
STATUTORY INSTRUMENTS

2005 No. 1803

The General Product Safety Regulations 2005

PART 2

OBLIGATIONS OF PRODUCERS AND DISTRIBUTORS

General safety requirement

5.—(1) No producer shall place a product on the market unless the product is a safe product.

(2) No producer shall offer or agree to place a product on the market or expose or possess a product for placing on the market unless the product is a safe product.

(3) No producer shall offer or agree to supply a product or expose or possess a product for supply unless the product is a safe product.

(4) No producer shall supply a product unless the product is a safe product.

Presumption of conformity

6.—(1) Where, in the absence of specific provisions in rules of Community law governing the safety of a product, the product conforms to the specific rules of the law of part of the United Kingdom laying down the health and safety requirements which the product must satisfy in order to be marketed in the United Kingdom, the product shall be deemed safe so far as concerns the aspects covered by such rules.

(2) Where a product conforms to a voluntary national standard of the United Kingdom giving effect to a European standard the reference of which has been published in the Official Journal of the European Union in accordance with Article 4 of the GPS Directive, the product shall be presumed to be a safe product so far as concerns the risks and categories of risk covered by that national standard. The Secretary of State shall publish the reference number of such national standards in such manner as he considers appropriate.

(3) In circumstances other than those referred to in paragraphs (1) and (2), the conformity of a product to the general safety requirement shall be assessed taking into account—

- (a) any voluntary national standard of the United Kingdom giving effect to a European standard, other than one referred to in paragraph (2),
- (b) other national standards drawn up in the United Kingdom,
- (c) recommendations of the European Commission setting guidelines on product safety assessment,
- (d) product safety codes of good practice in the sector concerned,
- (e) the state of the art and technology, and
- (f) reasonable consumer expectations concerning safety.

(4) Conformity of a product with the criteria designed to ensure the general safety requirement is complied with, in particular the provisions mentioned in paragraphs (1) to (3), shall not bar an

enforcement authority from exercising its powers under these Regulations in relation to that product where there is evidence that, despite such conformity, it is dangerous.

Other obligations of producers

7.—(1) Within the limits of his activities, a producer shall provide consumers with the relevant information to enable them—

- (a) to assess the risks inherent in a product throughout the normal or reasonably foreseeable period of its use, where such risks are not immediately obvious without adequate warnings, and
- (b) to take precautions against those risks.

(2) The presence of warnings does not exempt any person from compliance with the other requirements of these Regulations.

(3) Within the limits of his activities, a producer shall adopt measures commensurate with the characteristics of the products which he supplies to enable him to—

- (a) be informed of the risks which the products might pose, and
- (b) take appropriate action including, where necessary to avoid such risks, withdrawal, adequately and effectively warning consumers as to the risks or, as a last resort, recall.

(4) The measures referred to in paragraph (3) include—

- (a) except where it is not reasonable to do so, an indication by means of the product or its packaging of—
 - (i) the name and address of the producer, and
 - (ii) the product reference or where applicable the batch of products to which it belongs; and
- (b) where and to the extent that it is reasonable to do so—
 - (i) sample testing of marketed products,
 - (ii) investigating and if necessary keeping a register of complaints concerning the safety of the product, and
 - (iii) keeping distributors informed of the results of such monitoring where a product presents a risk or may present a risk.

Obligations of distributors

8.—(1) A distributor shall act with due care in order to help ensure compliance with the applicable safety requirements and in particular he—

- (a) shall not expose or possess for supply or offer or agree to supply, or supply, a product to any person which he knows or should have presumed, on the basis of the information in his possession and as a professional, is a dangerous product; and
- (b) shall, within the limits of his activities, participate in monitoring the safety of a product placed on the market, in particular by—
 - (i) passing on information on the risks posed by the product,
 - (ii) keeping the documentation necessary for tracing the origin of the product,
 - (iii) producing the documentation necessary for tracing the origin of the product, and cooperating in action taken by a producer or an enforcement authority to avoid the risks.

(2) Within the limits of his activities, a distributor shall take measures enabling him to cooperate efficiently in the action referred to in paragraph (1)(b)(iii).

Obligations of producers and distributors

9.—(1) Subject to paragraph (2), where a producer or a distributor knows that a product he has placed on the market or supplied poses risks to the consumer that are incompatible with the general safety requirement, he shall forthwith notify an enforcement authority in writing of that information and—

- (a) the action taken to prevent risk to the consumer; and
- (b) where the product is being or has been marketed or otherwise supplied to consumers outside the United Kingdom, of the identity of each Member State in which, to the best of his knowledge, it is being or has been so marketed or supplied.

(2) Paragraph (1) shall not apply—

- (a) in the case of a second-hand product supplied as an antique or as a product to be repaired or reconditioned prior to being used, provided the supplier clearly informed the person to whom he supplied the product to that effect,
- (b) in conditions concerning isolated circumstances or products.

(3) In the event of a serious risk the notification under paragraph (1) shall include the following—

- (a) information enabling a precise identification of the product or batch of products in question,
- (b) a full description of the risks that the product presents,
- (c) all available information relevant for tracing the product, and
- (d) a description of the action undertaken to prevent risks to the consumer.

(4) Within the limits of his activities, a person who is a producer or a distributor shall co-operate with an enforcement authority (at the enforcement authority's request) in action taken to avoid the risks posed by a product which he supplies or has supplied. Every enforcement authority shall maintain procedures for such co-operation, including procedures for dialogue with the producers and distributors concerned on issues related to product safety.