

RPC



Product bulletin

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Accessibility for all: the EU Accessibility Act

What is it?

The EU Accessibility Act ('the Act') is a Directive ([Directive \(EU\) 2019/882](#)) which aims to improve accessibility to certain products and services by requiring EU Member States to meet minimum accessibility thresholds. The Act is aimed to harmonise the accessibility requirements between Member States, which have previously differed, creating an imbalance and putting a strain on those businesses making accessible products and providing services to users in the EU.

Whilst some countries having detailed rules, others had none at all, meaning providers have faced additional costs to meet the individual requirements of each Member State, with SMEs often bearing the brunt of this.

The Act aims to bring clarity to existing obligations and benefits to businesses, people with disabilities and the elderly.

What does it cover?

The Act covers products and services considered to be the most important for people with disabilities but having the most varied standards across the EU Member States.

These include products such as: computers and operating systems; ATMs, ticketing and check-in machines; smartphones; and TV equipment related to digital television services – and services, such as: telephony services and related equipment; access to audio-visual media services such as television broadcast and related consumer equipment, some services relating to air, bus, rail and waterborne passenger transport, consumer banking services, e-books and e-commerce.

What does the legislation require?

The legislation places a number of requirements on products and services themselves, along with requiring manufacturers, importers, service providers, distributors and EU countries to meet certain obligations. A summary of such obligations can be found [here](#), with full helpful non-binding examples of how the requirements may be met at Annex II of the Directive. Such examples include providing electronic files which can be read by a computer using screen readers so that blind persons can use the information, and using the same words in a consistent manner, or in a clear and logical structure, so that persons with intellectual disabilities can better understand them.

When will it be in force?

Subject to some limited exceptions, EU countries must apply the measures from 28 June 2025, with providers being required to ensure all products and services within the scope released thereafter are compliant. From 28 June 2030, **all** services and products falling within the scope will need be compliant regardless of when they were released.

Allergens: the continued importance of labelling and awareness

The end of 2024 saw heightened awareness as to the importance of allergen labelling, the seriousness of contamination from allergens and how widespread an allergen recall/issue can become.

Ingredient manufacturer FGS Ingredients Ltd (FGS) issued a recall notice for several of their products which contain mustard powder due to concerns that the mustard powder may be contaminated with, or contain, peanuts. The labelling of these products did not include any allergen warning to this effect and subsequently posed a severe health risk for individuals with a peanut allergy.

The Food Standards Agency (FSA) reported that their Incidents and Resilience Unit had contacted its counterparts in India and identified that this contamination originated at an agricultural level in India. FGS has since changed to a Canadian supplier following the contamination.

Upon discovering the potential contamination, FGS enacted a precautionary withdrawal of the impacted products, with FGS' customers following suit in withdrawing all products containing mustard sourced from FGS. At the same time, FGS worked alongside of the FSA in conducting extensive investigations and increased testing across all its ingredients.

Point of sale notices were required advising customers on the reasons for the product recall were also displayed where potentially contaminated products were sold, along with instructing customers what to do if they have purchased the affected products. As of November 2024, the recall had impacted 303 products from 56 different brands.

Following extensive investigations and product recalls, the FSA were able to lift their advice, satisfied that all potentially contaminated products have either been removed from sale or now carry a suitable allergen label. The FSA also advised businesses and consumers that some mustard-based products will now display a precautionary allergen label and has warned consumers with a peanut allergy to be vigilant in checking product labelling, even if they have bought a product previously as the allergens may have been updated in the wake of the recall.

Unfortunately, this is not the only recent high-profile case relating to food allergens, with prosecution of Pop Inn Café's operator, Baris Yucel, at the end of January 2025, following the death of 12 year old Mia-Shay St Hilaire. Miss St Hilaire died following a severe allergic reaction resulting from the café failing to properly clean a blender used to make a milkshake. It is believed that the failure to clean the blender meant there were still traces of tree nuts, to which Miss St Hilaire was allergic, left behind.

Mr Yucel admitted six criminal charges relating to Miss St Hilaire's death, including for not making allergen advice available and/or visible to customers, failing to manage allergen contamination and serving food with an allergen that was not supposed to be present. He was fined £18,000 and given a 100-hour community order.

If food businesses are unsure of the correct procedures to commence in the event of a food safety concern, the FSA [recommends](#) that businesses should:

1. Refer to the FSA's guidance on food traceability, withdrawals and recalls within the UK food industry.
2. Seek the advice of your Local Authority.
3. If you are a member of a relevant trade association, seek advice from them.
4. Ultimately, ensure the advice you rely on comes from a reliable source.

Changes to EU legislation: the GPSR and the 'new' PLD

Significant changes to the EU's product safety framework have taken place over the last few months with the new [Product Liability Directive](#) (the 'new' PLD) being formally signed on 23 October 2024 and the new [General Product Safety Regulation](#) ('the GPSR').

The 'new' PLD

The new PLD was published in the Official Journal of the European Union on 18 November 2024 and is due to come into force in all EU Member States by 9 December 2026. The new PLD replaces its long-standing predecessor and seeks to deal with new technologies, where the old PLD arguably did not do so adequately.

The new PLD has broadly been seen as extending the rights for potential Claimant's and making bringing claims for defective products easier. Whilst the new PLD sees significant changes from its predecessor, the key takeaways can be summarised as follows:

1. The widening of potentially liable entities to 'economic operators' defined as "*... a manufacturer of a product or component, a provider of a related service, an authorised representative, and importer, a fulfilment service provide or a distributor*".
2. The widening of those potentially entitled to compensation to 'any natural person' – i.e. not just consumers, but individuals.
3. The widening of the definition of a 'product', predominantly to include software (including updates and upgrades in certain circumstances) and AI integrated products.
4. An extension of what constitutes compensable harm/injury, including "*the destruction or corruption of data not used for professional purposes*" and "*medically recognised damage to psychological health*".
5. Article 10 of the new PLD details several situations whereby the defectiveness of a product will be presumed, and further that, "*the casual link between the defectiveness of the product and the damages shall be presumed where it has been established that the product is defective and that the damage caused is of a kind typically consistent with the defect in question*".

The GPSR

The GPSR, although separate legislation, should be considered in tandem with the PLD. We have previously written about it [here](#).

The Product Regulation and Metrology Bill

Following its announcement during the King's Speech on 17 July 2024, the Product Regulation and Metrology Bill ("the Bill") continues to make its way through the House of Lords (now at the report stage). The Bill, when enacted, will allow key secondary legislation to be put in place, with the substantive regulatory change likely to start coming into force in Autumn 2025.

The secondary legislation will overhaul the regulation of product safety in the UK allowing it to deal with changes within the supply chains and technological advances in products. It aims to modernise the UK's product regulatory framework to allow the UK to respond quickly to changes in technology.

The Bill allows the UK to adopt EU standards on product safety whilst maintaining flexibility to deviate from EU regulations when it is in the interests of UK businesses and/or consumers.

The main aims of the Bill and its secondary legislation will be to:

- Ensure regulators are suitably able to challenge new and emerging business models, including online marketplaces.
- Enable improvements to compliance and enforcement.
- Enable legislation to adapt to new technology, such as AI, in a more efficient manner.

The secondary legislation is likely to impact regulators and businesses, especially those who operate online marketplaces, manufacture lithium-ion batteries or products that contain Artificial Intelligence ("AI") and will significantly, potentially lead to a deluge of secondary legislation which will have a substantial change on the regulation of product safety.

Justin Madders MP, who is responsible for the Bill, said that the legislation will *"allow for agile and robust regulatory measures for products...placed on the UK market."*

Online marketplaces are likely to face the most significant impact on the way they operate and the relationships they have with their sellers and their obligations to ensure that only safe products are placed on the market.

Online marketplaces, businesses and regulators alike would be wise to keep an eye on the Bill and the subsequent secondary legislation that is proposed to ensure they are complying with their obligations.

The makeup of makeup

Why is it important?

Understanding what is in your makeup can be significant for a number of reasons. It can help you avoid using harmful chemical and/or allergens that could cause skin irritations or other health issues. It can also help you make an informed decision about the different products you use, and help you align them with your personal values, such as only using cruelty-free, organic, or vegan products. Furthermore, by understanding the ingredients, it can also help you choose products that are more effective for your skin type as well as enabling you to select products that are environmentally friendly and/or sourced sustainably.

Given the increasing focus of the regulators on consumer safety, it isn't difficult to see why their focus is also on cosmetics. The current guidance on the regulations applicable to cosmetic products supplied in or into Great Britain can be found [here](#), which is aimed at promoting safety, responsibility and the free movement of cosmetics products. Part of this is ensuring continual research and awareness of the ingredients in cosmetics and the impact of using them on consumers. There have been several recent regulatory developments:

Call for Data

In October 2024, the OPSS launched a consultation, asking for data and '*scientific information relevant to the safety assessment*' of certain cosmetic ingredients. The deadline for submission of this information is 30 April 2025.

The first is cosmetic ingredients in the spotlight are prostaglandins and prostaglandin analogues, which are commonly found in products that assist with eyelash growth. The next is Alpha and beta-arbutin, which the OPSS confirms are used '*as antioxidants, skin bleaching and skin condition agents in cosmetic products*'. The final ingredient is Vitamin A derivatives such as retinol. The concern in respect of Vitamin A is that, as the main source of that ingredient is food and supplements, the additional use in cosmetics may exceed the recommend doses. There is already [guidance](#) set out by the NHS that women should not use products which include Vitamin A as it is believed there could be a link to birth defects.

OPSS reminder of banned chemical

On 14 October 2024, the OPSS published a statement reminder to the public '*to dispose of any cosmetics containing the banned ingredient Lilial*' (also known as butylphenyl methylpropional). Lilial was banned by the government in 2022, with all products having to be taken off shelves by December 2022. The October reminder to companies is to ensure they have checked their products for Lilial and removed them from sale, and, if it is discovered they have sold these products since 2022, they must consider recalling them.

Lilial can often be found in laundry powders and perfume as it has a floral fragrance and has been banned due to its links with harm to reproductive health.

The OPSS reminder asks the public to check their products at home and, if they identify any products at home containing it, and have purchased them since 2022, they must contact the Citizens Advice bureau to report the seller and to obtain advice on legal action and/or redress.

Urban Wastewater Treatment Directive

Another area to watch is the revised Urban Wastewater Treatment Directive (UWWTD), which was approved by the European Parliament in 2024. The UWWTD has received much commentary, particularly from those affected, including the producers of pharmaceutical and cosmetics products that place their products in the EU.

The UWWTD requires those producers to pay for 80% of the costs incurred to remove micropollutants in wastewater (quaternary treatment) and extended producer responsibility costs. There has been much concern that it unfairly penalises cosmetics and pharmaceutical companies and does not comply with the '*polluter pays*' policy.

The Directive must be implemented by Member States by 31 July 2027, but Member States can go beyond the Directive, and it is open to them, for example, to include other producers, (as well as pharmaceutical and cosmetics producers) and therefore include additional contributors to the treatment costs.

We await to see how Member States adopt this directive and the impact it has on the relevant industries.

Buy Safe, Be Safe: The Government's new safety campaign for e-bikes and e-scooters and new statutory guidelines on battery safety for e-bikes

Fire risk and product safety

The Office for Product Safety & Standards (OPSS) started collecting data on fires where e-bike and e-scooter batteries were identified as the probable cause, in 2017. In the 2023 figures collated by the OPSS, 199 fires involved an e-bike or e-scooter, with the majority (176) being reported by the London Fire Brigade. Nearly half (46%) of these fires involved e-bikes and e-scooters which were confirmed to be post-market conversions.

In 2024, the London Fire Brigade has named e-bikes as London's fastest growing fire risk, commenting that large numbers of these fires result from the use of incompatible parts being fitted, as well as the use of defective or poorly manufactured parts which are often purchased through online retailers and marketplaces.

This is supported by the OPSS' 2023 figures, which show that the vast majority (92%) of e-bike and e-scooter fires were ignited by batteries or generators, with 48% of e-bikes and e-scooters being on charge at the time of ignition. The 199 e-bike and e-scooter fires recorded by the OPSS in 2023 resulted in 10 fatalities and 72 non-fatal casualties, which the Government notes may be an underestimate given the likelihood of unreported injuries.

These figures demonstrate the significant product safety risk that unsafe e-bikes and e-scooters present. Conversion kits are associated with a significant proportion of all fires, which also highlights a gap in the current regulatory position. Under current regulations electrically assisted pedal cycles (EACPs) are required to be labelled with the power output and battery voltage of the product and must not exceed a maximum power output of 250 watts, however, there are no such regulations specific to conversion kits which are readily available to purchase online.

New guidance from the Department for Business and Trade

In October 2024, the Department for Business and Trade (DBT) published their new "Buy Safe, Be Safe" campaign, urging the public to only purchase e-bikes, e-scooters, and associated components via reputable manufacturers and retailers.

The campaign comprises of three recommendations to consumers:

1. Avoid rogue online sellers. Consumers are encouraged to only buy safe products via reputable sellers.
2. Ensure any replacement parts or components are recommended by manufacturers.
3. Seek help from professionals prior to carrying out repairs to e-scooters or e-bikes, or when converting pedal cycles to an electrically assisted pedal cycle (EAPCs).

The campaign is launched in partnership with several key e-bike and e-scooter retailers in the UK, with information materials being made available both in instore and online, in addition to a social media campaign to boost consumers' awareness.

Justin Madders, Product Safety Minister, explained the motivation behind the campaign was owing to the fire risk posed by the lithium-ion batteries used to power e-bikes and e-scooters, emphasising the need for consumers to "check what you're buying, check where you're buying it from, and ensure its safe to use."

New statutory guidelines on lithium-ion battery safety for e-bikes

In December 2024, the Office for Product Safety & Standards (OPSS) published new guidelines for businesses who produce, import or distribute lithium-ion batteries for e-bikes available in the UK market. Notably, the guidelines set out safety mechanisms that batteries must contain in order to reduce the risk of a known fire risk, 'thermal runaway' which happens at the point that individual battery cells reach a critical temperature triggering an exothermic reaction that produces heat faster than it can be dissipated. This reaction produces gas within the cell causing it to rupture and may lead to a sudden release of flammable gases that may ignite, resulting in an explosion and/or fire. Such fires can become extremely volatile and develop rapidly.

The new statutory guidelines must be taken in account by businesses involved in the production or supply of e-bike batteries when assessing whether the product meets legal safety requirements in accordance with their legal requirements under the General Product Safety Regulations 2005 (GPSR). All lithium-ion batteries (including those as part of a conversion kit and those retailed online) are subject to the GPSR, making it an offence for businesses to supply, retail or otherwise provide unsafe lithium-ion batteries.

The GPSR will only deem a lithium-ion battery safe where it includes safety mechanisms which are capable of preventing thermal runaway occurring from normal operation, as well as in cases of reasonably foreseeable misuse. Such mechanisms could include battery management systems which protect the battery system from damage, or alternative mechanisms that perform a comparable function. The guidelines specify that any safety mechanism must be able to prevent thermal runaway resulting from the use of an incompatible charger.

Guidance for businesses and consumers

The Buy Safe, Be Safe campaign is launched as part of broader government efforts to crack down on the retail of unsafe products, particularly those sold via online marketplaces and intends to inform consumers of the potential risks posed by unsafe lithium-ion batteries, in an effort to encourage consumers to purchase products from reputable sources.

The Government's new statutory guidelines require businesses to scrutinise products they produce, import or retail, to ensure they comply with the GPSR, with the new guidelines providing a clear benchmark to assess against. Crucially, businesses need to be aware that placing an unsafe lithium-ion battery on the market is an offence, as enforcement of these regulations fall under the Office for Product Safety and Standards' remit, which in the event of non-compliance, can impose penalties including criminal sanctions.

The new Product Regulation and Metrology Bill (see above) will require online marketplaces to be more proactive in verifying that products retailer via their sites are compliant with relevant product safety standards. This Bill, alongside the Buy Safe, Be Safe campaign, signify strong efforts to counter the fire safety risks posed by e-bikes, e-scooters and associated components, through tighter regulation and increased consumer awareness.