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7th April 2011

Review of the Furniture and Furnishings (Fire) (Safety) Regulations 1988 (FFRs)

As you are probably aware, BIS is currently in the process of reviewing the FFRs. This is in keeping with Government good practice and the Coalition's new requirements to regularly review legislation. Since the FFRs were implemented, new products and processes have been introduced which are not always clearly within the scope of the regulations (or outside of it). In addition, some elements of the application of the FFRs need clarifying and cannot simply be left to agreed common practices.

The purpose of this letter is to inform you of the work that has been done so far and to offer you the opportunity to comment on the overall direction the review is taking. We have also placed this letter in the public domain on the BIS website at:

<http://www.bis.gov.uk/policies/consumer-issues/product-safety/flammability>. We would be grateful if you could draw it to the attention of any interested parties you are aware of and who are not on the circulation list at the bottom of this letter.

Please note that if, when the review is concluded, it is proposed to make safety regulations under section 11 of the Consumer Protection Act 1987, BIS will undertake a formal consultation before doing so. Drafts updates or amendments will be included in this consultation, along with an Impact Assessment.

Essentially, BIS sees there to be three directions the review can take:

- Option 1 - revocation
- Option 2 - leave unamended for the time being
- Option 3 - update now

Option 1 - revocation

Revoking would mean a lowering of current safety standards and therefore lead to UK upholstered furniture rapidly becoming significantly more flammable. This is because the major effect of revoking is that we would lose the large ignition ('Crib 5') test. The most

recent government-sponsored statistical report on the effectiveness of the FFRs (Greenstreet Berman Ltd 2009¹) indicates that if this test is dropped, the result could be 22 lives lost each year.

Without the FFRs, UK domestic upholstered furniture would correspond only to the same level of safety as the rest of the EU, complying with the safety requirement of the General Product Safety Directive, i.e. manufacturers for the UK market would no longer have to make a distinction between furniture intended for the EU and domestic sales. However, as indicated above, we do not think this consideration is sufficient to outweigh the high level of furniture fire safety currently enjoyed by UK consumers. For this reason, we do not see 'revoke' as a viable option.

Option 2 - leave unamended for the time being

We could allow the FFRs to operate in their present form and perhaps revisit the need to update them in a few years' time. In the short term:

- the FFRs would be effective, saving lives and preventing fires;
- we can begin to lobby the Commission to bring the European provisions more in line with the FFRs. The Commission has indicated recently that it wants to strengthen the relevant EU standard, and such moves would receive support from some Member States (although there are others that would probably oppose it, too). The EU Fire Safety Network, comprising EU fire safety officials, recently discussed lobbying the Commission to this end, with Sweden and Holland particularly supportive;
- safety would be maintained, at a level higher than the EU standard
- Trading Standards could continue prevention and enforcement work;
- there would be no new costs to industry.

However, if we do nothing, the FFRs will soon become:

- increasingly difficult to comply with due to the rise in new products and processes which are not clearly covered by or excluded from the FFRs;
- increasingly difficult to enforce due to the above and testing procedures which have become impractical in some respects, e.g. supplies of the test cigarettes specified as required for the cigarette test are becoming extremely limited;
- unable to prevent increasing amounts of non-compliant furniture reaching UK homes and leading to an increase in fires, deaths, injuries and costs to the fire services, industry and the economy.

Option 3 - update now

This is the Government's preferred option, on the following basis:

¹ "A statistical report to investigate the effectiveness of the Furniture and Furnishings (Fire) (Safety) Regulations 1988" by Greenstreet Berman Ltd, available at: <http://www.bis.gov.uk/files/file54041.pdf>

Updating now could:

- result in savings to industry, fire services, enforcement authorities of £26m per year with possible additional savings of approx. £10m, total possible: £36m per year;
- likely result in further large, but unquantifiable, savings, i.e. Trading Standards, the fire services and others predict that if not updated, the FFRs will become increasingly difficult to comply with, which in turn will lead to an increase in both illegal imports and the danger of compliant manufacturers cutting safety corners, resulting in more fires and deaths. In the current recession, this will particularly put at risk the most socially vulnerable and disadvantaged who are more likely to buy cheaper, but non-compliant and dangerous, furniture. In other words, updating now will make savings both through ending additional costs currently incurred because the FFRs are out of date (see point above) and through additional costs incurred by increasing amounts of non-compliant furniture reaching UK homes.

In addition, this option:

- has already received strong support from stakeholders, e.g. industry, enforcement agencies, consumer groups, other government departments (including Ireland), the fire services;
- will improve consumer safety, reducing deaths/fires/costs;
- will help the Government to resolve current (and likely future) anomalies and inconsistencies which lead to a lack of enforcement and impose additional costs on industry, e.g. last year, BIS had to make an amendment to the FFRs in order to permit the use of an available test cover fabric². As mentioned above, there is another similar issue with regard to dwindling supplies of test cigarettes. In short, updating now will prevent us having to make a series of such amendments to the Commission;
- will provide a much quicker route to installing up-to-date safety measures than by seeking to progress the upgrade of the European standard to UK levels.

Please note: the figures above have been supplied to us by industry, the enforcement authority and the fire rescue services. They are estimates which may well change once the review is concluded. For this reason, we have used the most conservative figures supplied. (For your information, the annual turnover of UK upholstered domestic furniture (i.e. covered by the FFRs) is around £2 bn.)

Background and Current situation

In 2010, the Department hosted four meetings of an Advisory Group, the main aim of which was to advise the government on the direction the FFRs review should take. The group was constituted of stakeholders from industry, enforcement, fire services and

² "The Furniture and Furnishings (Fire) (Safety) (Amendment) Regulations 2010", available at: <http://www.legislation.gov.uk/ukxi/2010/2205/contents/made>.

others. Their universal view was that the FFRs should be 'updated now', as opposed to the other options of being revoked or left as they are for the time being.

After the election, BIS officials presented these three options to the new Minister, Edward Davey and advised him of the Advisory Group's recommendation. The Minister agreed that the review should continue on the basis of 'update now'.

Following the Minister's approval, BIS reformed the Advisory Group. It now comprises around 50 members, again from industry, government, enforcement authorities, fire services, retailers and independent experts. Their work has helped to highlight the need for changes to the FFRs.

The Advisory Group is currently also supporting two sub-groups, one looking at Testing, the other at Scope. Essentially, each is advising BIS on how the requirements of the FFRs may be simplified and made more economical without compromising consumer safety. Later this year, we expect a third sub-group to form, which will look at Traceability.

Summary

BIS's assessment is that a decision to update the legislation now is the best option for maintaining safety levels and will provide substantial savings to industry, enforcement authorities and the fire services. Revoking or leaving the FFRs unchanged risks incurring greater costs and falling safety levels. Even if lobbying the Commission would result in an improved EU standard being mandated, the standards-making process will take several years. If we update now, we can still lobby the Commission to this end; indeed, bringing the FFRs up-to-date would help set the standard in Europe.

All key stakeholders have expressed their agreement with the option to 'update now'. They have done so through various means such as letters to BIS Ministers, emails to BIS officials and through the Advisory Group on the Review of the FFRs.

BIS is therefore satisfied that the review is taking the best way forward in proposing to update the FFRs. Your views, however, are welcome to help inform this decision and the next steps. If, for example, you do not agree with the preferred option, or have any other comments to make on the review, we will be happy to take this into consideration in making any final decisions on the future of the FFRs. Please send/email your views to: Terry Edge, Orchard 1, Fourth Floor, 1 Victoria Street, London SW1H 0ET; email: terry.edge@bis.gsi.gov.uk (Tel: 020 7215 5576) by 9th June 2011.

Yours sincerely,

T Edge

Terry Edge
Environmental and Product Regulation

Circulation List:

Airsprung Furniture Group
All Party Parliamentary Group for Furniture
Alliance for Consumer Fire Safety in Europe
Association of Master Upholsterers and Soft Furnishers
Association of Suppliers to the Furniture Industry
Baby Products Association
BEUC
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Textile Laboratory Service

The Quality Furniture Company

The Worshipful Company of Furniture Makers

Trading Standards Institute

Trading Standards, Slough

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Which?