

**General Product Safety Regulations 2005 as they apply to Northern Ireland**

This Guide is designed to help you comply with the General Product Safety Regulations 2005 (GPSR), as they apply in Northern Ireland (NI).

The 2005 Regulations provide the basis for ensuring the safety of consumer goods by imposing certain controls. They set out the requirements that must be met before products can be placed on the NI market. The purpose of the legislation is to ensure that consumer products are safe before they can be placed on the market in NI. This is done by requiring producers to ensure that consumer products meet the general safety requirement.

**Product Safety**

The safety of a product will be assessed having regard to a number of matters and, in particular:

* The product’s characteristics e.g. no sharp edges;
* Packaging;
* Instructions for assembly and maintenance, use and disposal;
* The effect on other products with which it might be used;
* Labelling and other information provided for the consumer; and
* The categories of consumers at risk when using the product, particularly children and the elderly.

The following types of consumer goods are some examples of products would be subject to the requirements of the GPSR (not exhaustive):

* Adult fancy dress costumes/adult Halloween costumes;
* Clothing;
* candles and other ornaments;
* hobby and art materials;
* hand crafted items;
* hair accessories;
* home decorations.
* jewellery

**Obligations of Producers**

**(See Glossary on page 4 below for some further information on duties of Producers)**

The obligations of producers include:

1. Before placing a product on the NI market, or agreeing to place a product on the NI market, a producer must ensure that it is a safe product, i.e. one which under normal or reasonably foreseeable condition of use does not present any risk or only the minimum risk compatible with the product’s use, considered to be acceptable and consistent with a high level of protection of health and safety.
2. Producers must provide consumers with the relevant information to enable them to assess the risk inherent in a product throughout the normal or reasonably foreseeable period of its use (where such risks are not immediately obvious) and to take precautions against those risks.
3. Producers must also allow for traceability by indicating on the product or its packaging (except when it is not reasonable to do so)

a) the name and address of the producer, and

b) the product reference or, where applicable, the batch of products to which it belongs.

1. Producers must adopt measures to enable them to be informed of risks the product might present, including (to the extent that it is reasonable):

a) sample test marketed products,

b) investigate and, if necessary, keep a register of complaints concerning the safety of the product, and

c) keep distributors informed of the results of such monitoring where a product presents a risk or may present a risk.

1. For the purposes of the 2005 Regulations, a person or business who imports a product into NI (or the European Economic Area) from outside of NI (or the EEA) may be a producer. Therefore, a business or person importing products from Great Britain for supply on the NI (or EEA) market may now be a producer of the product and as such subject to the requirements set out above.
2. Where a producer knows that a product they have placed on the NI market or supplied poses risks to the consumer that are incompatible with the general safety requirement, they shall forthwith notify an enforcement authority in writing of that information and

a) the action taken to prevent risk to the consumer; and

b) where the product is being or has been marketed or otherwise supplied to consumers outside the United Kingdom, of the identity of each Member State in which, to the best of their knowledge, it is being or has been so marketed or supplied.

**Obligations of Distributors**

**(See Glossary on page 4 below for some further information on duties of Distributors)**

NI businesses importing products into NI (or the EEA) from Great Britain should now consider whether they are producers of the product and subject to the requirements of producers, rather than subject to the requirements of distributors.

The obligations of distributors include:

1. Distributors must act with due care to help ensure only safe products are supplied and must not supply products that, as a professional, they know or ought to know to be dangerous. For example, if a product has been subject to a recall, distributors must not supply any they may still have in stock.
2. Distributors should pass on information on the risks posed by the product.
3. Distributors should be able to show traceability of the products they supply, documentation should be retained that shows from whom the goods were purchased.
4. Distributors must cooperate with the enforcement authorities at their request. This includes the provision of information relating to the product, the nature of the risk, the product’s supply and marketing, and also in taking appropriate action to remove the risk from consumers.
5. Where a distributor knows that a product they have placed on the NI market or supplied poses risks to the consumer that are incompatible with the general safety requirement, they shall forthwith notify an enforcement authority in writing of that information and

a) the action taken to prevent risk to the consumer; and

b) where the product is being or has been marketed or otherwise supplied to consumers outside the United Kingdom, of the identity of each Member State in which, to the best of their knowledge, it is being or has been so marketed or supplied.

**Obligations of Producers and Distributors**

Where a producer or distributor discovers (perhaps as a result of a consumer complaint) that a product they have supplied poses risks to the consumer, and is unsafe, they must immediately notify the relevant enforcement authority in writing. This will normally be your local Environmental Health Department.

Producers and distributors must cooperate with the enforcement authorities at their request. This includes the provision of information relating to the product, and also taking appropriate action to remove the risk from consumers, including by telling the enforcement authority the identity of each EEA state in which to the best of their knowledge the product has been marketed or supplied. In cases where it is identified the product poses a serious risk, information enabling precise identification, a full description of the risk, all available information relevant for tracing the product and a description of the action undertaken to prevent risks to the consumer must be included in the notification.

The enforcement authorities will advise on actions aimed at removal of the risk and work with businesses on completing the notification.

Where a product causes personal injury or property damage, the supplier could be liable to pay substantial damages. Additionally, if new products on sale are found to be in breach of the legislation, the manufacturer or importer could be required to recall all of the affected products.

The full guidance notes for The General Product Safety Regulations 2005 can be accessed via the following link:

<https://www.gov.uk/government/publications/general-product-safety-regulations-2005>

For more information please contact Derry City & Strabane District Council Environmental Health on 028 71253253 or alternatively, email: consumerprotection@derrystrabane.com

**GLOSSARY**

* **Distributor** – Any professional in the supply chain, whose activity does not affect the safety properties of a product.
* **Enforcement Authority** – District Councils and the Secretary of State, any other Minister of the Crown in charge of a government department, can enforce the 2005 Regulations.
* **Producer** –

(a) the manufacturer of a product, when he is established in either NI (but not Great Britain) or in the European Economic Area (EEA) and any other person presenting himself as the manufacturer by affixing to the product his name, trademark or other distinctive mark, or the person who reconditions the product;

(b) when the manufacturer is not established in Northern Ireland or the EEA:

* if he has a representative established in the NI (but not GB) or the EEA, the representative;
* in any other case, the person that places a product from outside of NI or the EEA on the market (this will include products from Great Britain).

(c) other professionals in the supply chain, insofar as their activities may affect the safety properties of a product.