

2005 No. 2001

CONSUMER PROTECTION

**The Dangerous Substances and Preparations (Nickel) (Safety)
Regulations 2005**

<i>Made</i>	<i>13th July 2005</i>
<i>Laid before Parliament</i>	<i>21st July 2005</i>
<i>Coming into force</i>	<i>1st September 2005</i>

Whereas the Secretary of State has, in accordance with section 11(5) of the Consumer Protection Act 1987(a), consulted such organisations as appear to him to be representative of interests substantially affected by these Regulations, such other persons as he considers appropriate and the Health and Safety Commission;

Now, therefore, the Secretary of State in exercise of the powers conferred upon him by section 11 of the said Act hereby makes the following Regulations—

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Dangerous Substances and Preparations (Nickel) (Safety) Regulations 2005 and shall come into force on 1st September 2005.

(2) The Dangerous Substances and Preparations (Nickel) (Safety) Regulations 2000(b) are hereby revoked.

Interpretation

2.—(1) In these Regulations—

“BS EN 1811:1999” means the British Standard Specification for the reference test method for release of nickel from products intended to come into direct and prolonged contact with the skin published by the British Standards Institution on 15th April 1999(c);

“BS EN 12472:1999” means the British Standard Specification for the test method for the simulation of wear and corrosion for the detection of nickel release from coated items published by the British Standards Institution on 15th April 1999(d);

“EN 1811:1998” means the European Standard specifying a reference test method for release of nickel from products intended to come into direct and prolonged contact with skin which was approved by the European Committee for Standardisation on 10th October 1998;

(a) 1987 c.43.
(b) S.I. 2000/1668.
(c) ISBN 0580308472.
(d) ISBN 0580308480.

“EN 12472:1998” means the European Standard specifying a method for the simulation of wear and corrosion for the detection of nickel release of coated items which was approved by the European Committee for Standardisation on 14th October 1998;

“Member State” means a member State, Norway, Iceland or Liechtenstein;

“supply” includes offering to supply, agreeing to supply, exposing for supply and possessing for supply.

Prohibition on marketing and use

3.—(1) No person shall use nickel or its compounds in—

- (a) a post assembly intended to be inserted into a pierced part of the human body unless the rate of nickel release from the post assembly is less than $0.2\mu\text{g}/\text{cm}^2/\text{week}$;
- (b) a product to which paragraph (2) below applies if the rate of nickel release from those parts of the product which come into direct and prolonged contact with the skin is greater than $0.5\mu\text{g}/\text{cm}^2/\text{week}$; and
- (c) a product to which paragraph (2) below applies and which has a non-nickel coating unless such coating is sufficient to ensure that the rate of nickel release from those parts of the product which come into direct and prolonged contact with the skin does not exceed $0.5\mu\text{g}/\text{cm}^2/\text{week}$ for a period of at least two years of normal use of the product.

(2) This paragraph applies to a product intended to come into direct and prolonged contact with the skin including—

- (a) earrings;
- (b) necklaces, bracelets, chains, anklets and finger rings;
- (c) wrist-watch cases, watch straps and tighteners; and
- (d) rivet buttons, tighteners, rivets, zippers and metal marks contained in or intended to be used in garments.

(3) No person shall supply a post assembly or product which contravenes a requirement of paragraph (1) above but it shall not be unlawful to supply a post assembly which it was permitted to supply under the Dangerous Substances and Preparations (Nickel) (Safety) Regulations 2000 and which was first placed on the market in a Member State before these Regulations came into force.

(4) The prohibitions in paragraphs (1) and (3) above do not apply to a post assembly or product which—

- (a) is intended for export to a country which is not Member State;
- (b) is intended for research and development or analysis purposes;
- (c) was first placed on the market in a Member State before 20th January 2000.

Assessment Procedures

4.—(1) Conformity of a post assembly or product with the requirements of regulations 3(1)(a) and 3(1)(b) shall be demonstrated using the method specified in —

- (a) EN 1811:1998;
- (b) BS EN 1811:1999; or
- (c) another standard or specification recognised for use in a Member State which corresponds to EN 1811:1998.

(2) Conformity of a post assembly or product with the requirements of regulation 3(1)(c) shall be demonstrated using the method specified in —

- (a) EN 12472:1998;
- (b) BS EN 12472:1998; or

- (c) another standard or specification recognised for use in a Member State which corresponds to EN 12472:1998.

Proceedings

5. In England, Wales and Northern Ireland a magistrates' court may try an information (in the case of England and Wales) or a complaint (in the case of Northern Ireland) in respect of an offence under section 12 of the Consumer Protection Act 1987 arising from a contravention of these Regulations if (in the case of England and Wales) the information is laid or (in the case of Northern Ireland) the complaint is made within twelve months from the time when the offence was committed, and in Scotland summary proceedings for such an offence may be brought at any time within twelve months from the time when the offence was committed.

Date *13th July 2005*

Gerry Sutcliffe
Parliamentary Under Secretary of State for
Employment Relations and Consumer Affairs
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and re-enact with amendments the Dangerous Substances and Preparations (Nickel)(Safety) Regulations 2000.

The Regulations implement Council Directive 76/769/EEC (O.J. L262, 27.9.1976, p.201) on the approximation of laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous products and preparations insofar as that Directive restricts the use of nickel and its compounds and the marketing of products containing those substances. They also implement for the first time Directive 2004/96/EC which amends Directive 76/769/EEC by amending the restriction on the use of nickel and its compounds in post assemblies.

The Regulations restrict the use of nickel and its compounds in post assemblies and products intended to come into direct and prolonged contact with skin including products which have been coated with a non-nickel coating. The Regulations amend the previous restriction on the supply of post assemblies containing nickel. It will remain lawful to supply post assemblies which were lawful under the previous Regulations provided that they were first placed on the market in a Member State before these Regulations came into force. Further the restrictions do not apply to a product first placed on the market in a Member State before 20th January 2000 or to products intended for export to a country which is not a Member State.

The European standards EN 1811:1998 and EN 12472:1998 or corresponding national standards including BS EN 1811:1999 and BS EN 12472:1999 are required to be used to demonstrate compliance with the requirements relating to nickel content. The British Standards may be obtained from the sales outlets operated by the British Standards Institution (BSI) or by post from BSI at 389 Chiswick High Road, London, W4 4AL.

A full regulatory impact assessment of the effect that these Regulations 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. 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.

£3.00

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