

**EXPLANATORY MEMORANDUM TO THE COSMETIC PRODUCTS
(SAFETY) (AMENDMENT) REGULATIONS 2004 No.2361**

1. This explanatory memorandum has been prepared by the Department of Trade & Industry and is laid before Parliament by Command of Her Majesty.

The memorandum contains information for the House of Lords Select Committee on the Merits of Statutory Instruments.

2. DESCRIPTION

2.1 These Regulations correct an error in the Cosmetic Products (Safety) Regulations 2004 (“the Principal Regulations”) which will come into force on 11th September 2004. The Principal Regulations give effect to Directive 76/768/EEC (OJ L 262, 27.7.1976 p. 169) on the approximation of the laws of the Member States relating to cosmetic products and also implement 3 recent amendments to that Directive (Council Directives 2003/15/EC (OJ L 66, 11.3.2003 p 26), 2003/80/EC (OJ L 224, 6.9.2003 p 27) and 2003/83/EC (OJ L 238 25.9.2003 p23).

2.2 Pursuant to Directives 76/768/EEC, 2003/15/EC and 2003/80/EC the Principal Regulations require manufacturers to mark certain cosmetic products with a symbol depicting an open book and/or an open jar. These symbols should appear in Schedule 9 to the Principal Regulations. However, due to a technical error, they were omitted and therefore, these amending Regulations have been made to insert the 2 symbols into that Schedule.

3. MATTERS OF SPECIAL INTEREST TO THE JOINT COMMITTEE ON STATUTORY INSTRUMENTS

3.1 The Principal Regulations will come into force on 11th September 2004 in order to meet the deadline in the Directives. In view of this, we consider it necessary to amend the Principal Regulations immediately by regulations, which will come into force on the same date. We appreciate that this will breach the 21-day rule, however in view of the need to ensure that the Principal Regulations are intelligible to users and the need to comply with implementation dates, we consider this necessary.

3.2 The symbols were omitted as a result of difficulties in using the SI template. The Principal Regulations were produced using the template in accordance with the Statutory Instrument Practice. Prior to making the regulations, the Department liaised with the Stationery Office to ensure that the template would support images of the type required for the instrument. The Department inserted the appropriate symbols into the instrument using the template software and validated it. The regulations were e-mailed to the Department’s Parliamentary Branch

for signature and for laying on 16th August. The two symbols were contained in the instrument as finalised and e-mailed by the draftsmen to Parliamentary Branch but were not present in the version received. Unfortunately, the discrepancy was not spotted until the Stationery Office informed the Department on 7th September that they were unable to locate the symbols.

- 3.4 We are currently trying to determine with the Stationery Office how this problem arose in order to ensure that it does not occur again.
- 3.5 We are also aware that there has been some delay in publishing the Principal Regulations. These Regulations were made on 17th August and were laid before Parliament on 19th August when the Department's Parliamentary Branch sent the instrument on to HMSO. On 6th September the Department learnt that the instrument had not been received by the Stationery Office and so forwarded the instrument to the Stationery Office itself.

4. LEGISLATIVE BACKGROUND

- 4.1 These Regulations are made under section 2(2) of the European Communities Act 1972.
- 4.2 The legislative background to these Regulations is the same as that for the Principal Regulations, which is set out in the Explanatory Memorandum relating to those Regulations.
- 4.4 A Transposition Note was attached to the Memorandum relating to the Principal Regulations.

5. EXTENT

Consumer safety is a reserved matter and therefore the instrument will apply to the whole of the United Kingdom.

6. EUROPEAN CONVENTION OF HUMAN RIGHTS

In the Department's view, these Regulations are compatible with the European Convention on Human Rights.

7. POLICY BACKGROUND

The policy background to these Regulations is the same as that for the Principal Regulations, which is set out in the out in the Explanatory Memorandum relating to those Regulations.

8. REGULATORY IMPACT

A Regulatory Impact Assessment (RIA) has not been prepared for these Regulations in view of the fact that they simply correct an error in the Principal Regulations for which a full RIA has been prepared. A Transposition Note has been prepared for the Principal Regulations.

9. COSTS TO THE PUBLIC

There will be no additional costs imposed on the public.

10. COSTS TO THE EXCHEQUER

No additional costs will fall to the Exchequer.

11. CONTACT

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DEPARTMENT OF TRADE AND INDUSTRY
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