Regulation (EU) No 1007/2011 of the European Parliament and of the Council of 27 September 2011 on textile fibre names and related labelling and marking of the fibre composition of textile products and repealing Council Directive 73/44/EEC and Directives 96/73/EC and 2008/121/EC of the European Parliament and of the Council (Text with EEA relevance)

REGULATION (EU) No 1007/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 27 September 2011

on textile fibre names and related labelling and marking of the fibre composition of textile products and repealing Council Directive 73/44/EEC and Directives 96/73/EC and 2008/121/EC of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) Council Directive 73/44/EEC of 26 February 1973 on the approximation of the laws of the Member States relating to the quantitative analysis of ternary fibre mixtures[(3)], Directive 96/73/EC of the European Parliament and of the Council of 16 December 1996 on certain methods for the quantitative analysis of binary textile fibre mixtures[(4)] and Directive 2008/121/EC of the European Parliament and of the Council of 14 January 2009 on textile names[(5)] have been amended several times. Since further amendments are to be made, those acts should be replaced by a single legal instrument, in the interest of clarity.

(2) The legal acts of the Union on textile fibre names and related labelling and marking of fibre composition of textile products are very technical in their content, with detailed provisions that need to be adapted regularly. In order to avoid the need for Member States to transpose the technical amendments into national legislation and thus reduce the administrative burden for national authorities and in order to allow for a faster adoption of new textile fibre names to be used simultaneously throughout the Union, a regulation seems to be the most appropriate legal instrument to carry out the legislative simplification.

(3) In order to eliminate potential obstacles to the proper functioning of the internal market caused by Member States' diverging provisions with regard to textile fibre names and

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related labelling and marking of fibre composition of textile products, it is necessary to harmonise the names of textile fibres and the indications appearing on labels, markings and documents which accompany textile products at the various stages of their production, processing and distribution.

(4) The labelling and marking requirements laid down in this Regulation should not apply in cases where textile products are contracted out to persons working in their own homes or to independent firms that carry out work from materials supplied to them without the property therein being transferred for consideration or where customised textile products are made up by self-employed tailors. However, those exemptions should be limited to the transactions between those persons working in their own homes or independent firms and the persons contracting out work to them, and between self-employed tailors and consumers.

(5) This Regulation lays down harmonised provisions with regard to certain aspects of textile labelling and marking, in particular textile fibre names. Other labelling and marking may exist, provided that it does not cover the same scope as this Regulation and that it is compatible with the Treaties.

(6) It is appropriate to lay down rules enabling manufacturers to ask for the inclusion of a new textile fibre name in the Annexes to this Regulation.

(7) Provision should also be made in respect of certain products which are not made exclusively of textile materials but have a textile content which constitutes an essential part of the product or to which attention is specifically drawn by the economic operator.

(8) It is appropriate to lay down rules concerning the labelling or marking of certain textile products which contain non-textile parts of animal origin. This Regulation should, in particular, set out the requirement to indicate the presence of non-textile parts of animal origin on the labelling or marking of textile products containing such parts, in order to enable consumers to make informed choices. The labelling or marking should not be misleading.

(9) The tolerance in respect of ‘extraneous fibres’, which are not to be stated on the labels and markings, should apply both to pure products and to mixtures.

(10) Labelling or marking of the fibre composition should be compulsory to ensure that correct and uniform information is made available to all consumers in the Union. However, this Regulation should not prevent economic operators from indicating, in addition, the presence of small quantities of fibres requiring particular attention to keep the original quality of the textile product. Where it is technically difficult to specify the fibre composition of a textile product at the time of its manufacture, it should be possible to state, on the label or marking, only those fibres which are known at the time of manufacture provided that they account for a certain percentage of the finished product.

(11) In order to avoid differences in practice among the Member States, it is necessary to lay down the exact methods of labelling or marking for certain textile products consisting of two or more components, and also to specify the components of textile products that need not be taken into account for the purposes of labelling, marking and analysis.

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(12) Textile products subject only to the requirements of inclusive labelling, and those sold by the metre or in cut lengths, should be made available on the market in such a way that the consumer can fully acquaint himself with the information affixed to the overall packaging or the roll.

(13) The use of textile fibre names or descriptions of fibre compositions which enjoy particular prestige among users and consumers should be made subject to certain conditions. Furthermore, in order to provide information to users and consumers, it is appropriate that the textile fibre names are related to the characteristics of the fibre.

(14) The market surveillance in Member States of products covered by this Regulation is subject to Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products[(6)] and Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety[(7)].

(15) It is necessary to lay down methods for the sampling and analysis of textile products in order to exclude any possibility of objections to the methods used. The methods used for official tests carried out in the Member States to determine the fibre composition of textile products composed of binary and ternary fibre mixtures should be uniform, as regards both the pre-treatment of the sample and its quantitative analysis. In order to simplify this Regulation and adapt the uniform methods set out therein to technical progress, it is appropriate that those methods be turned into harmonised standards. To that end, the Commission should manage the transition from the current system, which is based on the methods set out in this Regulation, to a harmonised standard-based system. The use of uniform methods of analysis of textile products composed of binary and ternary fibre mixtures will facilitate the free movement of those products, and thereby improve the functioning of the internal market.

(16) In the case of binary textile fibre mixtures for which there is no uniform method of analysis at Union level, the laboratory responsible for the test should be allowed to determine the composition of such mixtures, indicating in the analysis report the result obtained, the method used and its degree of accuracy.

(17) This Regulation should set out the agreed allowances to be applied to the anhydrous mass of each fibre during the determination by analysis of the fibre content of textile products, and should give two different agreed allowances for calculating the composition of carded or combed fibres containing wool and/or animal hair. Since it cannot always be established whether a product is carded or combed, and consequently inconsistent results can arise from the application of the tolerances during checks on the conformity of textile products carried out in the Union, the laboratories carrying out those checks should be authorised to apply a single agreed allowance in doubtful cases.

(18) Rules should be laid down in respect of products exempt from the general labelling and marking requirements set out in this Regulation, in particular with respect to disposable products or products for which only inclusive labelling is required.

(19) Misleading commercial practices, involving the provision of false information that would cause consumers to take a transactional decision that they would not have taken

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otherwise, are prohibited by Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market[8] and are covered by Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection law[9].

(20) Consumer protection requires transparent and consistent trade rules, including as regards indications of origin. When such indications are used, they should enable consumers to be fully aware of the origin of the products they purchase, so as to protect them against fraudulent, inaccurate or misleading claims of origin.

(21) The European textiles sector is affected by counterfeiting, which poses problems in terms of consumer protection and information. Member States should pay particular attention to the implementation of horizontal Union legislation and measures regarding counterfeit products in the field of textile products, for example Council Regulation (EC) No 1383/2003 of 22 July 2003 concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights[10].

(22) It is appropriate to establish a procedure for the inclusion of new textile fibre names in the Annexes to this Regulation. This Regulation should thus set out requirements regarding applications by manufacturers or other persons acting on their behalf for new textile fibre names to be added to those Annexes.

(23) It is necessary that manufacturers, or other persons acting on their behalf, who wish to add a new textile fibre name to the Annexes to this Regulation, include in the technical file to be submitted with their application available scientific information concerning possible allergic reactions or other adverse effects of the new textile fibre on human health, including results of tests conducted to that effect in compliance with relevant Union legislation.

(24) The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the adoption of technical criteria and procedural rules for the authorisation of higher tolerances, the amendment of Annexes II, IV, V, VI, VII, VIII and IX in order to adapt them to technical progress and the amendment of Annex I in order to include new textile fibre names in the list set out in that Annex. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(25) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States and can therefore, by reason of its scale, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

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(26) In order to eliminate possible obstacles to the proper functioning of the internal market caused by divergent provisions or practices of Member States, and in order to keep pace with the development of electronic commerce and future challenges in the market for textile products, the harmonisation or standardisation of other aspects of textile labelling should be examined. To that end, the Commission is invited to submit a report to the European Parliament and to the Council regarding possible new labelling requirements to be introduced at Union level with a view to facilitating the free movement of textile products in the internal market and to achieving a high level of consumer protection throughout the Union. That report should examine in particular consumer views relating to the amount of information that should be supplied on the label of textile products, and investigate which means other than labelling may be used to provide additional information to consumers. The report should be based on an extended consultation of relevant stakeholders, including consumers, and should take into account existing related European and international standards. The report should examine, in particular: the scope and features of possible harmonised rules on the indication of origin, taking into account the results of developments on potential horizontal country-of-origin rules; the added value to the consumer of possible labelling requirements relating to care instructions, size, hazardous substances, flammability and environmental performance of the textile products; the use of language-independent symbols or codes for identifying the textile fibres contained in a textile product, enabling the consumer to understand easily the composition and, in particular, the use of natural or synthetic fibres; social labelling and electronic labelling; as well as the inclusion of an identification number on the label to obtain additional on-demand information, especially via the Internet, about the product and the manufacturer. The report should be accompanied, where appropriate, by legislative proposals.

(27) The Commission should carry out a study to evaluate whether there is a causal link between allergic reactions and chemical substances or mixtures used in textile products. On the basis of that study, the Commission should, where appropriate, submit legislative proposals in the context of existing Union legislation.

(28) Directives 73/44/EEC, 96/73/EC and 2008/121/EC should be repealed,

HAVE ADOPTED THIS REGULATION:

CHAPTER 1

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation lays down rules concerning the use of textile fibre names and related labelling and marking of fibre composition of textile products, rules concerning the labelling or marking of textile products containing non-textile parts of animal origin and rules concerning the determination of the fibre composition of textile products