
STATUTORY INSTRUMENTS

2005 No. 1803

The General Product Safety Regulations 2005

PART 1

GENERAL

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the General Product Safety Regulations 2005 and shall come into force on 1st October 2005 with the exception of the reference to a civil partner in regulation 43(2) which shall come into force on 5th December 2005.

(2) The General Product Safety Regulations 1994⁽¹⁾ are hereby revoked.

Interpretation

2. In these Regulations:-

“the 1987 Act” means the Consumer Protection Act 1987⁽²⁾;

“Community law” includes a law in any part of the United Kingdom which implements a Community obligation;

“contravention” includes a failure to comply and cognate expressions shall be construed accordingly;

“dangerous product” means a product other than a safe product;

“distributor” means a professional in the supply chain whose activity does not affect the safety properties of a product;

“enforcement authority” means the Secretary of State, any other Minister of the Crown in charge of a government department, any such department and any authority or council mentioned in regulation 10;

“general safety requirement” means the requirement that only safe products should be placed on the market;

“the GPS Directive” means Directive [2001/95/EC](#) of the European Parliament and of the Council of 3 December 2001 on general product safety⁽³⁾;

“magistrates' court” in relation to Northern Ireland, means a court of summary jurisdiction;

“Member State” means a member State, Norway, Iceland or Liechtenstein;

“notice” means a notice in writing;

“officer”, in relation to an enforcement authority, means a person authorised in writing to assist the authority in carrying out its functions under or for the purposes of the enforcement of

(1) S.I.1994/2328.

(2) 1987 c. 43.

(3) OJ No L11, 15/1/2002, p.4.

these Regulations and safety notices, except in relation to an enforcement authority which is a government department where it means an officer of that department;

“producer” means—

- (a) the manufacturer of a product, when he is established in a Member State and any other person presenting himself as the manufacturer by affixing to the product his name, trade mark or other distinctive mark, or the person who reconditions the product;
- (b) when the manufacturer is not established in a Member State—
 - (i) if he has a representative established in a Member State, the representative,
 - (ii) in any other case, the importer of the product from a state that is not a Member State into a Member State;
- (c) other professionals in the supply chain, insofar as their activities may affect the safety properties of a product;

“product” means a product which is intended for consumers or likely, under reasonably foreseeable conditions, to be used by consumers even if not intended for them and which is supplied or made available, whether for consideration or not, in the course of a commercial activity and whether it is new, used or reconditioned and includes a product that is supplied or made available to consumers for their own use in the context of providing a service. “product” does not include equipment used by service providers themselves to supply a service to consumers, in particular equipment on which consumers ride or travel which is operated by a service provider;

“recall” means any measure aimed at achieving the return of a dangerous product that has already been supplied or made available to consumers;

“recall notice” means a notice under regulation 15;

“record” includes any book or document and any record in any form;

“requirement to mark” means a notice under regulation 12;

“requirement to warn” means a notice under regulation 13;

“safe product” means a product which, under normal or reasonably foreseeable conditions of use including duration and, where applicable, putting into service, installation and maintenance requirements, does not present any risk or only the minimum risks compatible with the product’s use, considered to be acceptable and consistent with a high level of protection for the safety and health of persons. In determining the foregoing, the following shall be taken into account in particular—

- (a) the characteristics of the product, including its composition, packaging, instructions for assembly and, where applicable, instructions for installation and maintenance,
- (b) the effect of the product on other products, where it is reasonably foreseeable that it will be used with other products,
- (c) the presentation of the product, the labelling, any warnings and instructions for its use and disposal and any other indication or information regarding the product, and
- (d) the categories of consumers at risk when using the product, in particular children and the elderly.

The feasibility of obtaining higher levels of safety or the availability of other products presenting a lesser degree of risk shall not constitute grounds for considering a product to be a dangerous product;

“safety notice” means a suspension notice, a requirement to mark, a requirement to warn, a withdrawal notice or a recall notice;

“serious risk” means a serious risk, including one the effects of which are not immediate, requiring rapid intervention;

“supply” in relation to a product includes making it available, in the context of providing a service, for use by consumers;

“suspension notice” means a notice under regulation 11;

“withdrawal” means any measure aimed at preventing the distribution, display or offer of a dangerous product to a consumer;

“withdrawal notice” means a notice under regulation 14.

Application

3.—(1) Each provision of these Regulations applies to a product in so far as there are no specific provisions with the same objective in rules of Community law governing the safety of the product other than the GPS Directive.

(2) Where a product is subject to specific safety requirements imposed by rules of Community law other than the GPS Directive, these Regulations shall apply only to the aspects and risks or category of risks not covered by those requirements. This means that:

(a) the definition of “safe product” and “dangerous product” in regulation 2 and regulations 5 and 6 shall not apply to such a product in so far as concerns the risks or category of risks covered by the specific rules, and

(b) the remainder of these Regulations shall apply except where there are specific provisions governing the aspects covered by those regulations with the same objective.

4. These Regulations do not apply to a second-hand product supplied 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.