

**EXPLANATORY MEMORANDUM TO
THE DETERGENTS (AMENDMENT) REGULATIONS 2013**

2013 No. 1244

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 To enable the Government to:

Enforce an EU-wide restriction on the sale of domestic laundry cleaning products (DLCPs) containing phosphates.

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

3.1 None

4. Legislative Context

4.1 This instrument is being made because Regulation (EC) No. 259/2012 requires domestic laundry detergents sold in the EU to contain a restricted amount of phosphate.

The Detergents Regulations 2010 already provide for a UK restriction from January 2015. The EU has now adopted a restriction from 30 June 2013 i.e. 18 months earlier than the scheduled UK restriction. As an EU regulation, it is already applicable in all Member States, and the EU restriction automatically comes into effect in the UK on 30 June 2013. The EU regulation also has standardised labelling requirements for consumer dishwasher detergents.

A restriction on the amount of phosphates in consumer dishwasher detergents may apply from 1 January 2017, however this will depend on whether the European Commission presents an alternative legislative proposal by 1 July 2015 and whether the European Parliament and the Council are in agreement with the proposal by 31 December 2016. Given this uncertainty we are not legislating on this dishwasher detergent content restriction now.

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

7.1 Although Regulation EC No. 259/2012 is directly applicable, the UK is required to update our existing Statutory Instrument setting-out enforcement mechanisms.

Consolidation

7.2 Not applicable.

8. Consultation outcome

8.1 Defra carried out consultations on the proposals to restrict the sale of DLCPs containing phosphate in February 2008 and in October 2009. The 2008 consultation introduced the prospect of a restriction on phosphates in DLCPs and was generally supported. The 2009 consultation proposed use of the Detergents Regulations as a method for delivering the restriction and the 2010 Regulations implemented this UK restriction, scheduled to start from 2015.

8.2 The EU restriction commencing in June 2013 followed an EU parliamentary process including discussion with industry. Defra has informally consulted with the association representing manufacturers in this area: the UK Cleaning Products Industry Association (UKCPI).

9. Guidance

9.1 Guidance is at an EU level as this is an EU regulation. We understand that all manufacturers are compliant or working towards compliance.

10. Impact

10.1 For the UK 2015 restriction it was estimated there would be some impact on detergent manufacturers. The UKCPI provided Defra with estimates of the impact on manufacturers that included transition costs of £10-15 million capital and £5-8 million per year. The UKCPI estimates there will be no increased cost from the earlier EU restriction as manufacturers were already working towards complying with the UK restriction. No impact is expected on charities or voluntary bodies.

10.2 A triage assessment was cleared by the Regulatory Policy Committee (RPC). We submitted a final impact assessment to the RPC, as it stated in the triage assessment that a final impact assessment would need to be validated by them. The RPC responded that,

“We...no longer require validated EANCB figures [a final IA] for all EU-derived UK legislation outside the scope of One-in, Two-out but qualifying for the fast track process.”

11. Regulating small business

11.1 The legislation applies to small business. However the industry and BIS had no concerns for small businesses, since we found no evidence of any small businesses involved in manufacture of consumer detergents containing phosphates. Also there were no responses from small business to Defra consultations on the issue of a UK restriction on phosphates. The sale of consumer laundry detergent containing phosphate will be restricted but we do not expect this to have any impact on retail businesses since it is not a key product which any retail business would rely on.

12. Monitoring & review

12.1 Local Authorities Trading Standards Officers will have powers to check on sales of consumer laundry detergent where there is reason to believe that DLCPs containing phosphates are on sale. Government will also discuss progress with the detergents industry to ensure that the industry is on track with phase out of the manufacture of consumer laundry detergents containing significant quantities of phosphate compounds.

13. Contact

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