regulations referring to a British Standard as a single source for the descriptions of test methods for quantitative analysis of both binary and ternary textile fibre mixtures listed in the relevant Annexes to the Directives. The Standard also provides the industry with additional material and guidance on the test methods which, among other things, helps industry understand what it needs to do in order to comply with the Directives. However, transposition by that route was not at the time possible, as the Standard had not been revised to cover polylactide by the time of the required transposition.
- 2.21 The proposed move to transposition by ambulatory reference would rule out any future link to a British Standard. We have discussed this aspect informally with industry representatives who are content with the proposals. It is, of course, the case that the British Standard retains its practical utility for industry even if it is no longer cited in the Regulations. However, we would welcome any further views.

3. Impact Assessment

3.1 The Textile Products (Indications of Fibre Content) (Amendment) Regulations 2007

3.1 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: 2	Date: 24 September 2007
Related Publications:		

Available to view or download at:

<http://www.>

Contact for enquiries:

Telephone:

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 Preliminary 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:

.....Date:

Summary: Analysis & Evidence

Policy Option:	Description:
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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					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">One-off (Transition)</td> <td style="width: 30%; text-align: center;">Yrs</td> </tr> <tr> <td style="background-color: #ffffcc;">£ 60,000</td> <td></td> </tr> </table>			One-off (Transition)	Yrs	£ 60,000	
	One-off (Transition)			Yrs			
	£ 60,000						
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">Average Annual Cost (excluding one-off)</td> <td style="width: 30%;"></td> </tr> <tr> <td style="background-color: #ffffcc;">£</td> <td></td> </tr> </table>	Average Annual Cost (excluding one-off)		£				
Average Annual Cost (excluding one-off)							
£							
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'					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">One-off</td> <td style="width: 30%; text-align: center;">Yrs</td> </tr> <tr> <td style="background-color: #ffffcc;">£</td> <td></td> </tr> </table>			One-off	Yrs	£	
	One-off			Yrs			
	£						
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">Average Annual Benefit (excluding one-off)</td> <td style="width: 30%;"></td> </tr> <tr> <td style="background-color: #ffffcc;">£</td> <td></td> </tr> </table>	Average Annual Benefit (excluding one-off)		£				
Average Annual Benefit (excluding one-off)							
£							
Total Benefit (PV)		£					
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) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?			
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?		£	
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?		£	
What is the value of changes in greenhouse gas emissions?		£	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	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 £	Decrease of £	Net Impact	£

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,

We will, however, be seeking stakeholder views more widely on our proposed legislation through public consultation.

Equity and fairness

The proposal has no effect on issues of equity and fairness.

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. However, we intend to publicly consult stakeholders on our proposed legislation, the results of which will inform the IA process.

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,

We will, however, be seeking small business stakeholder views as part of our wider public consultation on our proposed legislation. Should any significant negative impact be identified following consultation, we will of course review our proposals and contact colleagues in the Enterprise Environment Directorate for advice in this regard.

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, should industry response during consultation show any as yet unidentified impacts or unintended consequences for those subject to the Regulations, we will of course update the IA with our revised assessment.

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

4. Draft Regulations

4.1 The Textile Products (Indications of Fibre Content) (Amendment) Regulations 2007

DRAFT STATUTORY INSTRUMENTS

2007 No. 0000

TRADE DESCRIPTIONS

The Textile Products (Indications of Fibre Content) (Amendment) Regulations 2007

<i>Made</i> - - - -	2007
<i>Laid before Parliament</i>	2007
<i>Coming into force</i> - -	2007

The Secretary of State makes these Regulations under the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(a).

The Secretary of State is a Minister designated(b) for the purposes of that Act in relation to measures relating to consumer protection.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for certain references to provisions of Community instruments to be construed as references to those provisions as amended from time to time.

Citation and commencement

1. These Regulations may be cited as the Textile Products (Indications of Fibre Content) (Amendment) Regulations 2007 and shall come into force on [—].

Amendment of the Textile Products (Indications of Fibre Content) Regulations 1986

2.—(1) The Textile Products (Indications of Fibre Content) Regulations 1986(c) are amended as follows.

(2) In regulation 4(1)—

(a) Insert after the definition of “the Act of 1968”—

““Directive 96/74/EC” means Directive 96/74/EC of the European Parliament and of the Council of 16 December 1996 on textile names(d);”;

(b) Insert after the definition of “advertisement”—

(a) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51).

(b) S.I. 1993/2661.

(c) S.I.1986/26 amended by S.I. 1988/1350, 1994/450, 1998/1169, 2005/1401, 2006/3297.

(d) OJ L 32, 3.2.1997, p.38, amended by Directive 97/37/EC (OJ L169, 27.6.1997, p.74), Directive 2004/34/EC (OJ L89, 26.3.2004, p.35), Directive 2006/3/EC (OJ L5, 10.1.2006, p.14) and the last amending instrument as at the making of these Regulations 2007/3/EC (OJ L28, 3.2.2007, p.12).

““Annex I” means Annex I (Table of Textile Fibres) to Directive 96/74/EC;

“Annex II” means Annex II (Agreed allowances used to calculate the mass of fibres contained in a textile product) to Directive 96/74/EC;”;

(c) In the definition of “textile fibre” for sub-paragraph (b)(ii) substitute—

“are produced from the substances used in the manufacture of the fibres listed in Annex I other than items numbered 1-18; and”.

(3) Insert after regulation 4(3)—

“(4) References in these Regulations to Annex I and Annex II to Directive 96/74/EC are references to those Annexes as amended from time to time.”.

(4) In Schedule 1—

(a) for paragraph 2(1) substitute—

“A name set out in the column headed “Name” in Annex I shall be used in relation to fibre of the description set out in the column headed “Fibre description” in Annex I in relation to that name interpreted where appropriate in accordance with the notes to Annex I.”;

(b) for paragraph 7(3) substitute—

“In determining the fibre percentages of a product there shall be applied to the anhydrous mass of each fibre the relevant agreed allowance set out in Annex II.”; and

(c) for paragraph 8(1)(b) substitute—

“where a supply or offer is one to which the requirements contained in paragraph (2) of regulation 5 apply and a trade mark or name of an undertaking is applied to the product which contains on its own, or as an adjective or as a root one of the names specified in Annex I, or a name which is likely to be taken for a name so specified, the trade mark or name must be immediately preceded or followed by the indication of fibre content.”.

(5) Omit schedules 2 and 3 of the Textile Products (Indications of Fibre Content) Regulations 1986.

(6) Omit regulations 2(3) and 2(4) of the Textile Products (Indications of Fibre Content) (Amendment and Consolidation of Schedules of Textile Names and Allowances) Regulations 2006(a).

Date

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Department for Business, Enterprise and Regulatory Reform

(a) S.I. 2006/3297.

EXPLANATORY NOTE

(This note is not part of the Regulations)

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 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.

Regulation 2 relies on the power in paragraph 1A in Schedule 2 of the European Communities Act 1972 to make an ambulatory reference to a Community instrument. The effect of the regulation is that the names of and references to textile fibres and allowances previously set out in Schedules 2 and 3 of the principal Regulations will be the names and allowances set out in Annex I and Annex II to Directive 96/74/EC, as those annexes are amended from time to time. This means that any future amendments to these Annexes will have immediate effect in the principal Regulations. Schedules 2 and 3 of the principal Regulations are therefore revoked.

A reference in these Regulations to Directive 96/74/EC has effect as a reference to that instrument as amended at the date these Regulations are made. Accordingly the amendments to Directive 96/74/EC made by Directive 2007/3/EC to add a new entry elastolefin to the list of names in Annex I and add the agreed tolerance for elastolefin in Annex II which came into force on 23 February 2007 are implemented by regulation 2.

In order that stakeholders are made aware of the amendments to the relevant Annexes as they are made and come into force, the Department intends to maintain up to date information on the current regulatory position on website address XXX.

An impact assessment of the effect that these Regulations will have on the costs to business is available together with a transposition note from the Consumer and Competition Policy Directorate, Department for Business, Enterprise & Regulatory Reform, 1 Victoria Street, London SW1H 0ET and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website. Copies of the impact assessment and transposition note have also been placed in the libraries of both Houses of Parliament.

4.2 The Textile Products (Determination of Composition) Regulations 2007

DRAFT STATUTORY INSTRUMENTS

2007 No. 0000

TRADE DESCRIPTIONS

The Textile Products (Determination of Composition) Regulations 2007

<i>Made</i> - - - - -	2007
<i>Laid before Parliament</i>	2007
<i>Coming into force</i> - - -	2007

The Secretary of State makes these Regulations under the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972⁽¹⁾.

The Secretary of State is a Minister designated⁽²⁾ for the purposes of that Act in relation to measures relating to consumer protection.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for certain references to provisions of Community instruments to be construed as references to those provisions as amended from time to time.

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Textile Products (Determination of Composition) Regulations 2007 and shall come into force on [—].

(2) The Textile Products (Determination of Composition) Regulations 2006⁽³⁾ are revoked.

Interpretation

2. In these Regulations—

“Directive 96/73/EC” means Directive 96/73/EC⁽⁴⁾ of the European Parliament and of the Council of 16 December 1996 on certain methods for the quantitative analysis of binary textile fibre mixtures;

“Directive 73/44/EEC” means Council Directive 73/44/EEC⁽⁵⁾ of 26 February 1973 on the approximation of the laws of the Member States relating to the quantitative analysis of ternary fibre mixtures;

“textile product” has the same meaning as in the Textile Products (Indications of Fibre Content) Regulations 1986⁽⁶⁾.

⁽¹⁾ 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51).

⁽²⁾ S.I. 1993/2661.

⁽³⁾ S.I. 2006/3298.

⁽⁴⁾ OJ L 32, 31.2.1997, p. 1 amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p.1), Directive 2006/2/EC (OJ L 5, 10.1.2006, p.10) and the last amending instrument as at the making of these Regulations Directive 2007/4/EC (OJ L 28, 3.2.2007, p.14).

⁽⁵⁾ OJ L 83, 30.3.1973, p.1.

⁽⁶⁾ S.I. 1986/26, amended by S.I. 1988/1350, 1994/450, 1998/1169, 2005/1401, 2006/3297 and [S.I. XXX

3. References in these Regulations to Annex I and Annex II to Directive 96/73/EC and Annex I and Annex II to Directive 73/44/EC are references to those Annexes as amended from time to time.

Purpose

4.—(1) These Regulations apply for the purpose of the Textile Products (Indications of Fibre Content) Regulations 1986 for determining in the course of any official test the composition of any textile product comprising a binary textile fibre mixture or a ternary textile fibre mixture.

(2) In this regulation “official test” means a test carried out by or on behalf of a person whose duty it is to enforce the Textile Products (Indications of Fibre Content) Regulations 1986.

Test sample and specimens

5.—(1) Test samples and test specimens shall be prepared for analysis in accordance with the provisions of Annex 1 to Directive 96/73/EC.

(2) In this Regulation “test samples” and “test specimens” have the same meaning as in Article 2 of Directive 96/73/EC.

Test processes

6.—(1) The analysis of a binary textile fibre mixture which is specified in Annex II to Directive 96/73/EC shall be carried out and the results calculated and expressed in accordance with that Annex.

(2) The analysis of a binary textile fibre mixture other than one for which a method of analysis is specified in Annex II to Directive 96/73/EC shall be carried out by the use of any valid method of analysis; and the test report shall set out the result obtained and, so far as is known, the degree of accuracy and the method used.

(3) The analysis of a ternary fibre mixture shall be carried out in accordance with Annex I and Annex II to Council Directive 73/44/EEC of 26 February 1973 on the approximation of the laws of the Member States relating to qualitative analysis of ternary fibre mixtures⁽⁷⁾ and the results calculated and expressed in accordance with Annex I.

Date *Name*
Job Title
Department for Business, Enterprise and Regulatory Reform

To be inserted].

⁽⁷⁾ OJ L 83, 30.3.1073, p.1.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Council Directive 96/73/EC of the European Parliament and of the Council of 16 December 1996 on certain methods for the quantitative analysis of binary textile fibres as amended by Directives 2006/2/EC and 2007/4/EC, and Council Directive 73/44/EEC on the approximation of laws of the Member States relating to the qualitative analysis of ternary fibre mixtures.

The Regulations specify that the test methods to be used to analyse textile products comprising a binary textile fibre mixture or a ternary fibre mixture are those set out in Annex I and II to Directive 96/73/EC and Directive 73/44/EC respectively. A binary textile fibre mixture is made of two fibre types and a ternary fibre mixture is made of three types. These tests are used to establish that the labelling or marking of a textile product (as required by the Textile Products (Indications of Fibre Content) Regulations 1986 (“the 1986 Regulations”) (as amended) is correct. The 1986 Regulations require that when a textile product is supplied or offered for supply in certain circumstances it shall be marked or labelled with an indication of its fibre content. Failure to comply with the requirements in the 1986 Regulations is a criminal offence.

Regulation 1 of these Regulations revokes the Textile Products (Determination of Composition) Regulations 2006.

Regulation 2 defines Directive 96/73/EC and has effect as a reference to that Directive as amended at the date these Regulations are made. Accordingly, the amendments to Annex II of Directive 96/73/EC last made by Directive 2007/4/EC to add uniform test methods for the new generic fibre elastolefin and which came into force on 23 February 2007 are implemented by regulation 2. Regulation 2 also defines Directive 73/44/EEC.

Regulation 3 relies on the power in paragraph 1A in Schedule 2 of the European Communities Act 1972 to make an ambulatory reference to a Community instrument. 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. This means that any future amendments to these Annexes will have immediate effect in these Regulations.

In order that stakeholders are made aware of the amendments to the relevant Annexes as they are made and come into force, the Department intends to maintain up to date information on the current regulatory position on website address XXX.

An impact assessment of the effect that these Regulations will have on the costs to business together with a transposition note will be available from the Consumer and Competition Policy Directorate, Department for Business, Enterprise & Regulatory Reform, 1 Victoria Street, London SW1H 0ET and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website. Copies of the impact assessment and transposition note have also been placed in the libraries of both Houses of Parliament.

6. List of Consultees

Association of Public Analysts
British Apparel and Textile Confederation
British Chambers of Commerce
British Footwear Association
British Glove Association
British Hat Guild
British Interior Textiles Association
British Leather Association
British Leather Technology Centre
British Luggage and Leather Goods Association
British Retail Consortium
British Textile Machinery Association
British Standards Institute
Carpet Foundation
Confederation of British Industry
Confederation of British Wool Textiles
Federation of Small Businesses
Forum of Private Business
General Consumer Council for Northern Ireland
Knitting Industries Federation
LACORS
Merchandise Testing laboratories UK Ltd
National Consumer Council
National Consumer Confederation
Northern Testhouse Ltd
Performance Textiles Association
Scottish Consumer Council
Small Business Service
Shirley Technologies Ltd
Skin, Hide and Leather Traders Association
Specialised Technology Resources (UK) Ltd
Textile Finishers Association
Textile Services Association
Technical Textiles Executive
Trading Standards Institute
Welsh Consumer Council

ANNEX A

Weblinks to copies of all relevant EU Directives

(i) Directive 2007/3/EC:

http://eur-lex.europa.eu/LexUriServ/site/en/oj/2007/l_028/l_02820070203en00120013.pdf

(ii) Directive 2007/4/EC:

http://eur-lex.europa.eu/LexUriServ/site/en/oj/2007/l_028/l_02820070203en00140018.pdf

(iii) Directive 96/74/EC:

http://ec.europa.eu/enterprise/textile/documents/dir1996_0074en.pdf

(iv) Directive 96/73/EC:

http://ec.europa.eu/enterprise/textile/documents/dir1996_0073en.pdf

(v) Directive 73/44/EEC:

http://ec.europa.eu/enterprise/textile/documents/dir1973_0044en.pdf

ANNEX B

The Consultation Code of Practice Criteria

2. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
3. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
4. Ensure that your consultation is clear, concise and widely accessible.
5. Give feedback regarding the responses received and how the consultation process influenced the policy.
6. Monitor your department's effectiveness at consultation, including through the use of a designated consultation coordinator.
7. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.
8. The complete code is available on the Cabinet Office's web site, address: <http://www.cabinetoffice.gov.uk/regulation/consultation/documents/pdf/code.pdf>