

---

STATUTORY INSTRUMENTS

---

**2005 No. 1803**

**The General Product Safety Regulations 2005**

**PART 3**

**ENFORCEMENT**

**Recall notices**

**15.**—(1) Subject to paragraph (4), where an enforcement authority has reasonable grounds for believing that a product is a dangerous product and that it has already been supplied or made available to consumers, the authority may serve a notice (“a recall notice”) requiring the person on whom it is served to use his reasonable endeavours to organise the return of the product from consumers to that person or to such other person as is specified in the notice.

(2) A recall notice may require—

- (a) the recall to be effected in accordance with a code of practice applicable to the product concerned, or
- (b) the recipient of the recall notice to—
  - (i) contact consumers who have purchased the product in order to inform them of the recall, where and to the extent it is practicable to do so,
  - (ii) publish a notice in such form and such manner as is likely to bring to the attention of purchasers of the product the risk the product poses and the fact of the recall, or
  - (iii) make arrangements for the collection or return of the product from consumers who have purchased it or for its disposal,

and may impose such additional requirements on the recipient of the notice as are reasonable and practicable with a view to achieving the return of the product from consumers to the person specified in the notice or its disposal.

(3) In determining what requirements to include in a recall notice, the enforcement authority shall take into consideration the need to encourage distributors, users and consumers to contribute to its implementation.

(4) A recall notice may only be issued by an enforcement authority where—

- (a) other action which it may require under these Regulations would not suffice to prevent the risks concerned to the health and safety of persons,
- (b) the action being undertaken by the producer or the distributor concerned in fulfilment of his obligations under these Regulations is unsatisfactory or insufficient to prevent the risks concerned to the health and safety of persons, and
- (c) the authority has given not less than seven days notice to the person on whom the recall notice is to be served of its intention to serve such a notice and where that person has before the expiry of that period by notice required the authority to seek the advice of such person as the Institute determines on the questions of—
  - (i) whether the product is a dangerous product,

(ii) whether the issue of a recall notice is proportionate to the seriousness of the risk, and the authority has taken account of such advice.

(5) Paragraphs (4)(b) and (c) shall not apply in the case of a product posing a serious risk requiring, in the view of the enforcement authority, urgent action.

(6) Where a person requires an enforcement authority to seek advice as referred to in paragraph (4) (c), that person shall be responsible for the fees, costs and expenses of the Institute and of the person appointed by the Institute to advise the authority.

(7) In paragraphs 4(c) and (6) “the Institute” means the charitable organisation with registered number 803725 and known as the Chartered Institute of Arbitrators.

(8) A recall notice served by an enforcement authority in relation to a product may require the person on whom it is served to keep the authority informed of the whereabouts of any such product to which the recall notice relates, so far as he is able to do so.

(9) Where the conditions in paragraph (1) for serving a recall notice are satisfied and either the enforcement authority has been unable to identify any person on whom to serve a recall notice, or the person on whom such a notice has been served has failed to comply with it, then the authority may itself take such action as could have been required by a recall notice.

(10) Where—

- (a) an authority has complied with the requirements of paragraph (4); and
- (b) the authority has exercised its powers under paragraph (9) to take action following the failure of the person on whom the recall notice has been served to comply with that notice,

then the authority may recover from the person on whom the notice was served summarily as a civil debt, any costs or expenses reasonably incurred by it in undertaking the action referred to in subparagraph (b).

(11) A civil debt recoverable under the preceding paragraph may be recovered—

- (a) in England and Wales by way of complaint (as mentioned in section 58 of the Magistrates' Courts Act 1980<sup>(1)</sup>),
- (b) in Northern Ireland in proceedings under Article 62 of the Magistrate's Court (Northern Ireland) Order 1981<sup>(2)</sup>.

---

(1) 1980 c. 43.

(2) SI 1675/1981 (N.I.26).