



Advice Pack Contents

- Introduction and Background
- In trade?
- General Candle Safety
- Fire Damage
- The need to assess safety
- Product Composition
- Use of consultants
- Safety Testing Plan
- Safety Data Sheets & CLP labelling
- Compliant Labels – Hazards and Warnings
- Traceability
- The format and positioning of labelling
- Technical File
- Indicating who you are
- White Labelling
- Insect Repellent Candles
- Websites
- Poisons Centre Notification
- Unsafe Products and Product Recalls
- Imitation Foods
- Misleading Statements and Omissions
- Organic & Vegan Claims
- Quantity Marking
- Intellectual Property and Protected Food Names
- Further Sources of Help
- Further Online Resources
- Contact Points



Introduction

This material started as a fact-sheet targeted at small scale 'cottage industry' businesses and home producers of candles who sell directly to consumers, mainly to give some information on CLP when that was new. It has evolved into a more comprehensive advice pack now that alongside it is a template safety testing log, information on PAS7100 and a tickbox checklist, but the target audience remains the same. For ease, it is written to focus on candles, but the information herein applies equally to diffusers and room sprays. It is not possible to include everything within this guide that will apply to every aspect of your business, nor can any topic be given any great depth of detail, so please contact your local Trading Standards or The British Candlemakers Federation with any queries. It is **your** responsibility to know about and trade within the law, but we recognise this is a difficult and technical area of law for a new entrant to the industry. This has been written in as 'plain English' as possible but with legal content this isn't always achievable. Your Local Authority Trading Standards Service deals with this at retail level; for a large scale producer or wholesaler the Health & Safety Executive (HSE) is the main Regulatory body (for REACH & CLP). Alongside this advice sheet is a checklist for candle makers to follow through the tick boxes before releasing a new product onto the marketplace.

Background

Due to the increase of social networking (i.e. Instagram and Facebook selling groups), and enduring popularity of flea markets there is a prevalence of home-based hobbies that turn into small scale businesses, often without the candle producer realising they have crossed a line into the arena of running a business where trading laws and consumer protection laws apply. We see a lot of issues at street fairs, school fetes and Facebook buy & sell groups where people make things at home as a hobby, get encouraged by family or friends to go on to sell them and don't pause to step back for a moment and research the laws that might apply to them now they are operating as a business. As hobbyists transition into businesses we need to ensure consumers are adequately protected, and that hobbyists realise when they are operating a business with trading laws that apply. The law relating to candles is complex and technical, but exists to ensure consumers receive adequate warnings and instructions for use; are protected from inhaling or touching harmful chemicals; ensures goods sold are legal, safe and accurately described; and fire risks are minimised. UK consumers can confidently purchase and use candles, which is great for the industry as a whole. Trading Standards, alongside the HSE, are looking for high standards across the whole industry which particularly helps smaller producers to operate securely within a 'level playing field', free from unfair competition. Trading Standards and the HSE want to support and assist you with compliance, as do the leading trade association for this industry, The British Candlemakers Federation.

In trade?

Most consumer protection laws are not aimed at private individuals conducting pastimes and hobbies in their own home, but are directed towards people operating in the course of a trade or business. Whether or not a profit is made is not a determining factor. A person selling their own used goods on an individual instance is not caught by the legislation, but repeatedly producing goods for intended sale to consumers will be in the course of trade; and includes crafts and professions also. Sales conducted to raise funds for charity are not normally exempt either; the goods have to be as safe as those sold for commercial profit. Unfortunately these consumer protection and trading laws do not exempt small businesses, they ensure the same level playing field for compliance irrespective of business size.

General Candle Safety

Product safety legislation is not new, since the 1980's the current legal framework has required producers and distributors to place only safe products on the marketplace (known as the general safety requirement), provide information and warnings as to the risks their products pose (where these risks were not obvious), and to provide consumer instructions as to the safe operation and use of the product.

The current law that applies to the overall safety of goods is The General Product Safety Regulations 2005. This is known as GPSR as shorthand. There is no specific law which relates to the safety of candles in isolation, but there are some 'European standards'¹ which give clear guidance as to how safety with candles might be achieved. Following these standards will assist you to demonstrate 'due diligence' under the GPSR. Furthermore, the concept of 'presumption of conformity' applies to candles. Where a product conforms to these harmonised standards the product shall be presumed to be a safe product so far as concerns the risks and categories of risk covered by those standards.

¹ Currently there are three standards concerned with candle safety, BS EN 15426, BS EN 15493 and BS EN 15494. More information about these is available from BSI (www.bsigroup.com) or The BCF (for members).

Fire Damage

Detailed fire statistics are publicly available². From these it is clear that candles are not the biggest cause of house fires. Of the 27,621 accidental dwelling fires in 2017/18, 34 per cent were caused by “misuse of equipment or appliances”, similar to the 35 per cent in 2016/17. The second largest cause category was “faulty appliances and leads” which caused 16 per cent of all accidental dwelling fires³. To put it in some context, candles are identified as the cause of approximately 1000 house fires each year⁴.

There is a good level of consumer knowledge around candle safety, certainly since the introduction of effective safety warnings and pictograms. This demonstrates the benefit/need for good quality user instructions/warnings and that they do make a difference. However there is no room for complacency, in 2016-17 nineteen people died in fires attributed to candles, for their families that is nineteen too many. The risk of fire can be minimised by suitable warnings to the consumer, and as your duty is to make the product as safe as possible given reasonably foreseeable use, you must provide suitable warnings.

The Need to Assess Safety

A producer must assess the safety of domestic indoor candles with respect to their burning characteristics, such as sooting, flame size, potential sources of secondary ignition (e.g. embedded materials, coatings, and decorations), stability and the adequacy and legibility of labelling and instructions for safe use. All risks must be assessed, and precautions must be taken against those risks⁵. To be effective, safety instructions must be suitably legible. How children might interact with your product must also be considered and if any risks are identified those should be mitigated (such as using moulded designs instead of small parts which can be pulled off and choked on). The presence of warnings does not exempt any person from legal liability to supply safe products and mitigate the risks, or their duty of care to users of the product.

Product Composition

A starting point for assessing safety is to know what is in your product and in what proportions, depending on the end size of candle or tea light. Apart from helping assess the safety by looking at chemical concentrations for CLP, it will also help when you come to design compliant labels. Furthermore, it will be something to start off a technical file as required under GPSR. Discussions with your suppliers and getting copies of their safety data sheets (SDS) for each material you use will tell you what is going into your product. You should also get familiar with the European product categorisation system (EuPCS) and categorise your products (e.g. PC-AIR-7).

Use of Consultants

Depending on your level of knowledge and competency, it may transpire that some expert input from an appropriate consultant could help with identifying the ingredients, calculating their quantities and therefore assessing concentrations in the end product. This will help determine any hazards or risks, and therefore inform the type of labelling appropriate. A consultant experienced in the candle industry can also advise or assist with safety test methods, technical files, and designing legally compliant labels. With regret, we cannot recommend laboratories, test houses or consultants within this advice pack. As with anything it is worth shopping around as there are variations in service levels and pricing.

² The Department for Communities and Local Government publish annual fire statistics, available online at www.gov.uk/government/statistics/

³ Fire Statistics Data Table 0601 – September 2018

⁴ FIRE0602: Primary fires fatalities and non-fatal casualties by source of ignition – September 2018

⁵ Regulation 7 - The General Product Safety Regulations 2005 ('GPSR')

Safety testing plan

For larger manufacturers with the skills, knowledge and equipment to do so, most safety testing is conducted in-house following their quality management system, including GPSR requirements and against the three European standards. Smaller producers may need to submit product samples for external laboratory testing where the burning characteristics can be assessed under a series of controlled laboratory conditions, including burning in a burn test chamber or ventilation controlled burn test room, and using the standard wire mesh cylinder to measure sooting. Safety testing is scalable, so larger producers are expected to test (and keep records of) more samples. Records and test house certificates of safety testing should form part of the technical file. Before releasing a new product onto market, you are under a legal obligation to assess it for safety and the standard requires three samples to be tested. For products you already have on the market you will need an ongoing monitoring process with periodic random sample safety testing. To do no safety assessments or testing at all will not demonstrate due diligence has been undertaken, so you will have no defence if an incident occurs, or a breach is identified. To assist producers who have never undertaken in-house safety testing before, we have developed a template for reference (made available as part of this pack) for adapting to suit your particular needs.

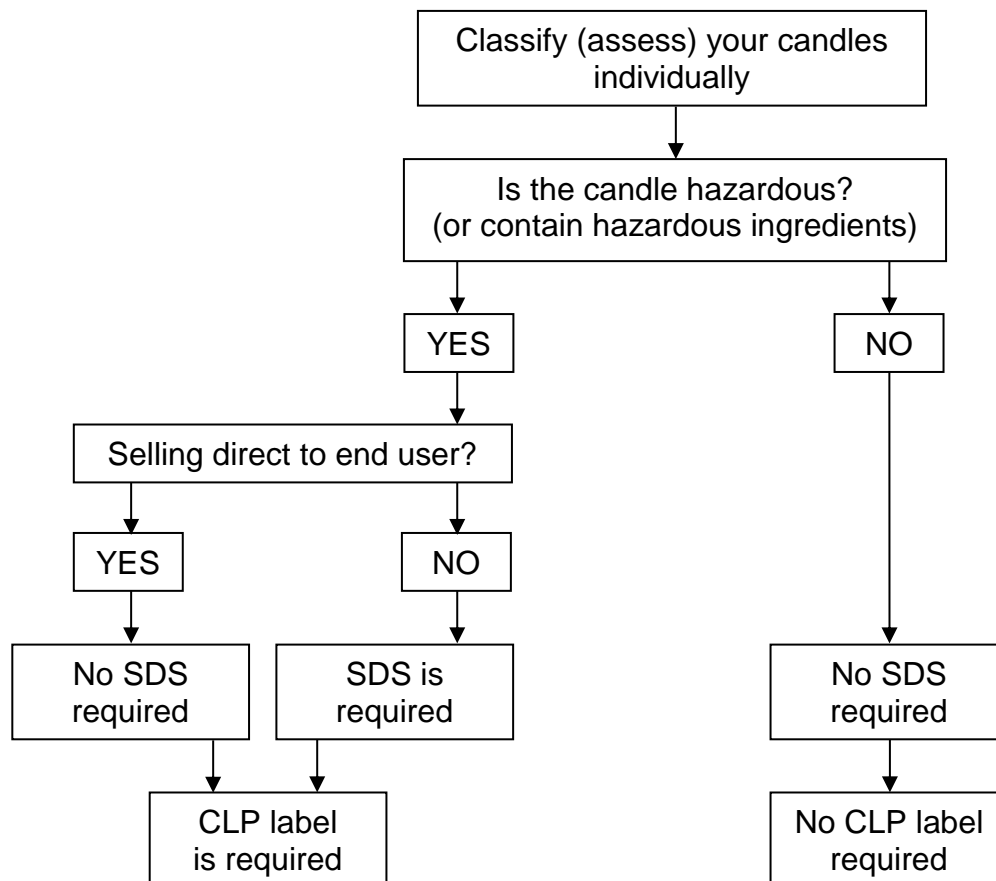
Safety Data Sheets and CLP Labelling

Suppliers' duties for Safety Data Sheets (SDS) and CLP labelling only apply if a mixture has hazardous properties (as defined in the CLP regulation) or where it contains certain hazardous components above specified concentrations. If SDS are to be required, the applicable legislation is Article 31 of REACH. The requirements for labelling are provided in the Classification, Labelling and Packaging (CLP) Regulation. Both are available on the European Chemicals Agency (ECHA) website; <https://echa.europa.eu/legislation>. Candles are considered to be 'mixtures' under both REACH and CLP as they are blends of wax, fragrances and possibly colourings. These duties apply to small scale home-based suppliers in the same way they apply to larger scale manufacturers/suppliers. When you are considering what information should be on a label or whether one is in fact needed you will notice that the requirements are very much dependent of the substances used in the candles and their respective hazard classification. This has to be determined separately for each of your candle formulations individually, as they will each have different 'ingredients'. The main concern for candles is likely to come from the fragrances used. In particular, a number of common fragrances are classified as 'sensitisers' (i.e., they can cause allergic reactions) and this can manifest at very low concentrations. For mixtures containing substances that are classified as sensitizers at a concentration of 0.1% or above, there will generally be a requirement to include some information about this hazard on the label of the product. For example, this could include the use of the statement 'Contains (Name of sensitising substance). May produce an allergic reaction'. Such a statement serves to warn users who are already sensitised to a particular substance. If a sensitising substance was present at higher concentrations (generally higher than 1%) the entire mixture would be classified as a sensitizer and would need to carry a pictogram (e.g., the exclamation mark symbol), a hazard statement (e.g., May cause an allergic skin reaction) and precautionary statements about safe use. For particularly potent sensitizers, these requirements can be triggered when the substance is present at even lower levels (i.e., 0.01% for the special warning and 0.1% for classification of the mixture respectively). Also, a small number of substances have a concentration limit that is specific to them and this may differ to the values noted above. These latter two points are not common and it is most likely that the 0.1 and 1% limits will be applicable in the vast majority of cases and will be what you need to consider. Some fragrance suppliers can provide CLP label information and a SDS for a candle if you use their product at set percentages. Some fragrance providers have labels and SDS's for the different percentages available on their websites.

Buying pre-mix fragrances will make life easier than developing your own blends, as it may be that your fragrance supplier can provide you with the CLP data you need. Substances can be classified for other hazards (e.g., skin irritation, eye irritation, hazardous to the aquatic environment etc.). From common composition of candles these are less likely to be applicable, but if your ingredients are classified for other hazards (which you will know from the SDS your supplier passes to you) you will need to consider whether or not they are relevant to the candle. This will be based on the concentration of the substance in the final candle mixture. However, there are different concentrations to consider for the different hazards (e.g., if an ingredient is classified as a skin irritant, it would generally trigger classification of the mixture as a skin irritant when present at 10% or above).

Unscented candles are different - If the candle does not contain any ingredients that are classified as hazardous then there is no requirement for it to be labelled in accordance with CLP. The waxes used in candles, and readily available in bulk from your suppliers are unlikely to be classified as hazardous, it is the fragrances that should be focussed on. The classification criteria are provided in Annex I of the CLP regulation and a number of guidance documents are available on the European Chemicals Agency (ECHA) website; <http://echa.europa.eu/web/guest/guidance-documents/guidance-on-clp>. There is an introductory guidance document and a document on labelling and packaging which suppliers might find useful. There is also a document on the application of the CLP classification criteria, but this is a comprehensive technical guidance document.

As a candle maker, you should receive information about the ingredients you use from your suppliers. For example you are entitled (free of charge) to a SDS for any identified potentially hazardous components, containing information on the hazard classification of the ingredients. Selling directly to consumers does not require you to produce or pass on SDS to them; the label will give all the consumer information required. If you are not supplying directly to the end user, for instance if you supply candles to hotels or cafes, then a SDS will have to be produced and provided by you to the retailer for each formulation you supply. This is summarised in this flow-chart:



As the flow chart demonstrates, suppliers of candles are required to classify and, where appropriate, label them in accordance with the requirements of the CLP regulation. If the candle is not hazardous (or does not contain hazardous ingredients) there is no requirement to label under CLP. There is no requirement to provide a SDS to the general public so long as appropriate information is made available in other ways (e.g., the label). Where there is a duty to provide a SDS, this should be provided free of charge. You are not obliged to buy labels or SDS from another party to meet your legal duties, it is something you can do yourself although small cottage industry candle makers may require some support, so see the 'further sources of help' sections below.

Compliant Product Safety Labels - Hazards and Warnings

To avoid confusion, CLP warning labels are one requirement (as discussed above), and safety labels (such as the symbols seen below) are another additional and separate requirement due to BS EN 15494:2019 "Product Safety Labels" which specifies the format, content and layout of product warning labels for indoor candles. Although distinct legal requirements, there is no reason why CLP warning information and BS EN 15494 safety information could not be combined onto one label with some thought and attention to detail.

Prior to developing a product safety label to comply with BS EN 15494, an assessment of the product's hazards and the risk associated with each hazard shall be performed. Key to this exercise is evaluating what residual risks remain after protective steps have been taken in the design and guarding of hazards and determining which of these hazards shall be addressed with the use of safety labelling. Risk assessment for the specific candle type is essential to identify which risks and therefore which supplementary safety information (from Annex A) will be needed as a control measure on the label. All information supplied with a candle shall be presented in a clear format on the product and should be easily and non-verbally comprehensive. Such warnings shall be visible/legible on the product or packaging. If space is limited peel-off or fold-out solutions may be used.

It is a requirement that the General Warning Sign (yellow diagram below) be included in all labelling, in distinct contrast from its background, preferably using this coloured graphic, but for candle labels with one-colour print, the background does not need to be yellow.



General Warning Sign. Any supplementary safety information, symbols and text shall be placed in close proximity to this sign.

Where relevant these are mandatory, depending on candle type (i.e. candles requiring a container or floating candles):



Use a heat resistant candleholder.



Use in a suitable bowl filled with water.

Under the standard these three safety messages are mandatory in all cases:



Never leave a burning candle unattended.



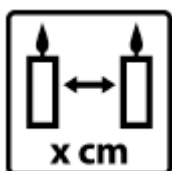
Keep away from things that can catch fire.



Keep away from children and pets.

The messages may be given using the pictograms or text or both. If text is used, it must be in the language of the country where the candles are being sold. Trading Standards would advise, where space allows using both the pictorial warning and associated text, to avoid any misinterpretation or lack of understanding from the pictorial warnings alone. The minimum height of the safety symbols is 5 mm provided that the content of the safety message is legible but use of a larger size is encouraged.

BS EN 15494 Annex A lists additional safety information which is not mandatory but based on dedicated risk analysis for each specific candle type. The diagram below gives a few popular examples for illustration only but is not an exhaustive list, to ensure compliance you should refer to the standard and review the full list to identify the information applicable specific to your product. You can purchase it from: <https://www.bsigroup.com/en-GB/>



Keep candles at least x cm apart.
(x represents the minimum safety distance between candles and is defined by you)



Do not burn in a draught.



Place candle upright.



Trim wick to x cm.
(x represents the maximum length of the wick and is defined by you)



Keep wax pool clear of matches and debris.



Trim edge if higher than x cm.
(x represents the maximum height of the edge and is defined by you)

Traceability

A distributor is required to keep and provide documentation necessary to trace the origin of unsafe products. Ordinarily producers mark their products with a product reference (a code or name for your candle) and/or its production batch to ease traceability. In this way distributors' records can be used to trace an unsafe product back to its source and enforcement authorities gain an opportunity to resolve the problem at source.

For small batches you can handwrite a batch code on packaging with an indelible marker, or print tiny white sticky labels on your home printer, or stamp them with a numbering stamp. A corresponding record will then be kept in the technical file. The batch number sticker can go anywhere is easiest, there are no 'line of sight' requirements for it and is not customer information. Some producers base the batch number on the date of production. If you supply a box of (for example) 20 candles to a shop, your batch code can be on the invoice instead of on each individual candle, and invoice records may be kept electronically.

The Format and Position of the Labelling

In terms of CLP labelling, the labels of hazardous substance and mixtures have to be firmly affixed to the packaging that immediately contains the hazardous substance or mixture. If this is not possible due to an awkward shape or small size, it's possible to apply the labels in alternative ways - including the use of tie or tags, fold-out labels or by providing full information on outer packaging (e.g., the box) with minimal information on the inner packaging. How you apply your labels will therefore depend on how you package them and what labelling information is required. Warnings should be readable horizontally when the package is put down normally and should be easily visible. Guidance on labelling is provided here: <https://echa.europa.eu/regulations/clp/labelling>.

The position for the other safety label which relates to compliance with the European Standards and GPSR is not specified by law in the same way, however the standard requires it is visible and legible on the packaging or the product. In cases that the safety labelling on the packaging or product is not practical, an instruction leaflet shall be available at the point of sale. If you are using warnings to mitigate any risk, to be effective they must be visible. Your batch number label for traceability can be anywhere on the product or packaging.

It is not expected that products will be labelled with a warning about every conceivable potential hazard. It is for the producer to assess the risks and hazards. Whether a warning should be given must depend on a variety of factors, including: A) the severity of the hazard; B) the risk of that hazard being realised; C) the degree to which the risk is obvious; and D) the type of consumer likely to be at particularly risk.

Avoid 'information overload' by restricting the label to required warning and safety information only (as well as other legally required information such as your name, geographic address, batch code, weight marking, etc.). Too much 'noise' on a label can detract from customers finding and seeing the information they are intended to see.

Technical File

You should start building up files of essential information relating to product formulations. Such records have to be kept for a minimum of 6 years. These records may be electronic. Some ideas on what this documentation could contain are: a description and formula for each product in your range; raw material purchase and finished product sales records; documentation to meet income tax requirements; risk assessments; SDS; labelling/packaging details; safety testing plan; traceability documents; customer complaints and recall procedures. Technical files must be made available for inspection by Trading Standards or other 'market surveillance authorities' (Article 19, EU Reg. 765/2008).

Indicating Who You Are

Customers, by law, have the right to know who it is they are entering into a contract with. The main pieces of law that relate to this are the Companies Act 2006 (whether or not you are a Limited Company) and for websites the “e-commerce Regulations” (see below). You must provide the business name, legal ownership name and a geographical address (an email address alone will not suffice) where legal documents can be sent. These requirements apply to receipts, invoices, orders and correspondence (including emails) issued in the course of your business. Websites and pages on social network sites are covered also. It must be full, accurate information and easy for the customer to find, not buried several clicks away in small print at the bottom of an isolated page. It is basic consumer protection that people know who they are dealing with. In relation to the safety of consumer goods it provides essential traceability. Full advice on declaring business names and addresses can be found here: <https://www.businesscompanion.info/en/quick-guides/miscellaneous/company-and-business-names>.

White Labelling

White label products or ‘own brand’ products are where you, as candle producer, will supply candles to an intermediary customer for them to put their own commercial branding on and then be supplied by them to the end users. In short there are two approaches to white labelling:

- 1 The customer accepts all legal responsibility for compliance and it is entirely their own branding on the candle; or
- 2 The candle producer ensures full legal compliance and allows the client name, branding and design to appear on the labelling with a qualifying statement (along the lines of “exclusively produced under contract for XYZ Hotel & Spa by ABC Candle Co. Ltd, 1 Any Street, Anytown”.)

Assuming the client is a spa hotel or a distillery or similar, they will not be as familiar with the various laws that relate to candles as a dedicated candle producer – so they will struggle to fulfil their responsibilities for ensuring legal compliance at the expected level as supplier or distributor to assess product safety, develop safety labelling, hold technical files, ensure CLP compliance and so on. The majority therefore go for option 2, so the candle maker is ensuring the candle is compliant with regards to labelling, weight, burning safety, batch coding, CLP and all the rest. Legally everyone is clear on who the party is that is taking responsibility for legal compliance which aids traceability (if there were to be any concerns/issues) and have a means of contact.

Insect Repellent Candles

Under the Consumer Protection from Unfair Trading Regulations 2008 great care should be exercised with candle or diffuser products intended to repel mosquitos, midges, etc. Insect repellents are controlled by the HSE, and must be a registered product. If your candle or diffuser is not an HSE registered product and you have no other substantial scientific evidence to back up the efficacy of the product then you cannot describe it as an insect repellent, as it has no proven active ability to repel insects and is not on the official register. It is perfectly legal to sell citrus scented garden candles with no marketing claims at all, but no misleading claims may be made about what effect they have on repelling insects. Even candle packaging containing pictures of insects is likely to be considered misleading as it falsely implies a link between using the product and actively repelling insects. There is currently a lack of compelling evidence to support any marketing claim that citronella candles are in any way effective at repelling insects.

Websites

If you develop a website to advertise your products then you must provide certain business information as required by the “e-commerce Regulations”, the full name of which is Electronic Commerce (EC Directive) Regulations 2002. Full Government guidance on these Regulations is [available online](#). On your website you must declare your name; geographic address; email address; your British Candlemakers Federation membership number (if applicable); and VAT number (if you are VAT registered).

If customers can also purchase candles through your website then you will be entering into ‘distance contracts’ with them and must supply specified pre-contract information and give a 14 day right to return the products. The law that applies is The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (CC(ICAC)). The full requirements are in a separate advice sheet, which can be found here:

<https://www.businesscompanion.info/en/quick-guides/distance-sales>

Be careful not to include any unfair contract terms which may put a customer off, or put unlawful barriers in the way of, customers exercising their legal right to return goods. Such terms are void and unenforceable (Consumer Rights Act) but may also amount to a criminal misleading action under the Consumer Protection from Unfair Trading Regulations.

CLP information must also be provided on your websites due to being classified as an ‘advertisement’. CLP Article 48(1) outlines the information which must be provided in an advertisement for a substance classified as hazardous. The advertisement shall contain the hazard class and/or the applicable hazard categories, as appropriate, e.g. acute oral toxicity category 3. A full copy (i.e. photograph) of the CLP information from each of your product labels would be the easiest way to comply.

Poisons Centre Notification

A new requirement of CLP is for all chemical-containing products with hazards to have a Unique Formulation Identifier (UFI). This will be a sixteen digit alphanumeric code on the packaging (e.g. ‘UFI: HUF0-F02Y-8001-UV1E’). The UFI will be linked to the safety data sheet and the Poisons Centre notification. This will allow the product to be rapidly identified and allow access to the right safety information by medical practitioners and health care professionals in the NHS. Therefore this resource must be kept up-to-date and relevant.

The UFI codes can be generated by visiting the ECHA Poisons Centre website: <https://poisoncentres.echa.europa.eu/ufi-generator>. Manufacturers will have to notify the UK National Poisons Centre of the UFI, formulation and hazard classification which must be in the Poison Centre’s Notification (PCN) format. The European Chemicals Agency is making online access available to a Poison Centres Notification (PCN) portal, which can be used to prepare and submit information on hazardous mixtures centrally.

Labels containing UFI’s for all consumer products on shelf is required from the 1st of January 2021. Mixtures that are not classified as hazardous (such as unscented candles) or are only dangerous to the environment will be exempt. Generating the UFI and adding it to the label is best done when the SDS is created for the candle. A useful summary can be found at: http://poisoncentres.echa.europa.eu/documents/22284544/22295820/ufi_what_it_means_en.pdf

While no specific requirements have been set for font type or size, the UFI has to be clearly visible and legible on the label of the product. Given the variation in label sizes, and other labelling requirements competing for label space, the UFI should be positioned so that it is easy to locate (e.g. near the barcode or hazard pictograms).

The acronym ‘UFI’ (the same in all EU languages and alphabets, and not to be translated) must be in capital letters and be followed by a 16-character alphanumeric code.

Unsafe Products & Product Recalls

If at any point you become aware that a product you have placed on the market, or have supplied, “poses risks to the consumer that are incompatible with the general safety requirement” then you have a legal duty to notify Trading Standards. As part of your due diligence you will review all customer feedback and complaints.

In dialogue with you, Trading Standards will help assess the risk and the appropriate response as well, as ensure the Government notification duty is correctly followed. If the risk is deemed to be serious and affects more than one market the Trading Standards authority will generate a serious risk notification under the Rapid Alert Notification System (RAPEX), and discuss recall procedures with you.

GPSR requires you to have sufficient “measures” in place to, if necessary, effect a product recall, and we advise you to be aware of your legal notification, risk assessment and recall obligations before an event occurs. You therefore need to prepare a procedure which can be added to your technical file. It will allow for a faster response time when an incident occurs. A Code (called PAS 7100:2018) is available free of charge to SME’s from The British Candlemakers Federation or Trading Standards. [A brief advice sheet is contained on the BCF website.](#)

What is PAS 7100 about?

PAS 7100:2018 "Code of practice on consumer product safety related recalls and other corrective actions” provides practical guidance to help ensure businesses can act promptly and effectively to protect public safety should a consumer product be found to be unsafe. It is focussed on non-food consumer products and is intended for use by producers, importers and distributors irrespective of type or size.

Part 1 sets out a code of practice for businesses, providing practical guidance to help:

- prepare to manage a possible safety related product recall or other corrective action;
- establish mechanisms to monitor the safety of consumer products;
- investigate any potential product safety issue;
- establish mechanisms to deal with any product safety issue identified;
- review corrective action programmes to ensure that product safety responsibilities continue to be met.

Part 2 provides guidance on the role of Market Surveillance Authorities in supporting businesses to meet the requirements of the code.

Why should you use PAS 7100?

- it is vital that businesses monitor the safety of their products closely, enabling a prompt response should a potential safety issue arise;
- advance planning will make for more effective and efficient management of any product safety incident;
- in addition to the paramount importance of protecting people from harm, businesses have legal responsibilities to meet and reputations to protect.

Imitation Foods

Candles which could be mistakenly eaten by children or present a choking hazard would be subject to the Food Imitations Safety Regulations 1989. Examples would be candles with the same shape or smell as fruit, sweets, chocolates or cakes.

These Regulations prohibit the marketing; import and manufacture of products that look like foodstuffs but that are not in fact edible. In particular they prohibit the supply of goods that have one or more of the following: form, odour, colour, appearance, packaging, labelling, volume, that children could confuse with food and put in their mouth or suck or swallow, which may cause death or injury. Injury can include choking, strangulation, cutting, poisoning, or even causing a child to vomit. This provides a fairly blanket ban on candles resembling food, but Trading Standards would look at the item as a whole and take other factors into account when assessing the safety risks. The packaging is a big concern, such as a cup-cake shaped candle removable from a paper cake case which would tempt a child to take a bite. For food-shaped candles obvious permanent labelling may help mitigate the risks, such as “NOT FOOD, DO NOT EAT”, also if the product is too hard to be bitten into or if it contains chemicals creating a bitter taste it may be spat out, it is less likely to be automatically ruled as unsafe. However if it is small enough to fit whole in a ‘truncated test cylinder’ it is likely to fall foul of these Regulations, and do bear in mind that young children cannot read warning labels.

Under CLP (EU Regulation (EC) No 1272/2008 on classification, labelling & packaging of substances & mixtures), chemical-containing products must not be supplied in a shape that “attracts the active curiosity of children”; or misleads consumers; or looks like packaging for food, medicines, or cosmetics. If in any doubt, seek further advice.

In order to assess whether a candle can cause injury or a risk to health any appropriate harmonised European standard could be used. For example, the EN 71 series of standards covers the safety properties of toys and would be suitable to assess, for example, whether a food imitation candle releases a small part that could cause a choking hazard.

Misleading Statements and Omissions

If you are making any claims as to the efficiency of the fragrance, burn time or any other marketing claim, you must ensure it can be factually backed up. Do not omit material information from consumers such as the price, formulation and main product characteristics. The Consumer Protection from Unfair Trading Regulations 2008 covers professional diligence, misleading actions and misleading omissions relating to any marketing materials, adverts, labels or verbal descriptions. When selling at a stall or shop clear prices will need to be displayed in accordance with the Price Marking Order 2004.

A description such as “100% natural candle” can amount to a ‘misleading action’ under the Regulations named above if the wax is natural but the candle uses artificial fragrance. That artificial element renders the candle as a whole not natural. To be compliant it should be described as “natural wax candle with artificial fragrance”.

An example of a misleading action and a misleading omission both occurring on a product could be a misleading “no paraffin wax” claim where wicks are treated by being dipped in paraffin wax. It would be a breach to fail to say the wick is dipped/coated in paraffin wax. Suggested alternative descriptions such as “very low paraffin” or “palm/soy/bees wax candle with a paraffin treated wick” are to be used to avoid misleading by omission.

Organic & Vegan Claims

Making the claim ‘organic’ is not a very straightforward matter in relation to candles. It is well regulated for food with all parties in the supply chain being registered with a DEFRA approved control body, and a recognised system is in place for cosmetics, called COSMOS. Unfortunately, unlike food and cosmetics, there is not a harmonised standard for organic candles.

The claim “organic” for candles is nevertheless still subject to control in order to maintain high standards as it is a label recognised by consumers. Misleading claims on products are illegal by virtue of the Consumer Protection from Unfair Trading Regulations 2008, which is enforced by Trading Standards.

To fill the gap and provide a good degree of confidence for consumers looking to purchase organic products some of the control bodies have created appropriate standards which offer a means for them to independently assess products as being worthy to carry an organic claim. Such products will need to be made from a very high proportion of organic materials. You should, therefore, avoid selling a candle as organic if only a proportion of the elements are organic certified. You should also avoid describing or giving any impression that a product range is organic if only a portion of the range has been certified.

Consumers would understand a claim that candles are "organic" to mean that the product met an independently defined standard or used a high proportion of organic ingredients. In the absence of a single legally backed organic standard for candle products, evidence would need to be provided to demonstrate that the majority of the ingredients had been certified organic by an independent organic certification body, and the process of producing the end product is quality controlled, checked and audited. You may be asked by Trading Standards, the ASA or other enforcement authority for your product certificate (trading schedule) or certificate of registration from the control body to back up any organic claims.

In the absence of legal precedent, we follow a landmark ruling by the Advertising Standards Authority against a large candle producer who had opted to advertise their soy wax candles as “organic”. The ASA recognised an organic claim must be capable of being backed-up, so the candles must be made following standard processes and using ingredients independently assessed and agreed by a certification body such as The Soil Association or OF&G Organic who would look for control measures and apply suitable standards. Although in this case the organic marketing claim was based on some good logical reasoning, particularly that the crop had been grown without use of fertilisers or pesticides, it did not go far enough and they could not ultimately prove that the ingredients, nor the process of extracting the soya bean oil and turning it into wax could meet a certification body approved standard. Since this ASA ruling we would advise candle businesses not to make the organic claim in the absence of it following an approved process from a recognised organic certification scheme. There are very few UK suppliers of wax who are able to demonstrate, following a rigorous audit process that it is organic certified, and you should look for one of the approved logos when purchasing genuinely organic wax.

In addition to considering the wax element there is also concern regarding the wicks. It has not been possible for suppliers to demonstrate they are not made from genetically modified (GM) cotton (and because of presence of other components which aren't compatible with the independent certification body standards). It is extremely difficult to make a fully organic candle using organic certified waxes, wicks and fragrances, therefore any organic marketing claims must be very carefully considered or avoided altogether. If you are in any doubt, speak to your organic certification body, Trading Standards or the BCF.

So what about ‘made using organic ingredients’ claims? Yes, such claims can be made, but should be specific (i.e. made using organic essential oils OR made using organic wax) and quantifiable in that you have a copy of the organic certificate in your technical file. Customers need to clearly know which parts of the product are organic and which are not if you go down the road of using this type of claim.


Vegan claims are less regulated than organic claims and a product can be claimed to be vegan or vegan friendly if you have checked the ingredients and sourcing of the product and

are satisfied that it does not contain any parts of animal origin and no animals have been exploited in the harvesting/production processes. Beeswax is not considered vegan friendly. Consumers should be confident that a product described as vegan meets with their ethical expectations.

There is an authentic international vegan standard and logo scheme which you can consider applying for which is operated by the Vegan Society.

Following an application to that scheme, an audit will be conducted against the standard, and if approved you may be granted permission to use the logo on marketing materials and packaging. They are able to provide further information and support: <https://www.vegansociety.com>

Quantity Marking

Quantity marking does not apply to any candle to which CLP does not apply, so for unscented candles quantity marking is entirely voluntary, but when it is given it must be accurate. Where CLP does apply, CLP Article 17 contains a requirement to give the nominal quantity of a substance or mixture on the product label (unless this quantity is specified elsewhere on the package). There are two legal systems which control weight markings. The first, called the 'average quantity system' applies where a set desired quantity has been pre-determined and goods are being made up to that exact quantity. The "packers rules" then apply which are covered by The Weights & Measures (Packaged Goods) Regulations 2006 ('PGRs'), to ensure the goods are made up on average to be the right quantity (with some minor variations allowed for). You may commonly see the E-mark on goods which is a sign they have been packed under this average quantity system.  The second system of control for weight markings - more likely to apply to small scale producers and home based businesses - is called the 'minimum quantity system'. This is where the quantity of each candle is expected to differ (e.g. hand-pouring into different containers), and you should have a means of ensuring consistency and weighing products to declare the correct 'catch' weight on each individual label to ensure none are 'short-weight'. If you are in any doubt whether you are packing candles to the average quantity system or the minimum quantity system then have a discussion with your local Trading Standards Service about your processes.

For candles the quantity is normally expressed as a weight in grams (g), and for diffusers and room sprays it would be by liquid volume as millilitres (ml). The CLP guidance shows examples of where the quantity marking needs to go on labels, and where it goes in the case of fold-out labels on small products (<125ml) too. For fold out labels it must be on the front page; and for products comprising an inner and outer package then the nominal quantity (weight marking or volume) must be on the outer package. Under the PGRs, markings must be indelible, easily legible and visible on the package in normal conditions of presentation (on the outside or inside if the packaging is transparent). Minimum font size is specified also.

Equivalent 'imperial' quantities - such as pounds, ounces, fluid ounces and pints can be given in addition to the required metric indications, but they must not be more prominent. Equipment that is used to weigh or measure goods for consumers must be suitable for the quantity being determined and accurate within specific tolerances. It is required to be 'Government stamped' as approved fit for trade use. This refers to markings that show the equipment has been made to a particular standard and meets accuracy requirements. Trading Standards can provide further advice on the weights and measures requirements and what equipment would be suitable. To be clear; domestic kitchen scales are not acceptable, proper checked/approved equipment is needed for trade use.

Intellectual Property and Protected Food Names

When considering the name and brand for your business and naming the range of products, it is important to ensure intellectual property belonging to others is not infringed. This would include designs, patents, copyrighted material and trade marks. To use a brand belonging to another, you must seek agreement from them and enter into a licensing arrangement. So, you could not (for example) put Harrods, Clean Linen, or Jo Malone on the candle packaging.

There are helpful online resources which explain more about these forms of protection and where you can search the trade mark register. See <http://www.ipo.gov.uk> for further information. Also as your brand builds you may consider protecting your own logos and brand names in the same way.

The Quality Schemes (Agricultural Products and Foodstuffs) Regulations 2018 came into force in January 2019 and provides protection for certain registered food products which are made to a particular traditional recipe; or originating from a specific region and have applied for certain protections, recognised as intellectual property, to promote their unique characteristics. Many of these have been granted after producers have been able to demonstrate their unique properties; specific link to the place they are made and ongoing established use of their products. Examples include Cornish pasties, Yorkshire Wensleydale, Melton Mowbray Pork Pie and Jersey Royal Potatoes. This form of protection is not unique to the UK and it operates across Europe, with such applications being considered and registered in Brussels. A full list including the above examples is available to view online here: <http://ec.europa.eu/agriculture/quality/door/list.html>

Wine has its own website, and the list for wine can be viewed online here:

<https://ec.europa.eu/agriculture/markets/wine/e-bacchus/index.cfm>

Prosecco is an EU Registered protected name (under Dossier Number PDO-IT-A0516), registered with a protected designation of origin ("PDO") since August 2009. The protection also extends to non-wine sector products as these also have the potential to undermine the exclusive and quality reputation of the protected name 'prosecco'. We have had it confirmed from the UK Food Standards Agency that the direct commercial use, misleading advertisements and sale of goods such as candles, oils, cosmetics and similar items, using the protected name 'Prosecco' which are not the EU protected Italian quality wine would be in breach of Article 103. Other terms or expressions such as 'style', 'type', 'method', 'as produced in', 'imitation', 'flavour', 'like' or similar, accompanying such products would also be in breach of Article 103. According to Paragraph 1 (a), Regulation 14 of The Wine Regulations 2011 (as amended), a person who breaches Article 103(2) of Regulation 1308 (EU) 2013 is guilty of an offence.

'Prosecco' therefore must not be used on candles, it can only be used to describe sparkling wine from the Veneto and Friuli-Venezia Giulia regions of north-eastern Italy, an area which includes a village called 'Prosecco'.

Further Sources of Help

Expert consultants can be helpful for producing or interpreting safety data sheets, checking chemicals are of the type you may use (not on the 'banned' list), helping produce legally compliant labels, helping with Poisons Centre Notifications and provide advice on packaging and positioning of labels. Industry forums between candle producers may also be a supportive group. The British Candlemakers Federation is a recommended source of industry support and provides additional benefits to members.

Further Online Resources

GPSR legislation: <http://www.legislation.gov.uk/ukxi/2005/1803/contents/made>

GPSR Guidance notes: <http://shorl.com/jahedrokigyly>

E-Commerce Regulations: <https://www.legislation.gov.uk/ukxi/2002/2013/contents/made>

Food imitations guidance: <https://www.businesscompanion.info/en/quick-guides/product-safety/food-imitations>

ECHA Guidance: <https://echa.europa.eu/web/guest/guidance-documents/guidance-on-clp>

Guidance on how to classify mixtures: <https://echa.europa.eu/regulations/clp/classification>

Guidance on how to apply labels:

https://echa.europa.eu/documents/10162/23036412/clp_labelling_en.pdf

REACH and SDS fact sheet: <https://www.hse.gov.uk/reach/resources/reachsdgs.pdf>

You Tube – Various industry videos are available, here is one by way of example:

<http://www.youtube.com/watch?v=S2GMLmJKv7s>

You can visit the Association of British Insurers website to download liability insurance guidance for small businesses: <https://www.abi.org.uk/products-and-issues/choosing-the-right-insurance/business-insurance/liability-insurance/>

Displaying prices for goods on sale: <https://www.businesscompanion.info/en/quick-guides/pricing-and-payment/providing-price-information>

Quantity marking: <https://www.gov.uk/guidance/packaged-goods-weights-and-measures-regulations>

Weights and Measures: <https://www.businesscompanion.info/en/quick-guides/weights-and-measures>

Contact Points

If you fall outside of RBWM you should contact your local Trading Standards Service, which is responsible for enforcing safety legislation within your area. Using a postcode search you can find contact details for your local office on the Trading Standards website, at: <https://www.tradingstandards.uk/advice/index.cfm>

Royal Borough of Windsor & Maidenhead
Trading Standards & Licensing Team
Council Offices
Tinkers Lane, Windsor
Berkshire
SL4 4LR
T: 01628 683802
W: www.rbwm.gov.uk
E: trading.standards@rbwm.gov.uk

British Candlemakers Federation
Tallow Chandlers Hall
4 Dowgate Hill
London
EC4R 2SH
T: 020 7248 4726
W: www.britishcandles.org

Health and Safety Executive (HSE) Helpdesk
2.3 Redgrave Court
Bootle
Merseyside
L20 7HS
T: 0845 408 9575
E: UKREACHCA@hse.gsi.gov.uk

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This guide mainly focusses on trading laws and consumer protection legislation within the remit of Trading Standards, therefore there are additional aspects you may need to consider which are not covered here (e.g. insurance, business rates and income tax) so compliance with the legislation mentioned herein will not exhaust all of your legal responsibilities.

DISCLAIMER: Legislation may change over time and the advice given in good faith is based on the information available at the time the advice was produced. It is not necessarily comprehensive and is subject to revision in the light of further information. Only the courts can give a definitive interpretation of legislation. This advice is not intended to be a definitive guide to, nor substitute for, the relevant law. Independent legal advice should be sought where appropriate. No liability is accepted for reliance on this information. All previous versions of this publication must now be considered inaccurate.