

2000 No. 1668

CONSUMER PROTECTION

The Dangerous Substances and Preparations (Nickel) (Safety) Regulations 2000

Made - - - - - 21st June 2000

Laid before Parliament 23rd June 2000

Coming into force in accordance with regulation 1(2)

Whereas the Secretary of State has, in accordance with section 11(5) of the Consumer Protection Act 1987(a), consulted such organisations as appear to him to be representative of interests substantially affected by these Regulations, such other persons as he considers appropriate and the Health and Safety Commission:

Now, therefore, the Secretary of State in exercise of the powers conferred on him by section 11 of the said Act of 1987 hereby makes the following Regulations:—

Title and commencement

1.—(1) These Regulations may be cited as the Dangerous Substances and Preparations (Nickel) (Safety) Regulations 2000.

(2) These Regulations shall come into force—

- (a) on 20th July 2000 in relation to the supply of products to which they apply by the manufacturer in or importer into the United Kingdom or, in the case of products manufactured in or imported into the United Kingdom on behalf of another person, by that other person, except where the products are supplied by retail in which case they shall come into force on 20th July 2001; and
- (b) in all other cases on 20th July 2001.

Interpretation

2.—(1) In these Regulations—

“BS EN 1810” means the British Standard Specification for the Body piercing post assemblies Reference test method for determination of nickel content by flame atomic absorption spectrometry published by the British Standards Institution on 15th November 1998(b);

“BS EN 1811” means the British Standard Specification for the Reference test method for release of nickel from products intended to come into direct and prolonged contact with the skin published by the British Standards Institution on 15th April 1999(c);

(a) 1987 c. 43.
 (b) ISBN 0580 299821.
 (c) ISBN 0580 308472.

“BS EN 12472” means the British Standard Specification for the test method for the simulation of wear and corrosion for the detection of nickel release from coated items published by the British Standards Institution on 15th April 1999(a);

“supply” includes offering to supply, agreeing to supply, exposing for supply and possessing for supply.

(2) A reference in these Regulations to—

- (a) BS EN 1810,
- (b) BS EN 1811, or
- (c) BS EN 12472

is a reference to that standard as it has effect when these Regulations are made, provided that where that standard is amended or revised after these Regulations are made and the amendment or revision is approved by the Secretary of State, that reference shall be construed at any time after such approval as a reference to that standard as so amended or revised.

(3) The requirements of regulation 3(1), (2) and (4) shall be satisfied if the post assembly or other product conforms to any standard or specification recognised for use in a Member State of the European Community or any other State within the European Economic Area, provided that conformity to such a standard or specification provides a level of safety at least equivalent to that which would be provided by compliance with those requirements, and any reference to those requirements shall be construed accordingly.

Prohibitions on the supply of products containing nickel and its compounds

3.—(1) Subject to paragraphs (5) and (6) below, no person shall supply any post assembly intended to be inserted into a pierced ear or other pierced part of the human body during epithelization of the wound caused by such piercing (whether or not it is a post assembly which is intended subsequently to be removed) if that post assembly contains nickel(b) or a nickel compound, unless the post assembly is homogeneous and the concentration of nickel which it contains is less than 0.05% (expressed as mass of nickel to total mass).

(2) Subject to paragraphs (5) and (6) below, no person shall supply any products intended to come into direct and prolonged contact with the skin, which contains nickel or a nickel compound if the rate of nickel release from the parts of the product coming into direct and prolonged contact with the skin is greater than 0.5µg/cm²/week, including any of the following products—

- (a) earrings;
- (b) necklaces, bracelets, chains, anklets and finger rings;
- (c) wrist-watch cases, watch straps and tighteners;
- (d) rivet buttons, tighteners, rivets, zippers and metal marks, contained in or intended to be used in garments;

(3) Paragraph (2) above shall not apply to any product which contains nickel and has a non-nickel coating to which paragraph (4) below applies.

(4) Subject to paragraphs (5) and (6) below, no person shall supply any product listed in paragraph (2)(a) to (d) above or any other product intended to come into direct and prolonged contact with the skin which—

- (a) contains nickel or a nickel compound; and
- (b) has a non-nickel coating,

unless the non-nickel coating is sufficient to ensure that the rate of nickel release from the parts of the product coming into direct and prolonged contact with the skin will not exceed 0.5µg/cm²/week for a period of at least two years of normal use of the product.

(5) Nothing in paragraphs (1), (2) and (4) above shall prohibit the supply to the final consumer of any product which was placed on the market before 20th January 2000.

(6) The test methods in BS EN 1810, BS EN 1811, BS EN 12472, shall be used in demonstrating the conformity of products referred to in paragraphs (1), (2) and (4) above of these Regulations.

(a) ISBN 0580 308480.

(b) CAS No. 744-02-0; EINECS No. 2311114. “CAS numbers” are the numbers assigned by the Chemical Abstracts Service. “EINECS numbers” are the reference numbers assigned to chemical substances in the European Inventory of Existing Commercial Chemical Substances.

Proceedings

4. In England, Wales and Northern Ireland a magistrates' court may try an information (in the case of England and Wales) or a complaint (in the case of Northern Ireland) in respect of an offence under section 12 of the Consumer Protection Act 1987 arising from a contravention of these Regulations if (in the case of England and Wales) the information is laid or (in the case of Northern Ireland) the complaint is made within twelve months from the time when the offence was committed, and in Scotland summary proceedings for such an offence may be brought at any time within twelve months from the time when the offence was committed.

21st June 2000

Kim Howells,
Parliamentary Under Secretary of State
for Consumers and Corporate Affairs,
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement European Parliament and Council Directive 94/27/EC (OJ No. L 188, 22.7.94, p.1).

The Regulations prohibit the supply of post assemblies intended to be inserted into a pierced part of the human body during epithelization of the wound caused by such piercing and containing nickel or a nickel compound unless the concentration of nickel is less than 0.05% (regulation 3(1)).

The supply of products containing nickel or a nickel compound which are intended to come into direct and prolonged contact with the skin is prohibited unless the rate of nickel release will not exceed the rate of $0.5\mu\text{g}/\text{cm}^2/\text{per week}$ (regulation 3(2)). This requirement does not apply to products which have a non-nickel coating.

The supply of products containing nickel or a nickel compound and which have a non nickel coating and which are intended to come into direct and prolonged contact with the skin is also prohibited. Products are excepted from this prohibition if the non nickel coating ensures that the rate of nickel release will not exceed $0.5\mu\text{g}/\text{cm}^2/\text{per week}$ for a period of at least two years of normal use, (regulation 3(3)).

Regulation 3(5) provides that the British Standard BS EN 1810, BS EN 1811, BS EN 12472, shall be used to demonstrate whether products satisfy the requirements of the Regulations.

A Regulatory Impact Assessment is available, copies of which have been placed in the libraries of both Houses of Parliament. Copies are also available from the Consumer Affairs Directorate of the Department of Trade and Industry, Room 433, 1 Victoria Street, London SW1H 0ET.

Copies of the British Standards BS EN 1810, BS EN 1811 and BS EN 12472, can be obtained from the British Standards Institution, 389 Chiswick High Road, London W4 4AZ.

£1.50

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