2016-050

Department for
Business, Energy
& Industrial Strategy

Consultation on updating the Furniture and Furnishings (Fire) (Safety) Regulations (FFRs) response form

The consultation is available at: www.gov.uk/government/consultations/furniture-and-furnishing-fire-safety-regulations-proposed-changes-2016

The closing date for responses is **11 November 2016**.

The form can be submitted by email to: furniture.consultation2016@bis.gsi.gov.uk or submitted by letter to:

[redacted]
Regulatory Delivery
Department for Business, Energy and Industrial Strategy
Second Floor
1 Victoria Street
London
SW1H 0ET

Please be aware that we intend to publish all responses to this consultation.

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes. Please see the section on confidentiality and data protection on page 7 of the consultation for further information.

If you want information, including personal data, that you provide to be treated in confidence, please explain to us what information you would like to be treated as confidential and why you regard the information as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

I want my response to be treated as confidential ☐

Comments: Click here to enter text.

Questions

Name: [redacted]
Organisation (if applicable): Furniture Industry Research Association
Address: Maxwell Road, Stevenage, Hertfordshire SG1 2EW

	Respondent type
☒	Business representative organisation/trade body
☐	Central government
☐	Charity or social enterprise
☐	Individual
☐	Test House
☐	Manufacturer
☐	Retailer
☐	Large business (over 250 staff)
☐	Legal representative
☐	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)

Questions on scope

Q1 Do you agree with the revised definition of the Regulation's scope?

☒ Yes ☐ No ☐ Not sure

Comments: The new definition appears to be more straightforward

Q2 Do you agree with the proposals relating to sleeping bags and mattress protectors (i.e. those which can be put in a washing machine are explicitly removed from scope and do not have to meet the requirements of the regulations)?

☐ Yes ☒ No ☐ Not sure

Comments: We were unaware that sleeping bags were in the scope of the regulations. In terms of making a differential between mattress toppers and mattress protectors, we would suggest that the mattress topper adds comfort and cannot fit in a domestic washing machine – however probably the weight capacity of the washing machine will also need to be defined. We have concern that the draft regulations do not define what a topper is in the same way as the consultation document and that mattress protectors that can be washed are excluded. Any product can be washed (i.e. by hand, industrial washing machine). The definitions in the draft regulations are not good enough.

Q3 Do you agree with the proposals relating to cushions and seat pads (i.e. that they remain excluded from cover tests but the definition of these products to be specified more clearly)?

☐ Yes ☐ No ☒ Not sure

Comments: We agree that a better definition of scatter cushions and seat pads is a good step forward. We would suggest, however that product has moved on and that rather than have two different sizes, both scatter cushions and seat pads are both defined as being less than 60cm x 60 cm x nominal thickness (which should obviously be less than 60 cm), which is measured when placing the flat.

Q4 Do you agree with the proposals relating to outdoor furniture (i.e. that outdoor furniture unsuitable for use inside the home, and clearly labelled as not complying with the Regulations) should be out of scope?

☐ Yes ☐ No ☒ Not sure

Comments: We agree that the definition of outdoor furniture needs to be improved. However, we do not feel the definition is clear enough that the only items that are excluded are those not suitable for use in a dwelling which must also be marked as such. It could be interpreted that even if a product was suitable for use in a dwelling it could be excluded if it was marked 'For outdoor use only', which would be a step back in safety. We suggest that in the regulations the line Part 2, 4 (3) g is changed to 'furniture that is ordinarily used for private use open where (i) and (ii) both apply'.

Q5 Do you agree with the proposals relating to baby products (i.e. that items covered by covered by BS EN1888 (wheeled child conveyances) and BS EN1466 (carry cots and stands) are removed from scope, with padded playpens treated in the same way as mattresses)?

☒ Yes ☐ No ☐ Not sure

Comments: We believe this is a positive step, providing there are adequate safety standards inforce. We also agree for the exclusion of children's car seats as noted in the draft regulations, but not in the consultation document. In the consultation document it specifically mentions product covered by the standards BS EN 1888 and BS EN 1466. This is very specific, whereas the terminology in the regulations in slightly more vague.

Q6 Do you agree with the proposed treatment of second-hand products (i.e. that they would be required to bear the relevant permanent label)?

☒ Yes ☐ No ☐ Not sure

Comments: It is currently common practice for the 3rd sector to only accept furniture for sale if it has the permanent label attached. The question, however is more for re-upholstery. The consultation says that the product must carry the original permanent label, for a re-upholstered product this would not be possible and could either drive re-upholsterers out of business or cause them to become non-compliant.

Questions on testing

Q7 Do you agree to removing the Filling 1 option?

☒ Yes ☐ No ☐ Not sure

Comments: We agree that having a single test filling will simplify the proposal. We also think that this will decrease the chance of accidental non-compliance through inadvertent selection of the wrong cover fabric for the type of furniture being manufactured.

Q8 Do you agree that the specifications set out in the draft Regulations for the test foam and fibre wrap are sufficient to achieve the objectives of the Regulations?

☐ Yes ☒ No ☐ Not sure

Comments: The foam specification could be simplified. With the fibre wrap the type of foam will not have as much influence on the test result. It may therefore not necessary to say it must be a melamine-modified foam, but simply a foam that meets the requirement of Schedule 4 Part 1. Please note that as written Schedule 5 says that the foam must meet Schedule 1 Part 1, however, Schedule 1 is now revocations – this needs to be corrected. There is some concern that the fibre wrap has not been specified fully, some form of density specification, or fibre diameter measurement, should be supplied. Also the specification in the draft regulations reference a Schedule 2 Part 1 compliant fibre. In the draft the schedules have been renumbered and Schedule 2 is now the cigarette test – this now needs to be corrected. Perhaps it would be easier to leave the order of schedules as they are, if possible.

Q9a Do you agree that the regulations should provide a protective cover option?

☒ Yes ☐ No ☐ Not sure

Comments: We agree that the use of a protective cover would be the simplest route to compliance, and therefore support this suggestion

Q9b If yes, do you agree with our proposed definition of protectiveness?

☐ Yes ☒ No ☐ Not sure

Comments: We cannot agree with this definition for a protective cover. The 2 mm diameter hole will be difficult to measure, and there is no tolerance, therefore there will be differences between laboratories in the results given, which will result in problems for manufacturers and enforcement bodies getting inconsistent results. Many cover fabrics (predominately those that contain man-made fibres) and currently satisfy the current match test, can split by more than 2 mm diameter but not fail the test regime, but under the proposed test method will now be classified as non-protective. This will mean that to get these fabrics to be classified as a protective cover in line with the proposed changes, it is likely that higher levels of flame retardant coatings will be needed than currently used. This is counter to the stated aims of the BEIS consultation. In addition, during testing, as the match flame is applied to the seat/back junction, fabric tend to the split in a line, not a hole, further complicating the measurement process. Again, it is expected that this test will cause a lot of variation in use. Also it is noted that in the draft regulations the test has to be made 5 times (10 applications of the flame) and pass 4 times. This will be be an

additional financial burden on the industry, as it will require 5 times the test materials and 5 times the cost of test, which does not seem to have been accounted for in the impact assessment. It is noted from the Technical Panel documents none of the assembled experts supported this definition of protectiveness. We would support the proposal discussed in the Technical Panel document of using the current test over a non-combustion modified foam as the definition of protectiveness, which for all its faults is very clear and simple to understand when a fabric is compliant.

Q10 Do you agree with the proposed requirements for components close to the cover?

☐ Yes ☐ No ☒ Not sure

Comments: In its current form in the draft regulations it could be a difficult route to follow as it adds significant layers of due diligence to ensure all components are compliant. It is anticipated that there would be significant initial costs, either in design or component selection to minimise the impact of this change. In addition it is unlikely that enforcement bodies would accept a single test as evidence of compliance, and therefore regular repeat testing may be required to evidence due diligence. Whilst fire safety is of prime importance, this may increase the financial burden on the industry. This may have been easier to introduce with an exclusion list, as originally proposed. In addition the test is not well defined and does not explain how small or shaped components should be tested. Should some small components be excluded, for example, due to their lower fire risk? It is also noted that the mechanism to define 40 mm is not clear. It is possible, for example, for a 40 mm foam/fibre combination to be used in its normal state before manufacture, but the use of a cover may compress the materials to a distance less than 40 mm. The method to measure this distance needs to be confirmed.

Q11 Do you agree that there is no need for the cigarette test for covers that pass the revised match test?

☒ Yes ☐ No ☐ Not sure

Comments: Whilst there are a small number of fabric blends and leathers that satisfy the match test and fail the cigarette test, these are estimated to be less than 1% of all fabrics used.

For business respondents:

Q12 Which of the routes to compliance do you expect to follow for most of your products?

☐ Schedule 3 interliner ☐ Protective cover

☐ Non-protective cover + compliant components ☒ Not sure

Comments: This is a very difficult. Any one manufacturer may use a selection of different fabrics, filling and support mechanisms on different styles of furniture and this may drive them down a different route for different models. The schedule 3 interliner route allows the use of any fabric, but significantly adds to the cost as effectively the covers have to be made twice (once with the interliner and once with the cover fabric). Also this would increase the use of fire retardants on the interliner itself, which defeats one of the key objectives of BEIS in drafting these proposed regulations. It should also be noted that interliners are considered one of the most variable materials used in terms of fire performance. The protective cover route would be the closest to the current situation, but it is believed that the variability in the test and the additional costs associated with the test and increased use of flame retardants, may make this a less favoured option. The non-protective cover and compliant components is still a relatively unknown quantity. We know that there may be issues with components such as zips and webbing not satisfying the test.

Q13a What do you expect the impact of the testing proposals to be on your use of flame retardants in covers?

☐ Increase ☐ Decrease ☐ No change ☒ Not sure

Comments: It is an unknown as it is not clear which route to compliance will be used. There are concerns that the protective cover route may actually drive up flame retardant usage to try to ensure a consistent performance with regards to the 2 mm hole.

Q13b What do you expect the impact of the testing proposals to be on your overall use of flame retardants?

☒ Increase ☐ Decrease ☐ No change ☐ Not sure

Comments: It is expected that the use of flame retardants overall may increase, whether that is with protective covers, increased interliner usage or modifying the components close to the cover.

Questions on traceability and enforcement

Q14 Do you agree with the product record/technical file requirements for manufacturers and importers?

☒ Yes ☐ No ☐ Not sure

Comments: Overall this is a positive step, and in line with other products/directives such as toys, electrical items, machines etc. The only concern is that there may be a significant additional cost for re-upholsterers and small and bespoke manufacturing businesses, who may not have the resources to undertake this work.

Q15a Do you agree with the requirements for the single permanent label, and the proposal to remove the requirement for additional display labels?

☒ Yes ☐ No ☐ Not sure

Comments: Yes. The only comment would be that as the name of the manufacturer/importer needs to be display, it needs to be clear that in 'own branded' product, a retailer would be considered to assume the role of manufacturer/importer.

Q15b What do you think is the most effective means of conveying the use of flame retardants in the cover of this product eg by text, symbol?

Comments: Text would be the best method. There is concern, however, that this requirement will be slightly misleading to consumers, as flame retardants would be used on interliners, in some fillings and some items close to the cover. A consumer may select an item as it is suggesting there are no fire retardants in the product, when in actual fact there may be.

Other questions on the proposals

Q16 Do you agree that a 24 month transition period is sufficient, and that the changes should be reviewed in five years?

☒ Yes ☐ No ☐ Not sure

Comments: It is difficult to provide a perfect transition period due to different volume production, times models stay on the market and different stock regimes, but broadly overall this seems sensible.

Q17 Do you have any other comments on the proposals or draft regulations?

☒ Yes ☐ No ☐ Not sure

Comments: There are a number of differences between the proposals and the draft regulations that need to be resolved. It is not clear from the Regulations whether private rental properties (both residential and holiday) are covered by these Regulations – these are in the current Regulations. Would pet beds be covered by the regulations? There are areas where terminology is not clear (e.g. the use of beds, bases and bed-bases) and this make interpretation difficult. The regulations state that 'beds and divans (including the bases and headboards of both), sofa beds' are within scope. This suggests that a headboard, if supplied with the bed is considered part of the bed-base and therefore the cover fabric would not need to be compliant. This is understandable as an upholstered bed bas uses the same fabric on the bed base and the headboard, and therefore having different requirements for each is confusing. This is different, however, to the current Regulations where the cover fabrics of headboards (front and back) need to be fully compliant (cigarette and match). If this is correct, what about headboards supplied separately – do they need to be fully compliant or not? This is an area that needs clarification. Also there is no requirement for bed-bases and mattresses to have a technical file. This seems a strange decision and it would make more sense if these products also had a technical file. It is presumed that the schedules needed to be re-organised for legal reasons. This could cause confusion as many people understand the current schedules, especially during the lead-in period where both sets of products will be available. It is disappointing that the test methods still reference old test standards and modify them. It would be clearer if the complete test method was included in the regulations – and work has been done on this previously. It is disappointing that the cigarette test for relevant materials is still a composite test (i.e. using the actual filling materials used in the final product). This is difficult and is not the route to compliance currently used, where the fabrics are used with a 'worst-case' filling and then sold to be suitable with any filling (this is a route currently accepted by Trading Standards). Also it is disappointing that the cigarette used for this test has not been updated (say to the NIST test cigarette) as the cigarette in the regulations is currently no longer in manufacture. This would most likely mean that a set of regulations would be published where immediately users of relevant materials would be non-compliant, although not necessarily unsafe. Also it is noted that where a water soak test in required in Schedule 2, it is dried by any means possible. The state of the art is to line dry the fabric (which has been incorporated into Schedule 5). In Schedule 5 it is not clear why the requirement for conditioning a cover fabric for 72 hours at indoor ambient conditions has been removed.

Questions on the Impact Assessment

Q18 Do you agree with our estimate of traceability time in the Impact Assessment – ie one-off input of 16 hours per firm and ongoing per year time of 48 hours per firm? If not can you provide additional evidence to support your answer?

☐ Yes ☒ No ☐ Not sure

Comments: The amount of time will be dependant on the size of the business and the number of models introduced per year. A better estimate would be a one off cost of 48 hours per model, with 16 hours per model ongoing.

Q19 How much do you estimate you would save per year from the removal of the cigarette test?

Amount saved: The amount saved will be dependent on the number of tests carried out, however the sample preparation, conditioning and reporting will be the same as currently experienced (as most labs carry the cigarette and match test on the same sample). Therefore the saving is only the time taken to carry out the test and the test cigarette. This is estimated to be a saving of 5% - 10% per test.

☐ Nothing ☒ Not sure

Q20 How much do you estimate you would save per year from reduced use of flame retardants?

Amount saved: As noted it is not clear whether flame retardant use will be reduced or increased (e.g. with a protective cover or interliner route it is estimated that use of flame retardants may increase).

☐ Nothing ☒ Not sure

Q21 Are you aware of any further costs or benefits we have not identified in the impact assessment? Please support with any evidence you have.

☒ Yes ☐ No ☐ Not sure

Comments: The 5 times match test for protective covers does not seem to have been identified.

Q22 To what extent do you agree that, overall, these proposals represent a reasonable compromise – bearing in mind the information in this consultation document, feedback on the previous (2014) consultation, and other stakeholder input during the review?

☐ Strongly Agree ☐ Agree ☒ Not sure ☐ Disagree ☐ Strongly Disagree

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 BEIS 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?

☒Yes ☐No

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