businesscompanion
trading standards law explained

Novelty, decorative and ornamental giftware

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This guidance is for England, Scotland and Wales

By law, all goods sold to the public must be safe. A product is assessed on its safety, which includes taking into account the packaging, instructions and other labelling, the effect of the product on other products, and the special needs of certain groups of people - children, for example.

Although the first UK supplier has the primary responsibility for the safety of products sold to consumers, retailers can also be held liable for unsafe products. And some items have specific problems to watch out for - for example, models and ornaments that resemble toys, and ornamental candles and oil lamps.

Product safety

Goods sold to the public should not present any unnecessary risk to anyone during normal or reasonably foreseeable use. If you sell goods that are found to be unsafe, you risk a substantial claim for compensation, as well as being prosecuted for a criminal offence.

How does the law define a safe product?

A safe product is one that does not present any unnecessary risk to anyone when the product is used in a normal or reasonably foreseeable way. In assessing the safety of products, account is taken of (among other things):

- the packaging, all accompanying instructions and any other labelling

- the effect of the product on other products with which it may be foreseeably used
- the special needs of particular classes of person, especially children

If there is a European or British standard relating to the product, the standard will be taken into account in deciding whether the product is safe.

What are my responsibilities as a retailer?

The first UK supplier has the primary responsibility for the safety of products sold to consumers but retailers can also be held liable for unsafe products. If a product is found to be unsafe, or if it causes property damage or personal injury, you will be held solely liable if you cannot identify who supplied the goods to you. It is therefore in your interest to keep full records that will enable you to identify the supplier for each product you sell.

Please tell your local Trading Standards service if you are offered goods that you think may be unsafe.

You should make sure that all items you have for sale have the necessary instructions for safe assembly, use and maintenance. In particular, new novelty items usually require some appropriate instructions. You should remember that it might not be adequate simply to give verbal instructions or demonstrate the product to the buyer. They may wish to give it to someone else, or they may need to refer to instructions in the future. You must pass on all user instructions included with the product.

Do some items have particular problems to watch out for?

Yes, they do. Broadly, these are as follows.

Non-functional reproductions

Items such as ornamental items that cannot be used safely - for example, unlined reproduction brass, pewter or copper containers embossed with 'milk' or 'tea', and fancy teapots, jugs and plates. All these should be clearly and permanently marked 'Not for food use'.

Collectors' items, models and ornaments resembling toys

Items that may be particularly hazardous to children. You should note that you are required to take special care for the safety of children. All genuine collectors' dolls or models such as toy soldiers should be clearly labelled 'This is not a toy'. To avoid confusion, such items should be displayed separately from genuine children's goods.

Key rings and other products containing lasers

Lasers that are too strong can severely damage sight. Do not sell such products to children and do not sell any product with a laser stronger than category 1.

Note that key rings that are attached to, for example, a small soft toy are classed as toys and must bear

the UKCA / CE mark and the name and address of the manufacturer / importer.

Candles, diffusers, room sprays and fragrant aromatherapy oil heaters

The law covering these products is complex and technical, and as such there is a separate guide dedicated to them: 'Candles, diffusers, oil heaters, etc'.

Products resembling food

These also pose a potential hazard; please refer to the 'Food imitations' guide.

Further information

The Office for Product Safety and Standards (OPSS) has published guidance on the General Product Safety Regulations 2005.

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: February 2024

Key legislation

- General Product Safety Regulations 2005
- Product Safety and Metrology 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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