



STATUTORY INSTRUMENTS.

S.I. No. 142 of 2012

EUROPEAN UNION (TEXTILE FIBRE NAMES AND RELATED
LABELLING AND MARKING OF THE FIBRE COMPOSITION OF
TEXTILE PRODUCTS) REGULATIONS 2012

(Prn. A12/0754)

EUROPEAN UNION (TEXTILE FIBRE NAMES AND RELATED LABELLING AND MARKING OF THE FIBRE COMPOSITION OF TEXTILE PRODUCTS) REGULATIONS 2012

I, RICHARD BRUTON, Minister for Jobs, Enterprise and Innovation, in the 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 full effect to Regulation (EU) No. 1007/2011 of the European Parliament and of the Council of 27 September 2011¹ as amended by Commission Delegated Regulation (EU) No. 286/2012 of 27 January 2012², hereby make the following regulations:

1. (1) These Regulations may be cited as the European Union (Textile Fibre Names and Related Labelling and Marking of the Fibre Composition of Textile Products) Regulations 2012.

(2) These Regulations shall come into operation on 8 May 2012.

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;

“authorised officer” means a person appointed under section 30 of the Act of 2007;

“compliance notice” has the meaning assigned to it by Regulation 4;

“Regulation (EU) No. 1007/2011” means Regulation (EU) No. 1007/2011 of the European Parliament and of the Council of 27 September 2011¹ as amended by Commission Delegated Regulation (EU) No. 286/2012 of 27 January 2012².

(2) A word or expression that is used in these Regulations and is also used in the Regulation (EU) No. 1007/2011 has, unless the contrary intention appears, the same meaning in these Regulations as it has in Regulation (EU) No. 1007/2011.

3. These Regulations apply to a textile product to which Article 2 of Regulation (EU) No. 1007/2011 applies.

4. Where an authorised officer is of the opinion that a person is contravening or has contravened—

¹OJ No. L272, 18.10.2011, p.1.

²OJ No. L95, 31.3.2012, p.1.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 11th May, 2012.

- (a) Article 4,
- (b) Article 5,
- (c) Article 7,
- (d) Article 8,
- (e) Article 9,
- (f) Article 10,
- (g) Article 11,
- (h) Article 12(1) or 12(2),
- (i) Article 13,
- (j) Article 14,
- (k) Article 15(1), 15(2), 15(3) or 15(4), or
- (l) Article 16(1), 16(2) or 16(3),

of Regulation (EU) No. 1007/2011, the authorised officer may serve, personally or by post, a written notice on that person (a “compliance notice”).

5. (1) A compliance notice shall be signed and dated by the authorised officer and shall—

- (a) contain a statement of—
 - (i) the alleged contravention (identifying the relevant Article of the Regulation (EU) No. 1007/2011),
 - (ii) the opinion referred to in Regulation 4, and
 - (iii) the reasons for that opinion,
- (b) direct the person on whom the notice is served to remedy the contravention including any other requirements that the authorised officer considers appropriate in order to remedy the contravention (the “compliance direction and requirements”),
- (c) specify the date by which that person is to comply with the compliance direction and requirements,
- (d) contain a statement that the person on whom the notice is served may appeal the notice to the District Court within 14 days after the service of the notice, including information specifying—
 - (i) the form and manner of such an appeal, and

(ii) the service address of the Agency for the purposes of notifying the Agency under paragraph (4),

and

(e) contain a statement that, if an appeal is not made in accordance with this section and within the time specified in subparagraph (d), then—

(i) the notice will be treated as not disputed,

(ii) the person will be deemed to have accepted the notice and have agreed to comply with the compliance direction and requirements, and

(iii) any failure or refusal to so comply is an offence and, on summary conviction, the person will be liable to the fine and penalties set out in these Regulations.

(2) The date specified under paragraph (1) shall not be earlier than the end of the period within which an appeal may be made under paragraph (3).

(3) If the person on whom the compliance notice is served wishes to dispute the notice, the person may, no later than 14 days after the notice is served and in accordance with this section and in the form and manner specified in the notice, appeal the notice to a judge of the District Court in the district court district in which the notice was served.

(4) A person who appeals under paragraph (3) shall at the same time notify the Agency of the appeal and the grounds for the appeal and the Agency shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal.

(5) In determining an appeal under this section, the judge of the District Court may confirm, vary or cancel the compliance notice, if satisfied that it is reasonable to do so.

(6) If on appeal the compliance notice is not cancelled, the notice takes effect on the later of the following:

(a) the day after the day on which the notice is confirmed or varied on appeal;

(b) if the appeal is withdrawn by the appellant, the day after the day it is withdrawn;

(c) the day specified in the notice.

(7) If there is no appeal under paragraph (3), the compliance notice takes effect on the later of the following:

(a) 14 days after the notice is served on the person;

(b) the day specified in the notice.

(8) An authorised officer may—

- (a) withdraw a compliance notice at any time, or
- (b) if no appeal is made or pending under paragraph (3), extend the date specified in the notice under paragraph (1)(c).

(9) A person who, without reasonable excuse, fails to comply with a compliance direction or requirement specified in a compliance notice commits an offence.

(10) Withdrawal of a compliance notice under paragraph (8) does not prevent the service of another compliance notice, whether in respect of the same matter or a different matter.

(11) If a compliance notice takes effect in accordance with this section, the Agency shall publish the compliance notice, or cause it to be published, in any form or manner the Agency considers appropriate.

6. The Agency shall carry out the checks on conformity of the fibre composition of textile products in accordance with Article 18 of Regulation (EU) No. 1007/2011.

7. A check on the conformity of fibre composition, referred to in Article 19 of Regulation (EU) No. 1007/2011 shall be carried out in accordance with Regulation (EU) No. 1007/2011.

8. The Act of 2007 is amended—

- (a) in section 2, in the definition of “relevant statutory provisions” by inserting the following after paragraph (h):

“(i) the European Union (Textile Fibre Names and Related Labelling and Marking of the Fibre Composition of Textile Products) Regulations 2012;”.

9. (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, shall be an authorised officer for the purposes of these Regulations and Regulation (EU) No. 1007/2011 and shall—

- (a) for those purposes have all the powers given to an authorised officer by section 30 of the Act of 2007, and
- (b) be subject to the terms of section 30 of the Act of 2007,

and shall, in addition to the powers under section 30 of the Act of 2007, have the powers conferred on an authorised officer by these Regulations.

(2) An authorised officer may—

- (a) carry out, or cause to have carried out, an examination, test, inspection and check of a textile product to which these Regulations apply, as the authorised officer considers necessary, where such textile product is found in any premises, and
- (b) if he or she thinks fit, take samples of a textile product or remove, or have removed, from any premises a textile product, as is reasonable, and retain that product to facilitate such examination, test, inspection or check.

10. (1) A person who—

- (a) obstructs or interferes with an authorised officer in the exercise of a power conferred on the authorised officer by these Regulations,
- (b) impedes the exercise by an authorised officer of a power conferred on the authorised officer by these Regulations,
- (c) fails or refuses to comply with a request or requirement of, or refuses to answer a question asked by, an authorised officer pursuant to a power conferred on the authorised officer by these Regulations, or
- (d) in purported compliance with such request or requirement, or who in answer to such question, gives information to an authorised officer that the person knows to be false or misleading in a material respect,

commits an offence.

(2) A person who—

- (a) tampers with a textile product so as to procure that a sample taken by an authorised officer of the textile product does not correctly represent the textile product concerned, or
- (b) tampers or interferes with any textile product removed, or sample taken, under Regulation 9(2)(b),

commits an offence.

11. (1) A person found guilty of an offence under Regulation 5(9) shall be liable—

- (a) on summary conviction to a class C fine or to imprisonment for a term not exceeding 6 months or both, or
- (b) on conviction on indictment to a class A fine or imprisonment for a term not exceeding 12 months or both.

(2) A person who is guilty of an offence under Regulation 10 shall be liable on summary conviction to a class A fine.

(3) Where a person, after conviction for an offence under Regulation 5(9), continues to contravene Regulation 5(9), the person, 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 class E fine, or

(b) on conviction on indictment to a class A fine.

(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 (1) and the references in section 13(2)(a) 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.

12. A compliance notice shall be addressed to the person concerned by name and may be served on or given to that 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 resided or, in a case where 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;

(d) where the address at which the person ordinarily resides cannot be ascertained by reasonable inquiry and the notice or other document relates to any place of business, by delivering it to a person over the age of 16 years resident or employed at the place of business or by affixing it in a conspicuous position at or near the place of business.

13. The following Regulations are revoked:

(a) the European Communities (Names and Labelling of Textile Products) Regulation 2012 (S.I. No. 485 of 2010);

(b) the European Communities (Quantitative Analysis of Binary and Ternary Fibre Mixtures) Regulations 1990 (S.I. No. 275 of 1990);

- (c) the European Communities (Quantitative Analysis of Binary Textile Fibre Mixtures) Regulations 2007 (S.I. No. 9 of 2007);
- (d) the European Communities (Quantitative Analysis of Binary Textile Fibre Mixtures) (Amendment) Regulations 2008 (S.I. No. 128 of 2008);
- (e) the European Communities (Quantitative Analysis of Binary Textile Fibre Mixtures) (Amendment) Regulations 2010 (S.I. No. 486 of 2010).



GIVEN under my Official Seal,
8 May 2012.

RICHARD BRUTON,
Minister for Jobs, Enterprise and Innovation.

EXPLANATORY NOTE

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

These Regulations were made to give effect to Regulation (EU) No 1007/2011 of the European Parliament and the Council of 27 September 2011 as amended by Commission Delegated Regulation (EU) No. 286/2012, which ensures that consumer interests are protected by laying down rules governing the labelling or marking of products as regards their textile fibre content and provides uniform methods for quantitative analysis of binary textile fibre mixtures. Textile products may be made available on the market within the EU only if they comply with the provisions of the Regulation.

These Regulations provide for the enforcement of the Regulation and for penalties for contravening the Regulation.

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