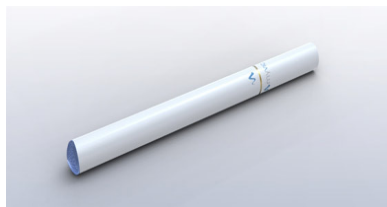


ADVICE ON ELECTRONIC CIGARETTES



Electronic cigarettes are made of stainless steel, primarily containing a liquid nicotine refill cartridge. The product is powered by a rechargeable battery and resembles a real cigarette. When inhaled, it produces a fine heated mist, without any smoke.

BACKGROUND

There has been a surge of sales in “electronic cigarettes” following the introduction of the smoking ban. The products are not considered a tobacco product and therefore fall outside the scope of the ban, making them attractive alternatives for smokers. The product uses replaceable cartridges with shots of nicotine and while they do not contain tar, tobacco or carbon monoxide, there is concern over the safety in inhaling a fine heated mist.

There are no specific regulations which govern electronic cigarettes as of yet. The safety of these products is controlled by the “catch-all” of the General Product Safety Legislation. The Chemicals (Hazard Information & Packaging for Supply) Regulations 2002 (CHIP) also apply.

LEGISLATIVE REQUIREMENTS

The General Product Safety Regulations 2005

The General Product Safety Regulations 2005 require only products which are safe to be placed on the market. A safe product is defined in Regulation 2 of the GPSRs and is given to be a product which under normal or reasonably foreseeable conditions of use presents no risk or only the minimum risks compatible with the product's use. Given that the product contains nicotine, this is a known risk and one which is likely to be considered acceptable by the intended user – adults who smoke. When determining if a product is safe, the Regulations require further consideration of:

1. **The characteristics of the product:** The e-cigarettes are required to be composed well, easy to use and contain instructions for assembly and usage. Notably, the refill cartridges need to be in child resistant safety packaging and small-parts warnings.
2. **The effect of the product on other products:** there is presently no scientific evidence to confirm the product's safety and efficacy. It is not known what effects the nicotine has with the other chemicals contained in the cartridge refills which cause the vapour to excrete from the product. This could be potentially dangerous to users.

3. **The presentation of the product:** the product needs to be adequately labelled in terms of the manufacturers (and importers) details, its contents etc. Products containing high levels of nicotine solution are legally required to display the 'Highly Toxic' warning.
4. **The categories of consumers at risk when using the product,** although the product is aimed at smokers, there needs to be child resistant fastenings or tactile warning devices on the product.

Chemical (Hazard Information and Packaging for Supply) Regulations 2009

In order to be deemed a “dangerous product” under the CHIP Regulations, a product is required to be classified by one or more of the classifications in Schedule 1. The Electronic cigarette can be defined as toxic, the definition of which is a “Substance...which in low quantities causes death or acute or chronic damage to health when inhaled...”

By virtue of the CHIP Regulations, the following warnings are required to be placed on the product:

- Toxic if swallowed
- Very Toxic in contact with skin
- Keep locked up and out of the reach of children
- In case of accident or if you feel unwell, seek medical advice immediately
- Relevant hazard symbols

Packaging must be fitted with: -



- Tactile warning device
- Child resistant fastenings

SAFETY TESTS

Determination of the nicotine levels and child resistant packaging could only be conducted at a test house by a qualified analyst. They would also be able to assess whether the full requirements of CHIP labelling had been met.

ENFORCEMENT

Regulation 10 of the General Product Safety Regulations 2005 and Regulations 14(5) of the CHIP Regulations requires trading standards to enforce these requirements using powers available to them under the GPSRs.

PENALTIES

There are four separate offences under the GPSRs depending on the nature of the contravention. These are given in Regulation 20.

The offences under CHIP relate to the supply of dangerous substance or dangerous preparation which:

- have not been classified
- fail to meet the packaging requirements in regulation 6
- do not bear the required labelling information (i.e. the name, full address and telephone number of a person in an EEA State who is responsible for supplying the substance indications of danger and corresponding symbols)
- fail to contain child resistant packaging

MEDICINAL CLAIMS – “suitable for smokers wishing to quit smoking”

The Medicines and Healthcare products Regulatory Agency (MHRA) have advised that this type of product would require a product licence under the Medicines Act 1968, as there is an implied therapeutic indication with regards to nicotine addiction. The sale and labelling of such a product would also fall under the medicines guidelines.

This leaflet was prepared by Nazir Ali, London Borough of Tower Hamlets Trading Standards Service. Telephone number: 0207 364 5008. This leaflet is not an authoritative interpretation of the law and is intended only for guidance. For further information, please contact your local Trading Standards Service.

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