

Nickel in jewellery safety regulations

Trading Standards Information

www.southwark.gov.uk

1. Introduction

Safety Regulations affect anyone who supplies products intended to come into direct and prolonged contact with the skin, and which may contain nickel, for example;

- earrings and other body piercing items
- necklaces, bracelets, chains, anklets and finger rings
- wrist watch cases, watch straps and tighteners
- belt buckles
- rivets, rivet buttons, tighteners, zippers and metal marks contained or intended to be used in garments.

The Regulations were introduced to safeguard public health against the potential hazards of prolonged and direct skin contact with Nickel.

2. Main legal requirements

- It is prohibited to supply products that come into *direct and prolonged contact* with the skin which have a nickel release rate greater than 0.5 micrograms per square centimetre per week. Direct and prolonged contact means touching the skin under normal use for continuous periods of time.
- The nickel release rate of *post-assembly components* must be less 0.2 micrograms per square centimetre per week. Post assembly components are the parts of the item designed and manufactured for insertion into the wound caused by piercing the human body - plus any faces that hold the piece in and against the wound.
- Products may contain nickel in higher concentrations, but only where they have a non-nickel coating and the coating is sufficient to ensure that the rate of nickel released from parts in direct and prolonged contact with the skin is less than 5 micrograms per square centimetre per week for a minimum period of 2 years normal use.
- There is no requirement to label or mark products.

3. Are there any exemptions?

The Regulations do not apply to any goods that were first placed on the market before 20th January 2000. Second-hand goods first sold before that date are not subject to these Regulations. Also post assembly products complying with earlier regulations may be supplied if they were placed on the market before September 2005.

Goods claiming to be nickel free, hypo-allergenic or nickel safe will be subject to the Trade Descriptions Act 1968. Any such claims must be accurate and not misleading.

4. What happens if I don't comply with these legal requirements?

These requirements are detailed in the Dangerous Substances and Preparations (Nickel) (Safety) Regulations 2005. Failure to comply is an offence under the Consumer Protection Act 1987. On conviction the courts may impose a fine of up to £5000 or imprisonment for up to 6 months, or both.

In addition goods may be seized by Trading Standards Officers and forfeited by the courts.

5. How can I make sure my goods comply with the law?

Anyone wishing to place items on the market for sale must recognise that they have a legal obligation to ensure that the items meet the requirements of the legislation. Are you confident that your stock complies and how would you be able to prove it?

As a minimum when you order or purchase stock you should state that the goods must comply with the Regulations and ask your supplier for a written assurance that the goods comply. Make sure you keep records/invoices of your purchases and any written assurances given.

Depending on the size and scope of your business simply relying on such an assurance may not be sufficient. If you are a wholesaler, or are arranging to import a quantity of Nickel based items then you should consider getting a representative sample tested by a suitable test house and insist on getting copies of test reports carried out by the manufacturer.

Remember you could be held liable if a customer suffers as a result of a product you have sold.

There is a defence available to the Regulations known as the 'due diligence' defence. It is not unique to this area of law. To use the defence, a person must prove that he took 'all reasonable steps' and exercised 'all due diligence' to avoid an offence being committed. What would be required will depend on the particular circumstances, but sitting back and doing nothing is unlikely to be sufficient.

Taking reasonable steps is likely to involve setting up a system of control that has regard to the risks involved. Due diligence means ensuring the proper operation of that system and it should be kept under review and amended as necessary. Any defence is likely to fail where there was a reasonable step that could have been taken but was not.

For further advice on due diligence please contact this Service.

5. Further information

If you require further assistance on these requirements, or would like additional information leaflets, please contact us at the address given. The British Jewellers Association and the Jewellery Distributors Association will also give free advice to members.

