Template for comments and secretariat observations

Date: **26 March 2021**	Document: **ESR for chemical flame retardant** **Slide 8**	Project: **Revision of Furniture & Furnishing (Fire) (Safety) Regulations** FW/6_21_0008

MB/ NC[1]	Line number (e.g. 17)	Clause/ Subclause (e.g. 3.1)	Paragraph/ Figure/ Table/ (e.g. Table 1)	Type of comment[2]	Comments	Proposed change	Observations of the secretariat
JM AUE /7					**Problem 1:** How will a manufacturer demonstrate that the health or safety of users or third parties is not jeopordised for the lifetime of the product? How can a manufacturer forsee changes to REACH and new discoveries on the health impact of fire retardant or other chemicals?	**Problem 1 solution:** Revise this requirement so that it is clear that this applies at the date of placing the product on the market and cannot be applied or enforced retrospectively.	
JM AUE /7					**Problem 2:** As the re-upholstery sector does not manufacture pieces of furniture and may only be asked to re-cover or refurbish existing filling materials, they will not have access to information about pre-existing filling materials, only the replacement fillings that they supply and add to the piece.	**Problem 2 solution:** As the re-upholsterer will not have direct access to information about chemical flame retardants used in pre-existing materials and may only have limited information about the new replacement filling materials and fabrics, they can only be held responsible for limited information supplied to them in relation to the replacement materials they supply/use.	
WS-B AMU SF					**Problem 3:** The re-upholsterer will not have access to specific information about the chemical flame retardants used in either the original filling materials, replacement filling materials or fabrics	**Problem 3 solution:** As the re-upholsterer will not have direct access to information about chemical flame retardants used in pre-existing materials and may only have limited information about the new replacement filling materials and fabrics, they can only be held responsible for limited information supplied to them in relation to the replacement materials they supply/use.	
TH NBF					**Problem 4:** **<u>Challenge – Demonstration of consideration of Hierarchy</u>**	**Problem 4: Solution** Clarify that the manufacturer must consider the use of materials that do not require FR chemical	

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					It is not clear. It is possible to go straight to the last point and use FR chemicals. Do we need to demonstrate that other options have been considered in the first instance, but perhaps was not possible due to cost / type of product etc.?	treatment wherever possible, but if it is not commercially possible due to the type of product / price point on the market (e.g., roll up foam mattress or foam seat cushion in sofa) then this is documented in the technical file to show consideration of the hierarchy was given?	
TH NBF					**Problem 5:** **<u>Challenge – Definition of inherently FR materials.</u>** Some materials are described as inherently FR but, have had the FR chemical applied to the yarn before weaving into the finished fabric.	**Problem 5 solution:** Clarify what is meant by inherently FR and whether this means materials that are naturally fire resistant and that it does / does not include fibres that have been chemically treated separately before being made into the finished material (fabric etc..).	
TH NBF					**Problem 6:** **<u>Challenge – What are classed as 'bad' chemicals?</u>** FR chemicals are often viewed as 'bad' and called 'nasty' or 'toxic' as per the Environmental Audit Committee report on toxic chemicals in everyday use. If chemicals are compliant with REACH – are they bad? As we understand more and see evidence of environmental or health impacts, it is always necessary to change attitudes regarding use of that particular chemicals, however, not all FR chemicals are listed as SVHC currently	**Problem 6 solution:** The supply chain needs to understand more about what is meant here. Can BEIS OPSS / the independent group of experts guide us here on what chemicals we should be concerned about if not already listed as an SVHC? Or is compliance with REACH and aiming to phase out any chemical listed as SVHC enough?	

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TH NBF					**Problem 7:** **<u>Challenge – Health & Safety of user for expected lifetime of product</u>** Where FR chemicals are used, current legislation already requires compliance with UK REACH Regulations. It is not possible to account for changes to future legislation where chemicals are restricted / banned. The current REACH Regulations do not require the material supplier to provide an ingredients list of chemicals – only to declare any SVHC above 0.1% w/w at the time of supply / placing on the market and therefore it is difficult for the final item manufacturer to identify legacy chemicals in products already placed on the market.	**Problem 7 solution:** **<u>Solution</u>** In the first instance, the Regulations will need to state that where FR chemicals are used, the chemical name, CAS no, etc… must be supplied to the downstream user of the materials. If this is a legal requirement of these Regulations, it would give manufacturers more power to obtain the information. This could be then dealt with in the labelling proposals where the FR chemical could be listed – but it would have to be clear which material contained the FR chemical to deal with end of life considerations.	
SM BFM			Table 8		**Problem 8:** When using FR chemicals, current UK legislation requires that they are compliant with the REACH regulations at the time of use. It is not possible to predict changes in the use of chemicals which are subsequently banned or restricted	**Problem 8 solution:** To communicate the use of FR chemicals in furniture and maintain this information, throughout the life and end–of-life of the product, this should be an element of a permanent label designed to effectively convey the type and content of the chemical(s) to the user using a ‘tick box’ and/or ‘traffic light’ system	
TN SAT RA					**Problem 9:** How will a manufacturer achieve this (what evidence is required)?	**Problem 9 solution:** Specify what information/evidence is required.	

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TN SAT RA					**Problem 10:** Is there a statute of limitations on this?	**Problem 10 solution:** Specify that the product would only need to meet regulations that were present at the time of manufacture.	
PJW FRE TW ORK					**Problem 11:** All textile Inherently Flame Retardant Materials (IFRM) are subject to variation based upon 1. The choice of material/chemistry employed and 2. Process Control. It is an aspect of this proposal that we must suspect that some will think first of WOOL and some POLYESTER. There is little choice in the availability of IFRM for textiles based upon a basic chemistry and when they can be identified they have very limited textile application suitable for the manufacture of Upholstery. (Example: Aramid fibres). Wool is a natural and, hence, variable product. Polyester is a manufactured product and the type and amount of copolymer that will confer its IFRM characteristics is determined in manufacture. Both types benefit from Good Practice in preparation to achieve the best IFRM properties that may be compromised by other process systems (added finishes and process aids) and the best IFRM properties may be compromised	**Problem 11 solution:** There must not be a Presumption of Conformance simply because a IFRM carries the epithet INHERENT. Performance must always be the subject of testing. The extent to which any test methods and performance requirements are defined must emphasise the limitations of their extent but be capable of admitting added circumstances where they may be applied but above all the risk of material choice and process control being defeated outside their limits of normal application recognised. Solution: This may be a product care issue, a labelling requirement and will certainly need recognising in final article technical files.	

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					by subsequent treatment. An example of this is the removal of processing aids and sizes from fabrics and then the application of post treatments that compromise IFRM performance such as a chemical polymer treatment for stain release. The effect on FR properties is the same. The issue of residual size and process lubricants is extremely critical. In the 1980's cotton and other cellulosics were prevalent and printed which required careful preparation for printing. Today, it is quite common with modern sizes and process aids for scouring to be absent - as seen when the soak test is performed. This would be an extremely critical factor if manufacturers were to rely on IFRM such as polyester. If performance is based upon a Presumption of Conformance testing as process control could be absent. There exists a considerable market for the treatment of Final Articles after the component manufacture process control stage. This extends as far as DIY application of anti-soiling treatments. It must be the role of Regulation to define this risk as it lies outside the scope of FW6 to require testing of any such post-treatments. The tests will/should be capable of facilitating testing but recognising the risk to consumer safety is often absent. The testing regime cannot determine where and when it is applied but it should play a part most obviously in design, development and choice of materials. It is also required in process control to		

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					allow the best management of production towards ensuring consumer safety.		
KK CIA					**Problem 12:** 1. Manufacturers must show application of, in order of priority, the flame retardant technology hierarchy: • use of inherently flame retarded materials • design of products to make them more intrinsically fire resistant without the need for chemical flame retardants • use of chemical flame retardants 2. Any substances added to the article with the aim of meeting the essential fire safety requirements must not jeopardise the health or safety of users or third parties when they are used as intended or in a foreseeable way which considers the behaviour of target users for the expected lifetime of the product **Problems:** 1. The technology hierarchy stated in this ESR assumes that fire resistance is the sole criterion when designing items of furniture. In reality, there are likely to be overriding considerations such as	**Problem 12 solution:** 1. Define a set of criteria for furniture which includes functional and life cycle performance, cost and other key parameters in addition to usage of flame retardants.	

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					the commercial availability of suitable materials, their functional performance, carbon footprint, life cycle performance and of course their cost. It is possible that a certain combination of materials fits the bill in terms of the technology hierarchy herein but falls short in terms of comfort or longevity or affordability, thereby not being a realistic option for one manufacturer. On the other hand, another manufacturer may be in a position to meet this ESR, whereas his offering may not be well received in the market due to a shortfall in the other criteria. As such, a stand-alone ESR for flame retardancy choices is likely to be futile.		
KK CIA					**Problem 13 solution:** This is a desirable ESR which in effect mirrors regulatory requirements embedded in chemical legislation such as EU REACH and UK REACH. For completeness, it should contain a requirement with respect to the natural environment, in addition to health and safety.	**Problem 13 solution:** We do not foresee any problem in demonstrating compliance with this ESR. Both under EU REACH and in the future under UK REACH, there are specific requirements that apply to manufacturers to assess and document the risks arising from any substance that they manufacture. The overall objective of REACH is to demonstrate safe use, i.e., that no harm is caused to people or the environment during the life cycle of a chemical substance.	

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