businesscompanion
trading standards law explained

New nightwear

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Although the United Kingdom left the European Union (EU) in 2021, certain pieces of legislation (known as 'assimilated law') continue to apply until such time as they are replaced by new UK legislation, revoked or permitted to expire. This means that our guidance still contains references to legislation that originated from the EU.

This guidance is for England, Scotland and Wales

The Nightwear (Safety) Regulations 1985 make it an offence to supply some children's nightwear unless it has been treated so that it conforms, after washing, to the flammability performance requirements of British Standard BS 5722: *Specification for flammability performance of fabrics and fabric assemblies used in sleepwear and dressing gowns*.

The Regulations lay down labelling requirements so that purchasers can tell whether other nightwear - including adults' - meets the flammability requirements.

Second-hand nightwear does not have to comply with these Regulations.

Children's nightwear

Children's nightwear means anything designed for wear by, and that would normally be worn by, a person under 13 years old, except:

- night dresses with a chest measurement of more than 91 cm or a length of more than 122 cm

- dressing gowns, bath robes and other similar garments with a chest measurement of more than 97 cm or a sleeve measurement of more than 69 cm

Children's nightwear must comply with the flammability performance requirements of BS 5722, except the following items:

- garments for babies up to three months old, with a chest measurement of 53 cm or less
- pyjamas
- cotton terry-towelling bath robes

Other nightwear

Other nightwear (including adult nightwear), babies' garments, children's pyjamas and children's cotton terry-towelling bath robes must be labelled so as to inform the purchaser whether the item does or does not meet the flammability requirements of BS 5722.

If the item does not meet the requirements, it must have a label, printed in red, stating 'KEEP AWAY FROM FIRE'. If the item meets the requirements, it must have a label with one of the following:

- a statement in red text stating 'KEEP AWAY FROM FIRE'
- a statement in black text stating 'LOW FLAMMABILITY TO BS 5722'
- both statements in appropriate colours

Special rules apply to these items where they are advertised for sale on the internet or by mail order. If the item does not meet the flammability requirements, the wording 'KEEP AWAY FROM FIRE' must be displayed next to the advert in a red-sided equilateral triangle. If the item does meet low flammability requirements the advert must show a green triangle with the words 'LOW FLAM' within it.

Treated nightwear

Any nightwear treated with flame-retardant chemicals must also have a label that states 'DO NOT WASH AT MORE THAN 50 °C. CHECK SUITABILITY OF WASHING AGENT'.

Positioning of labels

The wording described above must be given on a durable label on the inside neck of the garment or next to the label giving the size of the garment, or the wording must be given on the size label immediately following such information.

Safety standards

The General Product Safety Regulations 2005 also require goods to be safe. When assessing the safety of a product, manufacturers are encouraged to manufacture goods in accordance with safety standards. The standard BS EN 14878: *Textiles. Burning behaviour of children's nightwear. Specification* contains flammability performance requirements for children's nightwear. This covers all nightwear for children aged under 14*, including pyjamas, all dressing gowns and babies' garments, and introduces specific flammability requirements for these garments.

[*This is different to the age of 13 that is specified in the Nightwear (Safety) Regulations 1985.]

In principle, it is recommended that the requirements of the UK Regulations continue to be applied, where applicable. However, for garments such as children's pyjamas and cotton terry-towelling bath robes and babies' garments, the flammability requirements of BS EN 14878 should be applied so that suppliers meet the statutory requirements of the General Product Safety Regulations 2005 (GPSR).

The GPSR also cover second-hand goods, so again BS EN 14878 could be used to assess the safety of second-hand children's nightwear. In common with other consumer products, these Regulations require the manufacturer to mark the product, or its packaging, with their name and address and the product reference or batch code (unless it would not be reasonable to do so).

In addition to the specific flammability requirements, nightwear must be safe in all other respects, such as avoiding strangulation, entrapment, and choking hazards caused by cords and fasteners, and chemical hazards.

See 'General product safety: distributors' and 'General product safety: producers' for more information on the GPSR.

All nightwear must comply with the requirements of assimilated Regulation (EC) No 1907/2006 *concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)* and, therefore, must not contain certain azo dyes and harmful flame retardants. Following the UK's withdrawal from the EU, the EU REACH regulation has been bought into UK law and is now known as UK REACH.

Trading Standards

For more information on the work of Trading Standards services - and the possible consequences of not abiding by the law - please see 'Trading Standards: powers, enforcement and penalties'.

In this update

No major changes.

Last reviewed / updated: June 2024

Key legislation

- Nightwear (Safety) Regulations 1985
- General Product Safety Regulations 2005
- assimilated Regulation (EC) No 1907/2006 *concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)*
- REACH Enforcement Regulations 2008
- Product Safety and Metrology (Amendment) (EU Exit) Regulations 2019
- REACH etc (Amendment etc) (EU Exit) Regulations 2019

Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links go to the legislation.gov.uk website. The site usually updates the legislation to include any amendments made to it. However, this is not always the case. Information on all changes made to legislation can be found by following the above links and clicking on the 'More Resources' tab.

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