

From: Dr Prints & Co. <contact@drprints.co.uk>

Sent: 13 December 2023 20:20

To: UKREACHCA <ukreach.clp@hse.gov.uk>

Subject: REACH - SDS - Provision - Guidelines -

Hello There,

I'm enquiring for further information regarding the provision of SDS to customers. I can't find specific guidelines on how these must be supplied to customers who purchase products that require SDS. I've found through Northern Ireland guidelines that simply supplying SDS via website or catalogue is not sufficient, and that the SDS should be provided via email or paper form to the customer directly, before or upon first delivery of a product requiring SDS. I wondered if this is the case for UK as well? Or if you could provide links to the correct information to read upon this please?

Best Wishes,

Lotte

-

On Wed, 20 Dec 2023 at 15:52, UKREACHCA <UKREACHCA@hse.gov.uk> wrote:

Dear Lotte,

In Great Britain (GB – England, Scotland and Wales), the legislation which covers the provision of safety datasheets (SDS) is [UK REACH](#). The supplier of a substance or mixture based in GB has a duty to provide the relevant SDS to the recipients when the requirements of [Article 31](#) of the UK REACH regulation are met. Essentially, if a substance or mixture is hazardous or contains hazardous substances above a certain level, then a SDS must be provided to any downstream users/distributors.

The duty to provide a SDS is an active one; that is you should provide one and the recipient should not need to seek, request or retrieve one. The relevant text is in [Article 31](#) of REACH and says "The supplier of a substance or a mixture shall provide the recipient of the substance or mixture with a safety data sheet". This means that your option of making SDS available via your website or catalogue would not meet the legal requirements as the recipient would need to seek the SDS.

It is possible to send a SDS by electronic means and [Article 31\(8\)](#) says "A safety data sheet shall be provided free of charge on paper or electronically no later than the date on which the substance or mixture is first supplied". Thus, it would be possible to send a SDS by email, provided you can show that the recipient can receive files in this way and that they can read the SDS. A publicly available reading format such as PDF or Rich Text Format could be used to achieve this.

Also note that a SDS need only be sent with or before the first act of supply. You do not need to send out a SDS to a customer that has already been sent that SDS (e.g., with repeat orders).

When you update a SDS in a way that would affect the sort of risk management measures that need to be taken by the users, then the revised SDS should be sent to future customers and to those that have received the product in the previous 12 months.

Please note that hazardous substances or mixtures that are offered or sold to the general public, a safety datasheet need not be supplied (Article 31(4)). However, the consumer must be provided with 'sufficient information to enable users to take the necessary measures as regards the protection of human health, safety and the environment' (this information is usually on the product label/container, for example see a bottle of domestic bleach).

Further guidance on SDS is available in the ECHA SDS Guidance available [here](#). Although this guidance is intended for EU REACH, it remains largely relevant for UK REACH when considered in a GB-only context.

Kind regards,
Mussa

From: Dr Prints & Co. <contact@drprints.co.uk>
Sent: 20 December 2023 16:14
To: UKREACHCA <UKREACHCA@hse.gov.uk>
Subject: REACH - SDS - Provision - Guidelines - Helpdesk ref:

Hey Mussa,

Thanks so much for sending over this information, it was extremely helpful!

One specific topic I am currently investigating are Gel Nail Products. If something states 'for professional use' on the product or if it can only be purchased by qualified professionals, are these customers still considered to be members of the general public? Insurance providers state the SDS should be available to hand within the working environment, which makes me wonder if the SDS should be provided upon or before first delivery to these consumers. Currently, request of such document is needed for this to be obtained or it must be downloaded from websites. Is this the correct way of provision of these documents?

Additionally, if products of such substances requiring SDS are sold to members of the general public, with language used to advertise such as '100% safe', 'healthy for skin and nails' 'organic natural ingredients' etc. is this legally incorrect or does this mislead the public into believing a product can be used irrespective of hazardous chemicals and warnings?

My concern lies with the noted increase of adverse reactions to such products in scientific literature, with specifically mention of a lack in sufficient instructions to provide members of the general public with the correct guidance on how to use these products on the bottles or packaging. I'm currently trying to create a course to educate on this matter and want to ensure my facts are correct.

Best Wishes,

Lotte

UKREACHCA UKREACHCA@hse.gov.uk

Fri, Jan 5, 2024 at 5:14 PM

To: "Dr Prints & Co." contact@drprints.co.uk

REACH - SDS - Provision - Guidelines - Helpdesk ref: 2012KXJ23-7613

Dear Lotte,

The term 'professional user' is not defined in the legal text of the UK REACH regulation. However, we would consider professional use to cover any one utilising the material as part of their professional/work activities. Such users would be required to consider and apply necessary risk management measures (i.e., comply with COSHH) as part of their work activities. If a product is purchased which meets the criteria outlined in Article 31 of UK REACH then we would consider that there is a duty on the supplier to actively supply the professional user with the SDS. Further information on ways in which and by when an SDS should be provided is available in section 2.13 of the [ECHA guidance on the compilation of SDS](#). Although this guidance was intended for EU REACH, it remains largely relevant for UK Reach when considered in a GB-only context.

Please note that according to Article 2(6)(b) of the UK REACH Regulation, there is no obligation to supply a SDS for cosmetic products as defined in Regulation (EC) No 1223/2009 if the cosmetics are in the finished state, intended for the final user. It is the supplier's responsibility to decide whether their products meet this definition.

With regards to the claims made on the product label this could fall under the classification, labelling and packaging (CLP) regulations. CLP Article 25(4) states:
*Statements such as 'non-toxic', 'non-harmful', 'non-polluting', 'ecological' or any other statements indicating that the substance or mixture is not hazardous or any other statements that are inconsistent with the classification of that substance or mixture shall not appear on the **label or packaging** of any substance or mixture.*

Whilst Article 25(4) does not explicitly mention the phrases you have listed below, in our opinion, using terms on the label of a hazardous substance or mixture could be similarly misleading. Hence, if the term '100% safe' is being used to convey the idea that something is natural or safe for the environment or human health, then in our opinion this would be in breach of Article 25(4).

Similarly as above, according to Article 1(5) of the CLP Regulation, CLP shall not apply to cosmetic products as defined in Regulation (EC) No 1223/2009 if the cosmetics are in the finished state, intended for the final user.

This is because these products are covered by other legislation. If the products don't meet the definition in Regulation(EC) No 1223/2009, they will need to be classified, labelled and packaged in accordance with the CLP Regulation.

Kind regards,

Jane

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Jane Kirk
REACH and CLP Stakeholder Advice and Support
Chemicals Regulation Division
HSE, Redgrave Court, Bootle, Merseyside, L20 7HS

FULL EMAIL TRANSCRIPT PRIOR TO
RE-ORDERING EMAIL
CORRESPONDANCE IN TIME ORDER
FOR EASE OF READING.



REACH - SDS - Provision - Guidelines - Helpdesk ref: 2012KXJ23-7613

1 message

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Jane Kirk

REACH and CLP Stakeholder Advice and Support

Chemicals Regulation Division

HSE, Redgrave Court, Bootle, Merseyside, L20 7HS

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Mussa Said | REACH and CLP Stakeholder Advice and Support | Health & Safety Executive

Chemicals Regulation Division, Mallard House, [Kings Pool](#), [3 Peasholme Green](#), York YO1 7PX

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