

The General Product Safety Regulation (EU) 2023/988 (GPSR) will apply from 13 December 2024. It replaces the current EU directive regulating product safety, the General Product Safety Directive 2001/95/EC (GPSD), which is the EU legislation that the UK's legislation for general product safety is based upon.

The regime in Great Britain is not changing, so there will be a divergence in approach to general product safety between Great Britain, on the one hand, and the EU and Northern Ireland, on the other.

As with the GPSD, the new GPSR will apply to products that are not already subject to harmonised product-specific legislation (for example, legislation related to toys, cosmetics, food, low-voltage electrical equipment or machinery).

As we have previously reported, the GPSR expands the current regime to cover new technologies and online marketplaces (such as Amazon and eBay), with specific product safety obligations for both economic operators and providers of online marketplaces; accident reporting to authorities through the Product Safety Gateway portal (as opposed to the current obligation to notify a risk, but not each individual incident); and specific rules on how to handle product safety recalls, including a mandatory recall notice template, and right to remedy for consumers. The European Commission is also committed, under the provisions of the GPSR, to the development of an interoperable interface that allows providers of online marketplaces to link their interfaces to the Safety Gate Portal.

However, the most immediate and widespread impacts in the run up to the application of the GPSR appear to be an implicit requirement to determine which party in the supply chain is "responsible" for compliance with the requirements under the legislation, namely the "Responsible Person"; and updated labelling requirements, including an obligation to include an "electronic address".

In a similar way to the EU's Market Surveillance Regulation (EU) 2019/1020, the GPSR provides that there must be a Responsible Person in the EU that carries out certain tasks. Those tasks include verifying that technical documentation has been drawn up and liaising with market surveillance authorities. In addition, the Responsible Person must regularly check that the product complies with technical documentation and with requirements for marking, labelling and product information.

Where no other relevant parties can be identified in the EU, in accordance with the provisions of the GPSR that relate to the Responsible Person, the party responsible will be the "importer" into the EU. This means that EU importers are now keen to check details with exporters and manufacturers of products outside of the EU, including verification of who is the manufacturer of the product, which party will be the Responsible Person, and the compliance arrangements that the exporter has in place with regard to the underlying requirements of the legislation. Equally, exporters outside of the EU are seeking to understand what information they need to provide to their EU distributors, particularly in the context of manufacturer obligations that are detailed under the GPSR.

With regard to labelling requirements, both exporters and importers are assessing matters such as which party needs to be named, which is the most appropriate address, and how quickly labelling changes can be made to include an electronic address, if this was not previously provided (the GPSD did not require an electronic address).

As a regulation, the new EU GPSR will apply directly in all EU member states, but it will not apply in Great Britain, as indicated above, because it is being implemented post-Brexit. This will mean that, in future, handling a cross-border product safety issue is likely to become even more complex, as the requirements in the EU for notification and corrective action, such as recall, will differ from those in the UK, at least unless and until the UK regulations are amended to realign the regimes (which is perhaps unlikely, at least in the short term).

Exporters and importers into the EU market should ensure that they are aware of any new obligations under the GPSR, if they have not assessed this already, and make suitable arrangements to demonstrate compliance.

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