

EXPLANATORY MEMORANDUM TO
THE PRODUCT SAFETY AMENDMENT AND REVOCATION REGULATIONS 2012
2012 No. 2963

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

2. Purpose of the instrument

2.1 These Regulations have two purposes. Firstly, they amend the Pyrotechnic Articles (Safety) Regulations 2010, to reduce the age at which Christmas crackers can be purchased from 16 to 12 years. Secondly, they revoke the Pencils and Graphic Instruments (Safety) Regulations 1998.

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

3.1 None

4. Legislative Context

4.1 Both regulations were identified under the Retail theme of the Red Tape Challenge. The Red Tape Challenge was launched by the Coalition Government in April 2011 with the aim of reducing the number of regulations on the statute book. The Coalition Government want to reduce the overall burden of regulation. This is because out-of-date and unnecessary regulation can act as a barrier to growth and has to be removed.

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 negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

Pyrotechnic Articles (Safety) Regulations 2010 (SI 2010/1554)

These Regulations were introduced to implement European Directive 2007/23/EC on pyrotechnic articles. The Regulations set safety standards for pyrotechnic articles; ban sales to the public of certain types of firework and restrict certain sales. Under the Regulations, Christmas crackers can currently only be sold to those aged 16 years or over. The EU Directive states the lowest age permissible for sales of pyrotechnic

articles of this category is 12 years. When the Directive was implemented in 2010 the UK chose to maintain its restrictions of age 16 for category 1 and age 18 for all other category pyrotechnics. This was mainly to avoid separate rules for different types of fireworks within the same category. However, under the Red Tape Challenge, the Government now intend to reduce the age at which Christmas crackers can be sold from 16 years down to 12 years as Christmas crackers are low risk items. This will promote greater personal freedom by getting rid of heavy handed intervention.

Pencils and Graphic Instruments (Safety) Regulations 1998 (SI 1998/2406)

These Regulations were introduced to limit the amount of heavy metals in pencils and graphic instruments. These Regulations are considered to be redundant because the safety standards they refer to are outdated and no longer reflect current products and processes. With the exception of the barium limit, the 1998 Regulations use safety limits which have remained unchanged since 1974. Currently, there are more recent product safety standards which cover similar areas and offer consumers a comparable level of protection. The Toy Safety Regulations 2011 provide a high level of safety in terms of heavy metal content for all toys and products in use in play by children up to the age of fourteen years. Those products outside this group would be covered by the General Product Safety Regulations 2005 (GPSR) which require products intended for use by consumers to be safe.

The GPSR allow the safety of products to be measured against the nearest applicable standard, which in this case is Standard BS EN 71-3. This standard concerns the safety of toys etc and reflects the level of heavy metals accepted as safe. On revocation of the 1998 regulations, standard BS EN 71-3 can be applied as a safety standard for pencils and graphic instruments, enforceable through the Toy Safety Regulations 2011 and the GPSR.

- ***Consolidation***

7.2 None

8. Consultation outcome

8.1 The Regulations are the result of the Retail and Manufacturing Consultation which was open for comment for a period of eight weeks. The consultation closed on the 23rd May. The majority of respondents agreed with the proposed changes in the Regulations. These include reducing the age restriction on the Pyrotechnic Articles (Safety) Regulations 2010 and revoking the Pencils and Graphic Instruments (Safety) Regulations 1998.

9. Guidance

9.1 There is already GPSR guidance on the BIS website and we do not see a need to produce more product-specific guidance on how to demonstrate product compliance. Trading Standards are experienced in enforcing the GPSR and know to apply the relevant standards when assessing the safety of a given product. We will work with Trading Standards to develop guidance if the need occurs. Therefore, we do not propose to publish guidance at the moment.

10. Impact

10.1 Impact Assessments have been completed in respect of these Regulations, will be attached to the Regulations and published on the BIS website.

11. Regulating small business

11.1 The legislation applies to small business.

12. Monitoring & review

12.1 This is a minor amendment and a revocation of redundant Regulations so a review is not considered necessary.

13. Contact

Christine Knox at the Department for Business, Innovation and Skills (Tel: 0207 215 3465 or email: Christine.Knox@bis.gov.uk) can answer any queries regarding the instrument.