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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement directive [2001/95/EC](#) of the European Parliament and of the Council of 3 December 2001 on general product safety (OJ No. L11, 15/1/2002 p.4). This Directive superseded Council Directive [92/59/EEC](#) (OJ No. L228 11/8/1992 p.24) on general product safety which was implemented by the General Product Safety Regulations 1994 (SI 1994/2328). The 1994 Regulations are consequently revoked by regulation 1(2) of these Regulations.

These Regulations impose requirements concerning the safety of products intended for consumers or which are likely to be used by consumers. The products covered are defined in regulation 2 and extend to second-hand products, ones intended for professional use which it can be foreseen may be used by consumers, and products supplied in the course of a service. Regulation 2 defines other key terms such as enforcement authority, distributor and producer. Regulation 3 provides that the Regulations apply except where there are no other specific provisions in rules of Community law other than the Directive. Where there are those other rules apply. Regulation 4 excludes second-hand products which are expressly supplied for repair or reconditioning.

Regulation 5 requires producers only to place safe products on the market. Regulation 6 provides that a product which complies with certain safety standards is presumed to be safe unless there is evidence to the contrary. Regulation 7 requires producers to inform customers about the risks of products and to monitor the risks their products pose. Regulation 8 requires distributors to act with due care so as not to supply unsafe products and to co-operate in monitoring the safety of products. Regulation 9 requires producers and distributors to notify an enforcement authority if a product placed on the market poses risks that are incompatible with the general product safety requirement. This does not apply to antiques or products supplied for repair or reconditioning. Regulation 10 imposes a duty on certain enforcement authorities to enforce the Regulations. It requires all enforcement authorities to act in a proportionate manner, to take account of the precautionary principle and to encourage voluntary compliance with the Regulations except in cases of serious risk.

Regulations 11-15 contain the enforcement powers which enforcement authorities may exercise in appropriated cases by issuing safety notices of various kinds. These are *suspension notices* to suspend the supply of a product (regulation 11); *requirements to mark* which require warnings to be marked on a product (regulation 12); *requirements to warn* those who have already been supplied with a product (regulation 14); *withdrawal notices* requiring products not to be placed on the market or supplied (regulation 13); and *recall notices* requiring the recall from consumers of products that have been supplied to them (regulation 14). Regulations 16 to 20 contain ancillary provisions providing for appeals against safety notices, compensation, forfeiture of dangerous products and offences.

Regulations 21-23 confer on enforcement authorities powers of test purchase, entry and search and seizure and detention of products. Regulations 24 to 27 contain ancillary provisions in respect of the offence of obstructing an officer of an enforcement authority, appeals against seizure and detention of products, compensation and the recovery of an enforcement authority's costs. Regulation 28 confers on the Secretary of State powers to require information and samples of products in order to decide whether to serve, vary or revoke a safety notice. Regulations 29-30 provide defences of due diligence and a defence in respect of the supply of antiques.

Regulations 32-34 sets out the system whereby enforcement authorities are to notify the Secretary of State of notifications they have received under regulation 9 and of enforcement action they have taken. The Secretary of State in turn is required to notify the European Commission and competent authorities in those other Member States where the product has been placed on the

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market. Regulation 35 provides for the implementation of Commission decisions in respect of products that pose serious risks. Regulations 36-38 provide for market surveillance by enforcement authorities, handling of safety complaints and co-operation between authorities. Regulation 39 requires enforcement authorities to publish safety information with some restrictions in respect of professionally secret information. It also makes information obtained under the regulations subject to Part 9 of the Enterprise Act (restrictions on disclosure of information) and enables information subject to Part 9 to be disclosed for the purposes of enforcing these Regulations.

Regulation 40 provides for service of documents. Regulation 41 extends the time for bringing summary proceedings for an offence under the Regulations. Regulation 42 provides that the Regulations do not confer a right of civil action for their breach. Regulation 43 provides for legal professional privilege and privilege against self incrimination or incrimination of a spouse or civil partner. Regulation 44 provides that a notification under regulation 9(1) is in general inadmissible in criminal proceedings under the Regulations.

Regulation 44 makes transitional provision where a suspension notice has been issued under regulation 11 of the General Product Safety Regulations 1994. Regulation 46 amends the Consumer Protection Act 1987 by repealing section 10 (the general safety requirement) and regulation 47 makes consequential amendment to other legislation.

A full regulatory impact assessment of the effect that this instrument will have on costs to business is available from the Consumer and Competition Policy Directorate of the Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET or at [www.dti.gov.uk/ccp/topics1/safety.htm](http://www.dti.gov.uk/ccp/topics1/safety.htm).

Copies of a transposition note relating to these Regulations have been placed in the libraries of both Houses of Parliament. Copies are also available to the public from the Consumer and Competition Policy Directorate of the Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET.

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