



STATUTORY INSTRUMENTS.

S.I. No. 485 of 2010



EUROPEAN COMMUNITIES (NAMES AND LABELLING OF TEXTILE
PRODUCTS) REGULATIONS 2010

(Prn. A10/1475)

EUROPEAN COMMUNITIES (NAMES AND LABELLING OF TEXTILE PRODUCTS) REGULATIONS 2010

I, BATT O'KEEFFE, Minister for Enterprise, Trade and Innovation, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 2008/121/EC of the European Parliament and of the Council of 14 January 2009¹ and Commission Directive No. 2009/121/EC of 14 September 2009², hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Communities (Names and Labelling of Textile Products) Regulations 2010.

Interpretation

2. (1) In these Regulations—

“Act of 2007” means the Consumer Protection Act 2007 (No. 19 of 2007);

“Agency” means the National Consumer Agency established by section 7 of the Act of 2007;

“Annex” means Annex I, II, III, IV or V, as the case may be, to the Directive;

“Article” means an Article of the Directive;

“authorised officer” means an authorised officer referred to in Regulation 18(1);

“consumer” has the same meaning as it has in the Act of 2007;

“Directive” means Directive 2008/121/EC of the European Parliament and of the Council of 14 January 2009¹.

“person or body governed by public law” means a person or body established in the State for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character, and financed for the most part by one or more than one of the following:

(a) the State;

(b) a regional authority;

(c) a local authority;

¹O.J. No. L 19, 23.01.2009, p. 29

²O.J. No. L 242, 15.09.2009, p. 13

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 12th October, 2010.

- (d) any other body governed by public law;
- (e) a body that is subject to management supervision by one or more than one of the bodies referred to in paragraphs (a), (b), (c) and (d);
- (f) a body having an administrative, managerial or supervisory board, more than half of whose members are appointed by one or more than one of the bodies referred to in paragraphs (a), (b), (c) and (d);

“premises” includes railway wagon, vehicle, ship, vessel or aircraft;

“sell” includes barter, offer or expose for sale or invite an offer to treat and “sale” shall be construed accordingly;

“third countries” means countries or territories outside the geographical territory of—

- (a) the European Union, and
- (b) the European Economic Area (within the meaning assigned to it by the Agreement on the European Economic Area signed at Oporto on 2 May 1992).

(2) A word or expression that is used in these Regulations and which is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

Application of these Regulations to textile products

3. (1) Textile products and products referred to in Regulation 5 may be marketed, either before or during their industrial processing or at any of the distribution stages, only where such products comply with these Regulations and the Directive.

(2) These Regulations shall not apply to textile products which—

- (a) are intended for export from the State to third countries,
- (b) enter the State, under customs control, for transit purposes,
- (c) are imported into the State from third countries for inward processing, or
- (d) are contracted out to persons working in their own homes situated in the State, or to independent firms established in the State, that make up work from materials supplied without the property therein being transferred for consideration.

Language

4. (1) Subject to paragraph (2) and to the conditions contained in Article 8 (2) and (3), the labelling and marking required by that Article shall, when textile products or products referred to in Regulation 5 are offered for sale or sold in

the State to the end consumer, be given in the Irish language or the English language.

(2) In the case of bobbins, reels, skeins, balls or any other small quantity of sewing, mending and embroidery yarns, the requirement in paragraph (1) applies only in respect of inclusive labelling on packaging or displays. Without prejudice to the cases referred to in item 18 of Annex IV, individual items may be labelled in the Irish language or the English language.

Products which are treated the same way as textile products

5. The following shall be treated in the same way as textile products and shall be subject to these Regulations:

- (a) products containing at least 80 per cent by weight of textile fibres;
- (b) furniture, umbrella and sunshade coverings containing at least 80 per cent by weight of textile components, the textile components of multi-layer floor coverings, mattresses and camping goods, and warm linings of footwear, gloves, mittens and mitts, provided such coverings, components or linings, as the case may be, constitute at least 80 per cent by weight of the complete article;
- (c) textiles incorporated in other products and forming an integral part thereof, where their composition is specified.

Fibre Names

6. (1) The names and descriptions of fibres referred to in the definition of “textile fibre” in Article 2(1)(b) and in Regulation 5 are listed in Annex I.

(2) Use of the names appearing in the table in Annex I shall be reserved for fibres the nature of which is specified under the same item of that table.

(3) None of those names may be used for any other fibre, whether on their own or as an adjective or as a root, in any language whatsoever.

(4) The word “silk” may not be used to indicate the shape or particular presentation in continuous yarn of textile fibres.

Textile Description

7. (1) No textile product or product referred to in Regulation 5 may be described as “100 per cent”, “pure” or “all” unless it is exclusively composed of the same fibre; no similar term may be used.

(2) A textile product or a product referred to in Regulation 5 may contain up to 2 per cent by weight of other fibres, provided this quantity is justified on technical grounds and is not added as a matter of routine. This tolerance shall be increased to 5 per cent in the case of textile products and products referred to in Regulation 5 which have undergone a carding process.

Wool Products

8. (1) A wool product may be described with one of the names referred to in Annex II, provided that it is composed exclusively of a fibre which has not previously been incorporated in a finished product, which has not been subjected to any spinning or felting processes other than those required in the manufacture of that product, and which has not been damaged by treatment or use.

(2) Notwithstanding paragraph (1), the names referred to in Annex II may be used to describe wool contained in a fibre mixture when—

- (a) all the wool contained in that mixture satisfies the requirements laid down in paragraph 1,
- (b) that wool accounts for not less than 25 per cent of the total weight of the mixture, or
- (c) in the case of a scribbled mixture, the wool is mixed with only one other fibre.

In a case referred to in this paragraph, the full percentage composition must be given.

(3) The tolerance justified on technical grounds connected with manufacture shall be limited to 0.3 per cent of fibrous impurities in the case of the products referred to in paragraphs 1 and 2, including wool products which have undergone a carding process.

Mixed fibre textiles

9. (1) A textile product or a product referred to in Regulation 5 composed of two or more fibres, one of which accounts for at least 85 per cent of the total weight, shall be designated by one of the following:

- (a) the name of the latter fibre followed by its percentage by weight;
- (b) the name of the latter fibre followed by the words “85 per cent minimum”; or
- (c) the full percentage composition of the product.

(2) A textile product or a product referred to in Regulation 5 composed of two or more fibres, none of which accounts for as much as 85 per cent of the total weight, shall be designated by the name and percentage by weight of at least the two main fibres, followed by the names of the other constituent fibres in descending order of weight, with or without an indication of their percentage by weight; however—

- (a) fibres which separately account for less than 10 per cent of the total weight of a product may be collectively designated by the term “other fibres”, followed by the total percentage by weight, and

- (b) where the name of a fibre, which accounts for less than 10 per cent of the total weight of a product, is specified, the full percentage composition of that product shall be given.

(3) Products having a pure cotton warp and a pure flax weft, in which the percentage of flax accounts for not less than 40 per cent of the total weight of the unsized fabric, may be given the name “cotton linen union” which must be accompanied by the composition specification “pure cotton warp-pure flax weft”.

(4) The term “mixed fibres” or the term “unspecified textile composition” may be used for any product the composition of which cannot easily be stated at the time of manufacture.

Tolerance

10. (1) In the case of textile products or products referred to in Regulation 5 intended for the end consumer, in the percentage compositions specified in Regulation 9—

- (a) a quantity of extraneous fibres of up to 2 per cent of the total weight of the textile product shall be tolerated, provided that this quantity is justified on technical grounds and is not added as a matter of routine; this tolerance shall be increased to 5 per cent in the case of products which have undergone a carding process and shall be without prejudice to the tolerance referred to in Regulation 8(3),
- (b) a manufacturing tolerance of 3 per cent shall be permitted between the stated fibre percentages and the percentages obtained from analysis, in relation to the total weight of fibres shown on the label; such tolerance shall also be applied to fibres, which in accordance with Regulation 9(2), are listed in descending order of weight with no indication of their percentage. This tolerance shall also apply for the purpose of Regulation 8(2)(b).

(2) On analysis, the tolerances shall be calculated separately. The total weight to be taken into account in calculating the tolerance referred to in subparagraph 1(b) shall be that of the fibres of the finished product less the weight of any extraneous fibres found when applying the tolerance referred to in subparagraph 1(a).

(3) The addition of the tolerances referred to in subparagraphs 1(a) and (b) shall be permitted only if any extraneous fibres found by analysis, when applying the tolerance referred to in subparagraph 1(a), prove to be of the same chemical type as one or more of the fibres shown on the label.

(4) In the case of particular products for which the manufacturing process requires tolerances higher than those given in subparagraphs 1(a) and (b), higher tolerances are permissible when the conformity of the product is checked pursuant to Regulation 15(1) only in exceptional cases and where adequate justification is provided by the manufacturer.

(5) Without prejudice to the tolerances laid down in Regulations 7(2) and 8(3) and in paragraphs (1) to (4), the following need not be mentioned in the fibre compositions provided for in Regulations 7 and 9 and in paragraphs (1) to (4):

- (a) visible, isolable fibres which are purely decorative and do not exceed 7 per cent of the weight of the finished product;
- (b) fibres, such as metallic fibres, which are incorporated in order to obtain an antistatic effect and which do not exceed 2 per cent of the weight of the finished product.

In the case of the products referred to in Regulation 9(3), such percentages shall be calculated not on the weight of the fabric but on the weight of the warp and that of the weft separately.

Marking and Labelling

11. (1) Textile products within the meaning of these Regulations and products referred to in Regulation 5 shall be labelled or marked whenever they are put on the market for production or commercial purposes. This labelling or marking may be replaced or supplemented by accompanying commercial documents when the products are not being offered for sale to the end consumer, or when they are delivered in performance of an order placed by the State or by some other legal person governed by public law, or by an equivalent entity.

(2) The names, descriptions and particulars as to textile fibre content referred to in Regulations 6 to 9 and 10(1) to (4) and in Annexes I and II shall be clearly indicated in the commercial documents. This requirement shall, in particular, preclude the use of abbreviations in sales contracts, bills and invoices. However, a mechanised processing code may be used, provided that code is explained in the same document.

(3) The names, descriptions and particulars as to textile fibre content referred to in Regulations 6 to 9 and 10(1) to (4) and in Annexes I and II shall be indicated in clear, legible and uniform print when textile products or products referred to in Regulation 5 are offered for sale or sold to the consumer, and in particular in catalogues and trade literature, on packagings, on labels and on markings.

(4) Particulars and information other than those provided for by these Regulations shall be separate. This provision shall not apply to trade marks or to the name of the undertaking, which may be given immediately before or after particulars provided for by these Regulations.

(5) If, however, when a textile product or product referred to in Regulation 5 is offered for sale or is sold to the consumer as referred to in paragraph (1), a trade mark or a name of an undertaking is indicated which contains, on its own or as an adjective or as a root, one of the names listed in Annex I or a name liable to be confused therewith, the trade mark or the name of an undertaking, as the case may be, must be immediately preceded or followed by the names, descriptions and particulars as to textile fibre content referred to in

Regulations 6 to 9 and 10(1) to (4) and in Annexes I and II in clear, legible and uniform print.

Textiles composed of two or more fibres

12. (1) Any textile product or product referred to in Regulation 5, composed of two or more components which have different fibre contents, shall bear a label stating the fibre content of each component. Such labelling shall not be compulsory for components representing less than 30 per cent of the total weight of the product, excluding main linings.

(2) Where two or more textile products or products referred to in Regulation 5 have the same fibre content and normally form a single unit, they need bear only one label.

(3) Notwithstanding Regulation 14, the following provisions apply:

(a) The fibre composition of the following corsetry articles shall be indicated by stating the composition of the whole product or that of the components listed below either inclusively or separately:

(i) for brassières: the outside and inside fabric of the cups and back;

(ii) for corsets: the front, rear and side stiffening panels;

(iii) for corselets: the outside and inside fabric of the cups, the front and rear stiffening panels and the side panels.

The fibre composition of corsetry articles other than those listed in clauses (i), (ii) and (iii) shall be indicated by stating the composition of the whole product or, either inclusively or separately, the composition of the various components of the articles; such labelling shall not be compulsory for components representing less than 10 per cent of the total weight of the product.

The separate labelling of the various parts of the said corsetry articles shall be carried out in such a way that the end consumer can easily understand to which part of the product the particulars on the label refer.

(b) The fibre composition of etch-printed textiles shall be given for the product as a whole and may be indicated by stating, separately, the composition of the base fabric and that of the etched parts. These components must be mentioned by name.

(c) The fibre composition of embroidered textiles shall be given for the product as a whole and may be indicated by stating, separately, the composition of the base fabric and that of the embroidery yarn; these components must be mentioned by name; if the embroidered parts amount to less than 10 per cent of the surface area of the product, only the composition of the base fabric need be stated.

- (d) The fibre composition of yarns consisting of a core and a cover made up of different fibres, and offered for sale as such to the consumer, shall be given for the product as a whole and may be indicated by stating the composition of the core and the cover separately; these components must be mentioned by name.
- (e) The fibre composition of velvet and plush textiles, or of textiles resembling velvet or plush, shall be given for the whole product and, where the product comprises a distinct backing and a use-surface composed of different fibres, may be stated separately for these two parts, which must be mentioned by name.
- (f) The composition of floor coverings and carpets of which the backing and the use-surface are composed of different fibres may be stated for the use-surface alone, which must be mentioned by name.

Exceptions

13. (1) Notwithstanding Regulations 11 and 12, the following provisions apply:

- (a) In the case of textile products listed in Annex III, which are at one of the stages described in the definition of “textile products” in Article 2(1)(b), no labelling or marking bearing the name or composition is required. However, the provisions of Regulations 11 and 12 shall apply where such products bear a label or marking giving the name or composition, or a trade mark or name of an undertaking which incorporates, on its own or as an adjective or as a root, either one of the names listed in Annex I or a name liable to be confused therewith;
- (b) Where textile products listed in Annex IV are of the same type and composition, they may be offered for sale together under an inclusive label giving the composition particulars laid down by these Regulations;
- (c) The composition of textile products or products referred to in Regulation 5 sold by the metre needs to be shown only on the length or roll offered for sale.

(2) Products referred to in subparagraphs (b) and (c) of paragraph (1) shall be offered for sale in such a way that the end consumer can fully acquaint him or her self with the composition of those products.

Fibre percentage in the labelling of textile products and products referred to in Regulation 5

14. (1) For the purposes of applying Regulation 11(1) and the other provisions of these Regulations relating to the labelling of textile products, the fibre percentages referred to in Regulations 7, 8, 9 and 10(1) to (4) shall be determined without taking account of the following items:

- (a) for all textile products: non-textile parts, selvages, labels and badges, edgings and trimmings not forming an integral part of the product,

buttons and buckles covered with textile materials, accessories, decorations, non-elastic ribbons, elastic threads and bands added at specific and limited points of the product and, subject to the conditions specified in Regulation 10(5), visible, isolable fibres which are purely decorative and antistatic fibres;

- (b) for floor coverings and carpets: all components other than the use-surface;
- (c) for upholstery fabrics: binding and filling warps and wefts which do not form part of the use-surface;
- (d) for hangings and curtains: binding and filling warps and wefts which do not form part of the right side of the fabric;
- (e) for other textile products: base or underlying fabrics, stiffenings and reinforcements, inter-linings and canvas backings, stitching and assembly threads unless they replace the warp or weft of the fabric, fillings not having an insulating function and, subject to Regulation 12, linings; for the purposes of this sub-paragraph—
 - (i) the base or underlying material of textile products which serve as a backing for the use-surface, in particular in blankets and double fabrics, and the backings of velvet or plush fabrics and kindred products shall not be regarded as backings to be removed,
 - (ii) “stiffenings and reinforcements” mean the yarns or materials added at specific and limited points of the textile products to strengthen them or to give them stiffness or thickness,
- (f) fatty substances, binders, weightings, sizings and dressings, impregnating products, additional dyeing and printing products and other textile processing products, which items shall not be present in quantities liable to mislead the consumer.

Analysis of composition of textile products and products referred to in Regulation 5

15. Checks on whether the composition of textile products and products referred to in Regulation 5 is in conformity with the information supplied in accordance with these Regulations shall be carried out by the methods of analysis specified in the European Communities (Quantitative Analysis of Binary Textile Fibre Mixtures) Regulations 2007 (S.I. No. 9 of 2007) (as amended by the European Communities (Quantitative Analysis of Binary Textile Fibre Mixtures) (Amendment) Regulations 2010 (S.I. No. 486 of 2010)). For this purpose, the fibre percentages in Regulations 7, 8, 9 and 10 shall be determined by applying to the anhydrous mass of each fibre the appropriate agreed allowance laid down in Annex V, after having removed the items referred to in Regulation 14.

Judicial and administrative redress

16. (1) Where the Agency is satisfied that a person has placed on the market a product to which these Regulations and the Directive apply in contravention of these Regulations or the Directive it may, by direction in writing, require that person to remove the product concerned from the market in the State.

(2) The Agency may withdraw a direction given by it under paragraph (1).

Serving a direction under these Regulations

17. (1) A direction under these Regulations shall, subject to paragraph (2), be addressed to the person concerned by name, and may be served on or given to the person in one of the following ways:

- (a) by delivering it to the person;
- (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address.

(2) Where a direction under these Regulations is to be served on or given to a person who is the owner or occupier of land and the name of the person cannot be ascertained by reasonable enquiry, it may be addressed to the person by using the words owner or, as the case may require, the occupier.

(3) For the purposes of this Regulation, a company within the meaning of the Companies Acts shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.

Authorised Officers for the purposes of these Regulations and the Directive

18. (1) A person appointed as an authorised officer under section 30 of the Act of 2007, whether holding office as an authorised officer under that section immediately before the date of the coming into operation of these Regulations or appointed after that date, and a person appointed as an authorised officer under the European Communities (Names and Labelling of Textile Products) Regulations 1998 (S.I. No. 245 of 1998), where the appointment is in force immediately before the making of these Regulations, shall each continue to be so appointed as if appointed under this Regulation, and shall be an authorised officer for the purposes of these Regulations and the Directive, and shall—

- (a) for those purposes have all of the powers given to an authorised officer by, and
- (b) be subject to the terms of,

that section, and shall, in addition, have the powers specified in paragraph (2).

(2) In addition to the powers granted to an authorised officer by section 30 of the Act of 2007, he or she may—

- (a) carry out or have carried out such examinations, tests, inspections and checks of any textile product found in any premises as he or she reasonably considers necessary, and if he or she so thinks fit, take reasonable samples of such products, or remove or have removed from the premises any textile product (as is reasonable) and retain same to facilitate examination or testing, and
- (b) secure for later inspection the said premises or any textile product found therein.

(3) Section 2 of the Act of 2007 is amended, in the definition of “relevant statutory provisions”, by substituting for paragraphs (d) and (e) the following paragraphs:

- “(d) the enactments specified in subsection (1)(a) to (c) of section 93,
- (e) this Act and any instrument made under this Act for the time being in force, and
- (f) the European Communities (Names and Labelling of Textile Products) Regulations 2010 (S.I. No. 485 of 2010)”,

and, accordingly, references in section 30 of that Act to “relevant statutory provisions” shall be construed as including references to these Regulations.

Offences and penalties

19. (1) A person who—

- (a) markets or sells textile products, either before or during their industrial processing or at any of the distribution stages, unless such products comply with the provisions of these Regulations and the Directive,
- (b) contravenes or fails to comply with a direction under Regulation 16(1),
- (c) obstructs or interferes with an authorised officer in the exercise of his or her powers under these Regulations or who, without reasonable excuse, does not comply with a requirement of an authorised officer under these Regulations or who, in purported compliance with such a requirement, gives information to an authorised officer that the person knows to be false or misleading in a material respect,
- (d) tampers with any textile products so as to procure that any sample of it taken by an authorised officer does not correctly represent the product, or

- (e) tampers or interferes with any sample taken under Regulation 18(2)(a),

commits an offence.

- (2) A person guilty of an offence under—

- (a) paragraph 1(a) is liable—

(i) on summary conviction to a fine not exceeding €3,000, or imprisonment for a term not exceeding 6 months or both, or

(ii) on conviction on indictment to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both,

- (b) paragraph 1(b) or (c) is liable on summary conviction to a fine not exceeding €5,000,

- (c) paragraph 1(d) or (e) is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 3 months or to both.

(3) Where a person, after conviction for an offence under paragraph (1), continues to contravene that paragraph, he or she, on each day on which he or she continues to so contravene after having been so convicted, commits an offence and is liable—

- (a) on summary conviction to a fine not exceeding €500, or

- (b) on conviction on indictment to a fine not exceeding €10,000.

(4) Section 13 of the Criminal Procedure Act 1967 shall apply in relation to an offence under these Regulations as if, in lieu of the penalties specified in subsection (3)(a) of that section, there were specified the penalties provided for in paragraph (2)(a), and the references in subsection (2)(a) of the said section 13 to the penalties provided for in subsection (3) shall be construed and have effect accordingly.

(5) Sections 77, 78 and 80 of the Act of 2007 shall apply to an offence under these Regulations as they apply to an offence under that Act and, accordingly, references in those sections to an offence under that Act shall be construed as including references to an offence under these Regulations.

(6) Summary proceedings for an offence under these Regulations may be brought and prosecuted by the Agency.

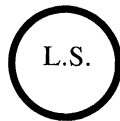
(7) Notwithstanding any provisions in any enactment specifying the period within which proceedings may be commenced, summary proceedings for an offence under these Regulations may be instituted at any time within 2 years after the date of the offence.

(8) On conviction of a person of an offence under this Act the court may, in addition to any other penalty, order any product to which the offence relates to be forfeited.

Protection for persons reporting breaches

21. The following Regulations are revoked:

- (a) the European Communities (Names and Labelling of Textile Products) (Amendment) Regulations 1998 (S.I. No. 8 of 2007);
- (b) the European Communities (Names and Labelling of Textile Products) (Amendment) Regulations 1998 (S.I. No. 127 of 2008);
- (c) the European Communities (Names and Labelling of Textile Products) Regulations 1998 (S.I. No. 245 of 1998).



GIVEN under my Official Seal,
27 September 2010.

BATT O'KEEFFE,
Minister for Enterprise, Trade and Innovation.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

Regulation S.I. No. 485 of 2010 transposes Directive 2008/121/EC of the European Parliament and of the Council of 14 January 2009 on textile names (recast) and Commission Directive 2009/121/EC of 14 September 2009 on Textile Names (melamine).

The recast Directive incorporates all the amendments to the original Textile names Directive 94/74/EC into one instrument while Directive 2009/121/EC adds the name and description of a new textile “melamine”.

These composite Regulations revoke and replace the European Communities (Names and Labelling of Textile Products) (Amendment) Regulations 1998 (S.I. No. 8 of 2007); the European Communities (Names and Labelling of Textile Products) (Amendment) Regulations 1998 (S.I. No. 127 of 2008); the European Communities (Names and Labelling of Textile Products) Regulations 1998 (S.I. No. 245 of 1998).

BAILE ÁTHA CLIATH
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