STATUTORY INSTRUMENTS

2005 No. 1803

The General Product Safety Regulations 2005

PART 4

MISCELLANEOUS

Duty to notify Secretary of State and Commission

33.—(1) An enforcement authority which has received a notification under regulation 9(1) shall immediately pass the same on to the Secretary of State, who shall immediately pass it on to the competent authorities appointed for the purpose in the Member States where the product in question is or has been marketed or otherwise supplied to consumers.

(2) Where an enforcement authority takes a measure which restricts the placing on the market of a product, or requires its withdrawal or recall, it shall immediately notify the Secretary of State, specifying its reasons for taking the action. It shall also immediately notify the Secretary of State of any modification or lifting of such a measure.

(3) On receiving a notification under paragraph (2), or if he takes a measure which restricts the placing on the market of a product, or requires its withdrawal or recall, the Secretary of State shall (to the extent that such notification is not required under article 12 of the GPS Directive or any other Community legislation) immediately notify the European Commission of the measure taken, specifying the reasons for taking it. The Secretary of State shall also immediately notify the European Commission of any modification or lifting of such a measure. If the Secretary of State considers that the effects of the risk do not or cannot go beyond the territory of the United Kingdom, he shall notify the European Commission of the measure concerned insofar as it involves information likely to be of interest to Member States from the product safety standpoint, and in particular if it is in response to a new risk which has not yet been reported in other notifications.

(4) Where an enforcement authority adopts or decides to adopt, recommend or agree with producers and distributors, whether on a compulsory or voluntary basis, a measure or action to prevent, restrict or impose specific conditions on the possible marketing or use of a product (other than a pharmaceutical product) by reason of a serious risk, it shall immediately notify the Secretary of State. It shall also immediately notify the Secretary of State of any modification or withdrawal of any such measure or action.

(5) On receiving a notification under paragraph (4), or if he adopts or decides to adopt, recommend or agree with producers and distributors, whether on a compulsory or voluntary basis, a measure or action to prevent, restrict or impose specific conditions on the possible marketing or use of a product (other than a pharmaceutical product) by reason of a serious risk, the Secretary of State shall immediately notify the European Commission of it through the Community Rapid Information System, known as RAPEX. The Secretary of State shall also inform the European Commission without delay of any modification or withdrawal of any such measure or action.

(6) If the Secretary of State considers that the effects of the risk do not or cannot go beyond the territory of the United Kingdom, he shall notify the European Commission of the measures or action concerned insofar as they involve information likely to be of interest to Member States of the

European Union from the product safety standpoint, and in particular if they are in response to a new risk which has not been reported in other notifications.

(7) Before deciding to adopt such a measure or take such an action as is referred to in paragraph (5), the Secretary of State may pass on to the European Commission any information in his possession regarding the existence of a serious risk. Where he does so, he must inform the European Commission, within 45 days of the day of passing the information to it, whether he confirms or modifies that information.

(8) Upon receipt of a notification from the European Commission under article 12(2) of the GPS Directive, the Secretary of State shall notify the Commission of the following—

(a) whether the product the subject of the notification has been marketed in the United Kingdom;

(b) what measure concerning the product the enforcement authorities in the United Kingdom may be adopting, stating the reasons, including any differing assessment of risk or any other special circumstance justifying the decision as to the measure, in particular lack of action or follow-up; and

(c) any relevant supplementary information he has obtained on the risk involved, including the results of any test or analysis carried out.

(9) The Secretary of State shall notify the European Commission without delay of any modification or withdrawal of any measures notified to it under paragraph (8)(b).

(10) In this regulation—

(a) references to a product excludes 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 informs the person to whom he supplies the product to that effect;

(b) "pharmaceutical product" means a product falling within Council Directive 2001/83/EC of the European Parliament and of the Council on the Community code relating to medicinal products for human use(**1**).

(**1**) OJ No L311, 28/11/2001, p.67.