

EXPLANATORY MEMORANDUM TO
THE TEXTILE PRODUCTS (INDICATIONS OF FIBRE CONTENT) (AMENDMENT)
(NO. 2) REGULATIONS 2009

2009 No. 1034

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. Purpose of the Instrument

2.1 These Regulations revoke the Textile Products (Indications of Fibre Content) (Amendment) Regulations 2009 (SI 2009/551) and amend the Textile Products (Indications of Fibre Content) Regulations 1986 (“the Principal Regulations”) which implemented Directive 96/74/EC of the European Parliament and of the Council on textile names as amended from time to time. This Directive has now been repealed and replaced by Directive 2008/121/EC of the European Parliament and of the Council on textile names (recast) and these Regulations reflect revised provisions of Directive 2008/121/EC. The Principal Regulations 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. These Regulations are made to correct a drafting error in SI 2009/551.

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

3.1 These Regulations are made to remedy the failure to cite the enabling power in paragraph 1A of Schedule 2 to the ECA 1972 in SI 2009/551 which was identified by the Committee in a letter to the Department dated 1 April 2009 but not yet reported at the date of making of these Regulations.

4. Legislative Background

4.1 These Regulations amend the Principal Regulations to reflect changes made by Directive 2008/121/EC.

4.2 This 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 Annex I to the Directive (which corresponds to Annex I of Directive 96/74/EC). Annex V sets out the percentage allowances to be applied to the anhydrous mass of each fibre when determining composition of mixtures by weight. This was previously set out in Annex II to Directive 96/74/EC.

4.3 The Principal Regulations provide that reference in the Regulations to Annex I and II of Directive 96/74/EC take effect as references to those annexes as amended from time to time. This meant that as new fibres were developed, named and authorised by

amending Directives, it would not be necessary to amend the Principal Regulations to include the new fibres.

4.4 However the repeal of Directive 96/74/EC by Directive 2008/121/EC means that the Principal Regulations should be amended to refer to the relevant annexes in Directive 2008/121/EC, i.e, Annex I and Annex V.

4.5 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

6.1 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 2008/121/EC therefore aims to continue to facilitate the better functioning of the internal market by harmonising the names, composition and labelling of textile products.

7.2 Directive 2008/121/EC essentially replicates the provisions of Directive 96/74/EC on textile names as extensively amended. In addition, it provides a power for the Commission to make future amendments by amending Annex I and V by way of the regulatory procedure.

7.3 These Regulations make the necessary amendments to the Principal Regulations to reflect the changes made by Directive 2008/121/EC which came into force on 12 February 2008.

7.4 The Department has not consolidated the Principal Regulations at this time because of Commission Proposal 6095/09 of the European Council and Parliament for a Regulation in place of Directive 2008/121/EC and Directives on quantification methods for verifying textile labelling, thereby providing a legal instrument which is directly applicable in member states. It is anticipated that the Regulation will come into force in 2010.

8. Consultation Outcome

8.1 A consultation has not been carried out in respect of these Regulations as there are no significant new provisions introduced in this recast directive.

9. Guidance

9.1 Stakeholders will be alerted to these new Regulations via BERR's website and direct correspondence with interested parties.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared in respect of these Regulations as they will have no impact on the costs to business.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 The requirements imposed under the Principle Regulations are in accordance with Directive 2008/121/EC and there is no distinction to be drawn in its application to small business.

11.3 Small businesses have not been consulted as these Regulations will have no impact on the costs to business, including small business.

12. Monitoring and review

12.1 These Regulations implement Directive 2008/121/EC which consolidates and repeals Directive 96/74/EC, the latter of which has been substantially amended over several years. As new fibres are developed it will be necessary to further amend the Directive to add new fibres to the list. However, Proposal 6095/09 of the European Council and Parliament intends to simplify this procedure by adopting a Regulation in place of the existing textile labelling Directive and Directives on quantification methods for verifying textile labelling, thereby providing a legal instrument which is directly applicable in member states. It is anticipated that the Regulation will come into force in 2010.

13. Contact

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TRANSPOSITION NOTE
DIRECTIVE 2008/121/EC, REPEALING DIRECTIVE 96/74/EC ON TEXTILE NAMES AS AMENDED

This Transposition Note shows how the Department has implemented Commission Directive 2008/121 EC of 14 January 2009 (O.J. No. L19, 23.1.2009, p.39) which repealed and recast 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), Directive 2006/3/EC (O.J. No.L 5, 10.1.2006, p.14), and Directive 2007/3/EC (O.J. No. L28,3.2.2007, p.12).

Directive 2008/121 EC repeals and replaces Directive 96/74/EC which has been extensively amended. This directive laid 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 could be placed on the market within the Community only if they complied with the provisions of the directive.

Council Directive 96/74/EC has been implemented in the UK by the Textile Products (Indications of Fibre Content) Regulations 1986 (SI 1986/26) (the “1986 Regulations”) as last amended by the Textile Products (Indications of Fibre Content) (Amendment) (No. 2) Regulations 2009. Directive 2008/121/EC is a recast of Directive 96/74/EC and maintains its provisions.

The Department for Business, Enterprise & Regulatory Reform has lead responsibility for the implementation of Directive 2008/121/EC. These Regulations do what is necessary to implement the Directive, including making consequential changes to domestic legislation to ensure its coherence in the area to which they apply. The table shows how Directive 2008/121/EC has been implemented in the UK.

Article	Objective	Implementing regulation	Responsibility (Secretary of State if not specified)
1(1)	Provides that products may be marketed only when they comply with the Directive.	5 (1)	
1(2)	Provides that Directive shall not apply to products intended for export, in transit, imported for inward processing or for use by persons working in own home.	9	
2(1)	Defines “textile products” and “textile fibres”	4(1)	
2(2)	Provides that products containing at least 80% by weight of textile fibres are included.	4(1)	
3(1)	Reference to list of names and descriptions of fibres listed in Annex 1.	4(1)	
3(2)	Reference to fibres in Annex 1 shall be reserved for fibres the nature of which is specified.	7, Schedule 1 para 1	
3(3)	Provides that none of the names may be used for any other fibre	7, Schedule 1 para 2	
3(4)	Reference to “silk”	7, Schedule 1 para 2	
4(1)	Provision that product can only be described as 100% if it is exclusively composed of the same fibre.	7, Schedule 1 para 3(1)	
4(2)	Provision that product may contain up to 2% by weight of other fibres.	7, Schedule 1 para 3(2)	
5(1)	Special provisions to describe wool when there is an exclusive use of fibre	7, Schedule 1 para 4(1)	
5(2)	Special provisions to describe wool contained in a fibre mixture	7, Schedule 1 para 4(2)	

5(3)	Provision that tolerance level connected with manufacture shall be limited to 0.3% of fibrous impurities.	7, Schedule 1 para 4(3)	
6(1)	Provisions that apply where product composed of two or more fibres, one of which accounts for more than 85% of the total weight.	7, Schedule 1 para 5(1)	
6(2)	Provisions that apply where product composed of two or more fibres but none of which accounts for as much as 85% of the total weight.	7, Schedule 1 para 5(2), (3) and (4)	
6(3)	Provisions that apply in relation to pure cotton warp and pure flax weft.	7, Schedule 1 para 5(5)	
6(4)	Provisions relating to mixed fibres or unspecified textile composition.	7, Schedule 1 para 6	
6(5)	Provisions relating to products intended for end consumer in certain percentage compositions	7, Schedule 1 para 5 (6), (7) and (8).	
7	Provisions relating to decorative fibres that do not exceed 7% of the weight.	7, Schedule 1 para 4 (4)	
8	Requirements of labelling and marking of products.	5, 6	
9(1)	Provision for textiles containing two or more components.	5(4)	
9(2)	Provision where two or more products have same fibre content and form a single unit.	5(5)	
9(3)a	Provision for corsetry articles	5(6)	
9(3)b	Provision for etch-printed textiles	5(7)	
9(3)c	Provision for embroidered textiles	5(8)	
9(3)d	Provision for yarns consisting of a core and a cover	5(11)	
9(3)e	Provision for velvet or plush textiles	5(9)	
9(3)f	Provision of floor coverings and carpets	5(10)	
10(1) (a)	Provision for certain textile products where labelling or marking not required.	8 Schedule 4 and 5 (12) Schedule 5	
10 (1) (b)	Provision for sale of certain textile products under an inclusive label	5 (12)	
11	Clarity of goods placed on market	No need to implement	
12	Determination of fibre percentages for labelling of products	7, Schedule 1 para 7 (1) and (2)	
13	Checks on composition of textile products	7, Schedule 1 para 7(3)	
14 to 20	Various administrative provisions	No need to implement	
Annex I	Table of textile fibres	4(1) by reference	
Annex II	Names referred to in article 5(1)	No need to implement	
Annex III	Products which cannot be made subject to mandatory labelling or	Schedule 4	

	marking		
Annex IV	Products for which only inclusive labelling is obligatory	Schedule 5	
Annex V	Agreed allowances used to calculate the mass of fibres contained in a textile product	4(1) by reference	
Annex VI	Repealed directives	No need to implement	
Annex VII	Correlation table	No need to implement	