



Product Law bulletin

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Allergen Advice: Compliance with Natasha's law

The Food Information (Amendment) (England) Regulations 2019 ("Natasha's Law") came into force on 1 October 2021. We previously wrote about the changes [here](#). However, despite the guidance available from the Food Standards Authority ("FSA") there is still some uncertainty in the sector - research conducted by GSI UK suggests that 1 in 4 business are unaware of the new changes with 8 in 10 suggesting they were underprepared for the changes. In a sector, still reeling from major business disruption due to COVID-19, this may seem like bad timing. Yet, Natasha's law represents a "huge step in helping improve the quality of life for around 2 million people living with food allergies" says FSA chief executive Emily Miles and compliance is non-negotiable.

The Law

The key development in the law that businesses should be aware of is the more stringent allergen advice that must appear on the labels of Prepacked for direct sale ("PPDS") foods.

A PPDS food is defined as:

- a food that is packaged at the same place it is sold to customers, and,
- is in the packaging before it is selected by the customer.

If a food is categorised as PPDS, the labelling on the packaging must list the following:

- the name of the food,
- an ingredients list, and,
- any of the 14 allergens required by law, if present, to be emphasised in the ingredients list.

Ensuring compliance

To ensure compliance with the new changes, businesses should work with their suppliers to gain an understanding of what allergen checks are being carried out and how rigorous these checks are. If the answers received are not up to scratch, then processes must be changed, or certain products rethought.

Labelling procedures must also be considered as it is imperative that labels are clear and have a mechanism to emphasise any allergens found in the product. Labels must also be up to date to account for suppliers substituting ingredients due to supply chain issues. Labelling must reflect these changes, no matter how slight. Practically this means mass printing labels weeks ahead of use may not be helpful.

Staff should undertake allergy training. Free, e-learning courses for food businesses are available through the FSA in a range of different languages and should be taken advantage of. It's also desirable for staff to understand the 14 allergens required by law to appear on food labelling and be able identify the high-risk products sold at the premises.

Enforcement

Enforcement of allergen information regulation has been tasked to local authorities and at first instance, a business will be given advice by that authority regarding allergen advice. A failure to act on the advice given by the local authority, may result in an improvement notice being issued. If the business fails to meet the requirements of that notice, they will be issued with a penalty fine. The business will have 14 days to appeal the improvement notice from the date the notice was issued.

However, in extreme cases where a penalty is insufficient, business may face prosecution. Irrespective of these sanctions, the most damaging consequence of noncompliance is likely to be the human cost. The law itself is designed to avoid a repeat of the tragic death of Natasha Ednan-Laperouse, who died in 2016 from eating a baguette containing sesame seeds. This cautionary tale in mind, every business should aim to comply strictly with the obligations placed on them by Natasha's Law.

FSA guidance on Natasha's Law for food business can be found [here](#).

[Back to contents>](#)

UK Government misses the mark: UKCA mark deadline extended

We previously considered the changes arising out of Brexit in relation to product marking systems (found [here](#)). As set out in the previous guidance released by the Government, the standards imposed by the UKCA marking regime are largely the same as those for EU CE marking (with some limited exceptions, such as medical devices and civil explosives). The guidance issued set out that from 1 January 2022, all products being placed into the UK market will require UKCA marking. Businesses were further allowed to use UKCA stickers and labels until 1 January 2023 (in contrast to the guidance for CE marking, which must be permanent).

However, the UK Government has announced that as a result of the continued impact of the pandemic and in an effort to provide clarity and certainty, the deadline of 1 January 2022 has been extended for a further year until 1 January 2023. This means that CE marked goods can continue to be placed on the GB market for a further year.

Whilst making no reference to any direct impact thereof, the announcement comes following pressure from several industries on the Government, stating that the relatively small number of UK conformity assessment bodies means that businesses could not be ready in time for the previous deadline.

The Government has highlighted that businesses “must take action” to ensure their readiness to comply with this “final” deadline, and is continuing its webinars for businesses to assist them in readiness to become compliant.

[Back to contents>](#)

OPSS Launches Awareness Scheme into the Dangers of Swallowing Small High-Powered Magnets

We previously wrote about the OPSS' campaign to highlight the risks associated with button batteries ([here](#)). This has now been followed up by a similar campaign into raising awareness into the dangers of accidentally swallowing small high-powered magnets.

The campaign, produced in partnership with The Chartered Trading Standards Institute, Royal Society for the Prevention of Accidents, Child Accident Prevention Trust, British Retail Consortium, British Toy and Hobby Association, and partners within the NHS, sets out the following recommendations for magnet safety:

- check your home: check for any magnets and move them out of reach of children, check toys for any loose magnets and get them fixed or dispose of them safely, do not attach magnets to glassware and report any product that is unsafe to your local Trading Standards Team
- talk to children: Discuss with your children or teenagers why small high-powered magnets can be dangerous and why they should not be used as things such as fake piercings or decorative items.

The campaign highlights that some symptoms that may indicate a magnet has been swallowed are stomach pain, vomiting, fever and/or pointing to their throat or stomach. They advise that if you think your child has swallowed a magnet, take them to the nearest A&E or call 999 for an ambulance.

[Back to contents>](#)

Can Covid-19 cause new allergic reactions to products?

In recent months there has been anecdotal evidence to suggest that people who have had Covid-19 and have later gone on to have their hair dyed have suffered from allergic reactions to products, including products they have used without any previous reaction. Allergic reactions can range from mild irritation through to severe anaphylaxis.

Early reactions were initially thought to be the result of prolonged periods without treatment during lockdowns, however, research from the Imperial College London now suggests that such reactions are caused by Covid-19 “reprogramming” peoples’ immune systems, meaning they can become allergic to things that were never a problem before. It is also suggested that factors related to Covid-19, such as stress, could also have an effect on hair quality, which could affect treatments.

The National Hair and Beauty Federation (NHBF) has responded to the claims by reiterating the need to always patch test at least 48 hours before carrying out treatment, with several hairstylists being keen to highlight that this is good practice in any case.

OPSS Product Safety Review: An Update

Earlier this year, the OPSS issued a Call for Evidence as part of their UK Product Safety Review. They aimed to consider how a long-term approach could: continue to protect consumers from unsafe and non-compliant goods; be sufficiently simple and flexible enough to allow safe outcomes alongside supporting business growth and innovation; respond quickly to new and emerging threats; and support businesses and regulators to be open and transparent about product safety so they could make informed decisions.

They have now published their findings (found [here](#)). The report recognises that one of the consistent themes in responses was that the current system of regulation was not designed with today’s products or models of supply in mind. The systems and laws as they currently stand struggle to deal with increased sales from abroad, third-party listings on online marketplaces, longer product lifecycles and more technological products (such as AI) and therefore an update is needed. It also identifies that there is a need for great simplicity and consistency across the relevant legislation and powers.

The report concludes that there needs to be a long-term, regulatory approach to address the challenges, whilst identifying several areas that can also be improved by short term changes – for example, continuing to challenge major online marketplaces to protect UK consumers and developing support and training for enforcement authorities (including on emerging issues). Full details of the proposed short-term changes can be found at pages 24-26 on the report.

Generally, the proposals have been well-received. Lesley Rudd, the Chief Executive of Electrical Safety First responded stating, “We welcome the Government’s announcement of their plans to shake up the UK’s product safety legislation system. It provides a real opportunity to create a new legislative landscape that will meet the changing needs of the transition to net zero and support business innovation, as well as addressing the serious safety issues facing consumers living in a progressively digital world”.

Further legislative change is due to be explored as part of the ongoing review, and as such, further changes are expected.

[Back to contents>](#)



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