businesscompanion
trading standards law explained

Product safety

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Before you start, make sure you choose your location by using the drop-down list at the top of the page and then clicking on the arrow.

For more detailed information, please see the In-depth Guides below. Some laws are different in England, Scotland and Wales, and some are enforced differently, so the In-depth Guides provide country-specific information.

Once you've finished, make sure you look at the full range of Quick Guides to see whether there are any other areas of law that affect your business.

Product safety in the UK is governed by a wide regulatory framework, consisting of both national and assimilated law.

You are required to comply with the law and protect consumers by ensuring that your goods are safe.

If you cut corners on safety, you could face criminal prosecution, have to withdraw or recall products from the market, and face legal action from consumers to recover damages for the harm caused.

What products?

Any products that are intended for consumers or are reasonably likely to be used by them (even if not intended for them, such as heavy-duty tools for DIY) are required to be safe. This applies whether the goods are new, reconditioned or second-hand.

This also includes items provided to consumers for use by them when being provided with a service, such

as gym equipment or a hairdryer in a hotel room.

Supplying products

Products must be safe and comply when they are made available for supply, otherwise known as being 'placed on the market'. This occurs when a manufacturer first makes the product available for further supply, or when an importer takes ownership of the goods once they have been cleared by customs.

> Products are 'supplied' when they are sold (including where they are exchanged for no money), hired (including hire purchase and letting) or lent to consumers, and includes where they are supplied as part of a contract for work. Even giving products as a prize or gift is supply.

What is a safe product?

A safe product is one that provides either no risk or a minimum acceptable level of risk, taking into account the normal or reasonably foreseeable use of the product and the need to maintain a high level of protection for consumers.

What is safe is therefore determined by considering all characteristics of the product, how it is presented, the effect that it might have on other products it is likely to be used with, and the consumers at risk when using it (especially children and the elderly).

For many product sectors there is specific safety legislation (covering, for example, toys, electrical goods and machinery), which sets out more detailed safety requirements applicable to those products. This legislation generally applies to both consumer and commercial products, but sets out the same safety criteria.

Although the safety regulations set out safety in general terms, the interpretation and practical guidance to compliance can be found in British or European Standards (BS ENs). A producer can generally choose to use relevant Standards to demonstrate that the goods are safe.

PAS 7050: *Bringing safe products to the market. Code of practice* is a useful document for assessing safety and for ensuring that only safe products make it to the marketplace.

Responsibility for compliance

As stated above, if you are involved in the supply of goods to consumers, you are responsible for the safety of the goods you supply. The level of responsibility depends on whether you are involved in the actual production of the goods, where you are affecting the safety properties of the products ('producers'), or merely involved with the supply ('distributors').

Obligations

If you are a producer (importer, manufacturer, own-brander, re-conditioner, etc) then you are responsible for ensuring your products are safe and carry adequate instructions and warnings for consumers to use

them safely.

You will also need to undertake some form of 'conformity assessment procedure', which is the means set out in the legislation by which the product is shown to be safe (such as by manufacturing to Standards or being assessed by a third party). The records of this (the technical documentation) need to be maintained for at least 10 years.

Once in the supply chain, a producer is also required to have measures in place to be able to identify any risks or issues arising from a product's use so that urgent action can be taken quickly and effectively to trace it and take the necessary corrective action (including issuing a recall).

If you are a distributor (wholesaler, retailer, etc), you must not supply goods that you believe are dangerous. You are required to monitor the safety of the products that you supply, passing on information to the producer and cooperating with them if they advise you of a problem. The legislation also requires you to retain records of supply, which must be kept for six years.

It is good practice as a distributor to request assurances from your supplier regarding compliance with the relevant regulations and Standards; if possible, request up-to-date relevant test certificates for the product.

Whatever role you fulfil, remember that ultimately you have a duty to ensure that you only supply safe products. This duty exists whether that product is intended for consumers or for commercial use.

It is a criminal offence to place on the market or supply unsafe products. You could face criminal proceedings, with the consequent damage to your business.

Product liability

In addition to the criminal law, product liability legislation gives consumers the right to sue for damages for injury caused by defective products. Anyone injured by a defective product has rights, whether or not the product was sold to them.

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