

**EXPLANATORY MEMORANDUM TO**  
**THE DETERGENTS (AMENDMENT) REGULATIONS 2016**  
**2016 No. 1165**

**1. Introduction**

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

**2. Purpose of the instrument**

- 2.1 These Regulations amend the Detergents Regulations 2010 (SI 2010/740) to give local authorities powers to ensure compliance with Article 18 of EU Regulation 648/2004, as amended. This Article concerns a restriction on the sale of consumer automatic dishwasher detergents ("CADDs") that have a phosphorus content of 0.3 grams or above in a standard dosage.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 EU Regulation 648/2004 was amended by EU Regulation 259/2012 to include provisions restricting the amount of phosphates contained in domestic laundry detergents and CADDs sold in the EU. The Detergents Regulations 2010 provide powers for local authorities to enforce compliance with EU Regulation 648/2004. These Regulations amend the Detergents Regulations 2010.
- 4.2 The restriction for domestic laundry detergents came into force in June 2013 and enforcement powers in the UK were conferred by the Detergents (Amendment) Regulations 2013 (SI 2013/1244). The restriction for CADDs comes into force on 1 January 2017 and enforcement powers in the UK are conferred by virtue of these Regulations.

**5. Extent and Territorial Application**

- 5.1 The extent of this instrument is to the whole of the United Kingdom.
- 5.2 The territorial application of this instrument is to the whole of the United Kingdom.

**6. European Convention on Human Rights**

- 6.1 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*

- 7.1 EU Regulation 648/2004, as amended by EU Regulation 259/2012, includes provisions restricting the amount of phosphates contained in domestic laundry detergents and CADDs sold in the EU. Although EU Regulation 648/2004, as amended, is directly applicable, the UK is required to update the existing Statutory Instrument setting out enforcement mechanisms. The enforcement mechanism for domestic laundry detergents has therefore been amended to include CADDs.
- 7.2 Restricting the products on the market to only those that conform with the relevant part of EU Regulation 648/2004, as amended, helps reduce phosphorus in the aquatic environment and therefore improves water quality. Also the reduction in the use of resources for sewage treatment will reduce costs and the environmental impact of the treatment process.

### *Consolidation*

- 7.3 Consolidation is not considered appropriate at this time given that this is the second amending instrument for the Detergents Regulations 2010 and the amendments being made are minor.

## **8. Consultation outcome**

- 8.1 As this instrument only affects manufacturers who produce CADDs, and in the UK the number of manufacturers is small, Defra carried out a targeted consultation for one month in 2016. The UK Cleaning Products Industry Association (UKCPIA), representing UK manufacturers in this area, provided Defra with the responses from their members and received a response rate of between 50% - 60%.
- 8.2 Overall, industry thought that due to the lead in time to implement the changes, manufacturers would have enough time to develop new formulae for CADDs by the 1 January 2017 deadline. Manufacturers also thought that the negative impact of the EU regulation on industry would be represented by an increase in formulation costs and, in some cases, performance may be reduced.
- 8.3 A list of questions asked in the consultation is attached as an annex to the Impact Assessment.

## **9. Guidance**

- 9.1 Guidance was produced by the International Association for Soaps, Detergents and Maintenance Products (A.I.S.E) in June 2013, entitled "Guidelines on the implementation of the Detergents Regulation v.2". This document provides guidance on the implementation of EU Regulation 648/2004, as amended, and focuses mainly on the biodegradability of surfactants, limitations on the content of phosphates and other phosphorus compounds, labelling and ingredients. This guidance was originally issued in 2005 following the coming into force of EU Regulation 648/2004 and was updated in 2011 and 2013. Defra does not plan to issue separate guidance.

## **10. Impact**

- 10.1 For these Regulations, it was estimated that there would be some impact on detergent manufacturers in the form of minor extra costs of product modification and artwork

changes. There could also be a slight reduction in profitability in some cases, as the costs cannot be passed on in a highly competitive market. The assessment does not yield any specific information on costs, beyond noting that they would be minor. Information on costs and product formulations is commercially sensitive and not made public. There is no impact on charities or voluntary bodies.

- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment is submitted with this memorandum and will be published alongside the Explanatory Memorandum on the [legislation.gov.uk](http://legislation.gov.uk) website.

## **11. Regulating small business**

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 Small and micro businesses are not exempt from EU Regulation 259/2012. However, we have no evidence of any small UK businesses being involved in the manufacture of CADDs and there were no responses from small businesses to Defra's consultation.

## **12. Monitoring & review**

- 12.1 Local Authorities Trading Standards Officers will have powers to check on sales of CADDs where there is reason to believe that products containing higher than permitted levels of phosphorus are on sale.
- 12.2 A review clause is contained in regulation 31 of the Detergents Regulations 2010 and the first Post Implementation Review of the Detergents Regulations 2010 is scheduled to take place in 2018. This review will seek the views of stakeholders (manufacturers, NGOs, the Environment Agency) and the Devolved Administrations to ascertain the impact of this amendment, including costs, and to see what environmental changes have occurred as a direct result.

## **13. Contact**

- 13.1 Barbara Anning at the Department of Environment, Food and Rural Affairs  
Telephone: 020 8026 2784 or email: [barbara.anning@defra.gsi.gov.uk](mailto:barbara.anning@defra.gsi.gov.uk) can answer any queries regarding the instrument.