BIS | Department for Business Innovation & Skills

Red Tape Challenge: Retail and Manufacturing Consultation. Response Form

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is 23/05/2012

[redacted]

Organisation (if applicable): Central England Trading Standards Authorities (Centsa) Regional Product Safety Group

[redacted]

Please return completed forms to:
[redacted]
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Business Environment
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London
SW1A 0ET

[redacted]
Email: retailandmanufacturing@bis.gsi.gov.uk

Please tick a box from the list of options below that best describes you as a respondent.

	Business representative organisation/trade body
	Central government
	Charity or social enterprise
	Individual
	Large business (over 250 staff)

	Legal representative
x	Local Government
	Medium business (50 to 250 staff)
	Micro business (up to 9 staff)
	Small business (10 to 49 staff)
	Trade union or staff association
	Other (please describe)

Question 1 Do you agree with the amendment of the Pyrotechnic Articles (Safety) Regulations 2010?

Yes: Yes

No:

Other (please specify)

Question 2. Are there any other consequences to the amendment of the Pyrotechnic Articles (Safety) Regulations 2010 not outlined in this document?

Comments: No view

Question 3. What benefits will the amendment of the Pyrotechnic Articles (Safety) Regulations 2010 have? Can you quantify these?

Comments: No comment

Question 4. Are there any costs for business that have not been anticipated as a result of the amendment of the Pyrotechnic Articles (Safety) Regulations 2010? Can you quantify these?

Comments: No view

Question 5. Do you agree with the revocation of the Bunk Beds (Entrapment Hazards) (Safety) Regulations 1987?

Yes:

No:

Other (please specify) : see comment below re risk to users between 4 – 6 years of age.

Question 6. Are there any other consequences to the revocation of the Bunk Beds (Entrapment Hazards) (Safety) Regulations 1987 not outlined in this document?

Comments: The revocation of these Regulations is in line with the broader application of Mutual Recognition. However, the BB Regs do provide additional protection to children as they identify controls for hazards to those under the age of 6. Reliance on British or European Standards to show compliance under the General Product Safety Regulations would apply only to vulnerable persons, which in this context, would refer to those under the age of 3. The risk is therefore increased for children between the age of 4 and 6.

Secondly, if the General Product Safety Regulations are to be applied, no enforcement action could be taken against a retailer (distributor) unless they *knowingly* supply an unsafe product because of the limitations in the GPSR.

Thirdly, the BB Regs provide definitive specifications for acceptable gaps and test equipment. This is helpful in determining compliance although it is accepted that both British and European Standards exist for this purpose.

Please also see our response to your request for additional comments in Question 52.

Question 7. What benefits will the revocation of the Bunk Beds (Entrapment Hazards) (Safety) Regulations 1987 have? Can you quantify these?

Comments: The revocation of these Regulations is in line with the broader application of Mutual Recognition.

Question 8. Are there any costs for business that have not been anticipated as a result of the revocations of the Bunk Beds (Entrapment Hazards) (Safety) Regulations 1987? Can you quantify these?

Comments: No comment

Question 9. Do you agree with the revocation of the Children's Clothing (Hood Cords) Regulations 1976?

Yes: Yes

No:

Other (please specify)

Question 10. Are there any other consequences to the revocation of the Children's Clothing (Hood Cords) Regulations 1976 not outlined in this document?

Comments: The Hood Cords Regs provide definitive specifications for acceptable design. This is helpful in determining compliance although it is accepted that both British and European Standards exist for this purpose.

Secondly, if the General Product Safety Regulations are to be applied, no enforcement action could be taken against a retailer (distributor) unless they *knowingly* supply an unsafe product because of the limitations in the GPSR.

Question 11. What benefits will the revocation of the Children's Clothing (Hood Cords) Regulations 1976 have? Can you quantify these?

Comments: The Hood Cords Regs only apply to outer garments and are thus restricted in their application.

Secondly, as the UK population is believed to be increasing in size due to improvements in health and other lifestyle choices, the Regulations are restrictive and may no longer protect the original intended target group.

Question 12. Are there any costs for business that have not been anticipated as a result of the revocation of the Children's Clothing (Hood Cords) Regulations 1976? Can you quantify these?

Comments: No comment

Question 13. Do you agree with the revocation of the Imitation Dummies (Safety) Regulations 1993?

Yes: Yes

No:

Other (please specify)

Question 14. Are there any other consequences to the revocation of the Imitation Dummies (Safety) Regulations 1993 not outlined in this document?

Comments: No view

Question 15. What benefits will the revocation of Imitation Dummies (Safety) Regulations 1993 have? Can you quantify these?

Comments: It is possible that the presentation etc of this type of product will allow the items to be considered as toys and thus fall under the Toy (Safety) Regulations 2011. This would provide a high level of protection for the most

vulnerable members of society, children under the age of three, to whom this product might be very attractive.

Secondly, it is considered that imitation dummies may be a historical product, no longer in current use/fashion and therefore the legislation is outdated.

Thirdly, if the product were to reappear on the market, it might be better addressed by the use of a European Direction under GPSR, or as a Prohibition Order issued by the Secretary of State.

Question 16. Are there any costs for business that have not been anticipated as a result of the revocation of the Imitation Dummies (Safety) Regulations 1993? Can you quantify these?

Comments: No comment

Question 17. Do you agree with the revocation of the Pencils and Graphic Instruments (Safety) Regulations 1998?

Yes:

No:

Other (please specify) : see comment below about ensuring that specified acceptable levels of heavy metals etc remain applicable.

Question 18. Are there any other consequences to the revocation of the Pencils and Graphic Instruments (Safety) Regulations 1998 not outlined in this document?

Comments: The Regulations specify acceptable levels of heavy metals etc in paint and varnish finishes. This protection needs to be maintained to protect users from long term damage to health. Products falling outside of the definition of a toy may fall under REACH where Trading Standards has enforcement powers at retail level only. Prosecution of retailers will not address the source of the problem and the risk to consumers will remain.

Secondly, if the General Product Safety Regulations are to be applied, no enforcement action could be taken against a retailer (distributor) unless they *knowingly* supply an unsafe product because of the limitations in the GPSR.

Question 19. What benefits will the revocation of Pencils and Graphic Instruments (Safety) Regulations 1998 have? Can you quantify these?

Comments: There is a distinction to be made between pencils and graphic instruments and similar items that are considered to be toys. The latter items would fall under Toy (Safety) Regulations and thus would offer a high level of protection for the users.

Secondly, pencils etc complying with European Standards are exempted from these Regulations and thus, this would be in line with Mutual Recognition.

Thirdly, issues around the safety of pentops are dealt with under GPSR using harmonised Standards. Revocation of these Regulations would allow comprehensive use of GPSR for the product. [However, please note comment re use of GPSR in ques 18 above]

Question 20. Are there any costs for business that have not been anticipated as a result of the revocation of the Pencils and Graphic Instruments (Safety) Regulations 1998? Can you quantify these?

Comments: No comment

Question 21. Do you agree with the revocation of the Wheeled Child Conveyances (Safety) Regulations 1997?

Yes: Yes

No:

Other (please specify)

Question 22. Are there any other consequences to the revocation of the Wheeled Child Conveyances (Safety) Regulations 1997 not outlined in this document?

Comments: If the General Product Safety Regulations are to be applied, no enforcement action could be taken against a retailer (distributor) unless they *knowingly* supply an unsafe product because of the limitations in the GPSR.

Question 23. What benefits will the revocation of Wheeled Child Conveyances (Safety) Regulations 1997 have? Can you quantify these?

Comments: British and European Standards exist to support enforcement work under GPSR.

Question 24. Are there any costs for business that have not been anticipated as a result of the revocation of the Wheeled Child Conveyances (Safety) Regulations 1997? Can you quantify these?

Comments: No comment

Question 25. Do you agree with the revocation of the Gas cooking Appliances (Safety) Regulations 1989?

Yes:

No: No

Other (please specify) :

Question 26. Are there any other consequences to the revocation of the Wheeled Gas cooking Appliances (Safety) Regulations 1989 not outlined in this document?

Comments: These Regulations apply to the sale of second hand appliances. The requirements are more specific and this is helpful when determining an acceptable level of safety for the second hand market.

The General Product Safety Regulations are more broad in their application and less prescriptive. Duties and responsibilities for a retailer/distributor are less onerous. As second hand cookers are sold by retailers, it is considered that revocation of these Regulations weakens the protection for consumers, who may fall in more vulnerable groups (eg the elderly, those in economic difficulties or suffering social deprivation with a need to access safe, cost effective second hand appliances).

If the General Product Safety Regulations are to be applied, no enforcement action could be taken against a retailer (distributor) unless they *knowingly* supply an unsafe product because of the limitations in the GPSR.

Question 27. What benefits will the revocation of Gas cooking Appliances (Safety) Regulations 1989 have? Can you quantify these?

Comments: No view

Question 28. Are there any costs for business that have not been anticipated as a result of the revocation of the Gas cooking Appliances (Safety) Regulations 1989? Can you quantify these?

Comments: No comment

Question 29. Do you agree with the revocation of the Heating Appliances (Fireguards) Regulations 1991?

Yes:

No:

Other (please specify): See comments below.

Question 30. Are there any other consequences to the revocation of the Heating Appliances (Fireguards) Regulations 1991 not outlined in this document?

Comments: These Regulations apply to the sale of second hand appliances. The requirements are more specific and this is helpful when determining an acceptable level of safety for the second hand market.

The General Product Safety Regulations are more broad in their application and less prescriptive. Duties and responsibilities for a retailer/distributor are less onerous. As second hand heaters are sold by retailers, it is considered that revocation of these Regulations weakens the protection for consumers, who may fall in more vulnerable groups (eg the elderly, those in economic difficulties or suffering social deprivation with a need to access safe, cost effective second hand appliances).

If the General Product Safety Regulations are to be applied, no enforcement action could be taken against a retailer (distributor) unless they *knowingly* supply an unsafe product because of the limitations in the GPSR.

It is a personal reflection that design appears to have changed little over the years, so the Regulations still reflect the current market.

Question 31. What benefits will the revocation of the Heating Appliances (Fireguards) Regulations 1991 have? Can you quantify these?

Comments: There are exemptions from these Regulations and thus, revocation would be in line with Mutual Recognition.

Secondly, following a recent investigation by Worcestershire Regulatory Services regarding a product where gaps were not of the specified size, no evidence was found that this caused the product to be unsafe and presented harm to users. The application of GPSR would allow a more proportionate risk based approach to be taken.

Question 32. Are there any costs for business that have not been anticipated as a result of the revocation of the Heating Appliances (Fireguards) Regulations 1991? Can you quantify these?

Comments: No comment

Question 33. Do you agree with the revocation of the Gas Catalytic Heaters (Safety) Regulations 1984?

Yes:

No:

Other (please specify): See comments below

Question 34. Are there any other consequences to the revocation of the Gas Catalytic Heaters (Safety) Regulations 1984 not outlined in this document?

Comments: The Regulations restrict the use of unbonded asbestos in such products. This protection needs to be maintained to protect users from long term damage to health. It may be possible to use REACH to restrict sales of such products, however, Trading Standards has enforcement powers at retail

level only. Prosecution of retailers will not address the source of the problem and the risk to consumers will remain.

Imports of such products can be sufficiently addressed under REACH but this would be done by HSE.

Secondly, whilst we are not currently aware of any problems with gas catalytic heaters, we do have evidence of the use of chrysotile asbestos being imported from China as fire retardant string on Sky Lanterns. It is understood the Welsh Authorities have recently completed work on this.

Question 35. What benefits will the revocation of Gas Catalytic Heaters (Safety) Regulations 1984 have? Can you quantify these?

Comments: No view

Question 36. Are there any costs for business that have not been anticipated as a result of the revocation of the Gas Catalytic Heaters (Safety) Regulations 1984? Can you quantify these?

Comments: No comment

Question 37. Do you agree with the revocation of the All-Terrain Motor Vehicle (Safety) Regulations 1989?

Yes:

No:

Other (please specify): See comments below

Question 38. Are there any other consequences to the revocation of the All-Terrain Motor Vehicle (Safety) Regulations 1989 not outlined in this document?

Comments: Under these Regulations, protection is afforded to two specific target groups (ages up to 12; 12 – 16) through restrictions to maximum speed and the application of a speed limiter.

Revocation of the Regulations could expose users in both target groups and also innocent third parties to increased risk of personal injury and death.

Question 39. What benefits will the revocation of All-Terrain Motor Vehicle (Safety) Regulations 1989 have? Can you quantify these?

Comments: A high level of protection exists for those products that could be deemed to fall within the Toy (Safety) Regulations 2011.

Secondly, if Supply of Machinery (Safety) Regs were to apply to the product, this would allow alignment of this product with mini motos. This would bring

clarification to the market place and broaden the scope of the essential requirements that must be met before placing the product on the market.

Question 40. Are there any costs for business that have not been anticipated as a result of the revocation of the All-Terrain Motor Vehicle (Safety) Regulations 1989? Can you quantify these?

Comments: No comment.

Question 41. Do you agree with the revocation of the Cooking Utensils (Safety) Regulations 1972?

Yes:

No:

Other (please specify) : See comments below

Question 42. Are there any other consequences to the revocation of the Cooking Utensils (Safety) Regulations 1972 not outlined in this document?

Comments: The Regulations address the presence excess lead in such products. This protection needs to be maintained to protect users from long term damage to health. It may be possible to use REACH to restrict sales of such products, however, Trading Standards has enforcement powers at retail level only. Prosecution of retailers will not address the source of the problem and the risk to consumers will remain.

Imports of such products can be sufficiently addressed under REACH but this would be done by HSE.

Question 43. What benefits will the revocation of Cooking Utensils (Safety) Regulations 1972 have? Can you quantify these?

Comments: It is suggested that the Ceramic Articles in Contact with Food Regulations 2006/1179 could be considered for amendment to widen their scope to include cooking utensils. These Regulations address the leaching of lead from ceramic articles so may be suitable to ensure a high level of protection is maintained for consumers. This may change enforcement responsibilities from a Consumer Safety authority to a Food authority.

Question 44. Are there any costs for business that have not been anticipated as a result of the revocation of the Cooking Utensils (Safety) Regulations 1972? Can you quantify these?

Comments: No comment

Question 45. Do you agree with the revocation of the Indication of Prices (Beds) Order 1978?

Yes: Yes

No:

Other (please specify)

Question 46. Are there any other consequences to the revocation of the Indication of Prices (Beds) Order 1978 not outlined in this document?

Comments: No comment

Question 47. What benefits will the revocation of Indication of Prices (Beds) Order 1978 have? Can you quantify these?

Comments: No comment

Question 48. Are there any costs for business that have not been anticipated as a result of the revocation of the Indication of Prices (Beds) Order 1978? Can you quantify these?

Comments: No comment

Question 49. Do you agree with the removal of the Child Resistant Packaging and Tactile Danger Warning (Safety) (Revocation) Regulations 1992 from the statute book?

Yes: Yes the issues appear to be adequately dealt with by Classification, Labelling and Packaging of substances and Mixtures EC Regs 2008

No:

Other (please specify)

Question 50. Do you agree with the removal of the Stands for Carry-cots (Safety) (Revocation) Regulations 1996 from the statute book?

Yes: Yes the issues appear to be adequately dealt with by relevant standards and GPSR. However, note that if the General Product Safety Regulations are to be applied, no enforcement action could be taken against a retailer (distributor) unless they *knowingly* supply an unsafe product because of the limitations in the GPSR.

No:

Other (please specify)

Question 51. Do you agree with the removal of the Magnetic Toys (Safety) (Revocation) Regulations 2009 from the statute book?

Yes: Yes the issues are adequately dealt with by BS EN 71 and Toy (Safety) Regulations 2011.

No:

Other (please specify)

Question 52. Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.
Comments: Yes

As a specific comment relating to the revocation of these Regulations, one of the Centsa authorities has commented :

"By removing the regulations that control specific safety measures, such as bunk bed gap requirements, it is felt these are effectively being removed from Government legislative control and being placed in the hands of the industry they are designed to regulate. In the future the primary guidance on what is deemed to be safe or unsafe will be written by the Standards committees of the respective European countries involved. Whilst it is appreciated that this is what GPSR aims to do at a broader level, this appears to be a surrender of control of key design principles that were deemed so serious as to require legislative intervention in previous years. It is difficult to see the benefit it brings to businesses, whilst appearing to dilute the UK's high level of safety which ensures preservation of key safety features.

In the light of the current reduction on public spending, and this anticipated trend in future years, regulators no longer have a representative who can either liaise or sit on the various committees to give voice to regulators' concerns as to potential changes to Standards. The Standards committees are now comprised of persons who work at test houses and persons who work for the major manufacturers of these products. Whilst these contributors possess great levels of expertise, it would appear to be inappropriate to place complete control for safety design and guidance into the hands of the industry it is intended to regulate. It is appropriate that there should be independent checks and balances by way of Regulations to ensure regulators have a measure of input (even veto) as to the content of Standards. This concern is illustrated as follows:
- it is understood that the UK Standards committee reviewing EN747 (the British Standard for bunk /high beds) was recently overruled regarding the inclusion of controls on gaps appropriate to bunk beds (a specific safety issue). As a result, it is understood that a caveat has been included in the introduction of the British Standard to highlight concerns that the committee felt were not being addressed in the new version of the Standard.

Secondly, with regard to transparency and cost of compliance, the removal of specific government regulations which are free to view and widely available are to be replaced with Standards which are only accessible

through BSI or at a local library. This has significant cost implications for both small businesses and local regulators. Access to Standards is critical to Product Safety enforcement by Trading Standards. If the move to compliance with Standards and GPSR is to continue, we would like to see statutory provision for free access to ALL safety Standards for ALL UK Trading Standards Officers, whether it be for business advice or investigation purposes. This would enable us to show our enforcement was both legitimate and transparent. More importantly, it would achieve the two goals of maintaining high levels of consumer protection whilst ensuring a proportionate approach to businesses.

In the light of continued reductions to Trading Standards budgets and the absence of LACORS, there will realistically be little, if any, opportunity for regulators to monitor, contribute and review proposed changes to UK safety Standards. Small Trading Standards departments have neither the funds or officer resources to obtain expert opinion to challenge British and European Standards. It would be far better and more effective to have national representation on such committees, or alternatively, retain the legislative controls."

This view was the result of an investigation into the circumstances of a death that was linked to a bunk bed and has the support of all the members of Centsa Product Safety group.

What happens next?

Responses to this consultation will be used to finalise decisions regarding the removal or retention of these regulations. A government response to this consultation, outlining which regulations are to be removed and which are to be retained as a result of evidence gathered through this consultation, will be published within three months of this consultation closing. This will be available from the BIS website. Paper copies will be available on request.

Where regulations are to be removed, this will have effect from 1 October 2012.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply ☐

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

x Yes ☐ No

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