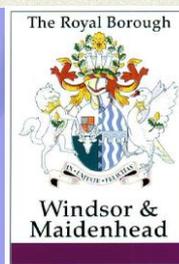


CANDLEMAKERS ADVICE SHEET

Joint advice from Trading Standards
and the British Candlemakers Federation

The British
Candlemakers
Federation



Windsor &
Maidenhead
TRADING STANDARDS
SERVICE

Introduction

This guide is targeted at small scale 'cottage industry'; or home producers of candles who sell directly to consumers. It is not possible to include everything within a concise document, nor can any topic be given any great depth of detail, so please contact your local Trading Standards or the BCF with any concerns or queries. It is **your** responsibility to know about and trade within the law, but this is a very difficult and technical area of law for a new entrant to the industry. This has purposefully been written in 'plain English'. 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 Regulatory body. Alongside this advice sheet is a checklist for Candlemakers to follow through the tick boxes before releasing a new product onto the marketplace.

Background

Due to the increase of social networking (i.e. Facebook selling groups), and popularity of flea-markets and farmers' markets there is a prevalence of home-based hobbies that turn into small scale businesses. As these emerge we need to ensure consumers are adequately protected, and that hobbyists realise they are operating a business with trading laws that apply, whether a profit is made or not. 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; 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.

General Candle Safety

Product safety legislation is not new, since the 1980's the law has required producers and distributors to place only safe products on the marketplace, 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 just to the safety of candles, 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.

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

Data suggests that fires caused by candles account for 5% of total house fires. This is higher than matches and lighters combined, but significantly lower than other ignition sources such as electrical faults. It is worth noting that house fires attributed to candles are falling – according to the UK fire statistics report², “candle fire totals are now around a half less than the 2001-02 figure”; and at 951 in 2013-14. This reduction is partly due to increased consumer knowledge around candle safety, and 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 this is not a time to become complacent, in 2013-14 eleven people died in fires attributed to candles, for their families that is eleven 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 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. 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.

Know what is in the product

A starting point for assessing safety is to work out 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, it will also help when you come to design compliant labels. Furthermore, it will be something to start off a technical file. 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.

Is a Consultant required?

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.

A safety testing plan

For larger manufacturers with the skills, knowledge and equipment to do so, most safety testing is conducted in-house following the GPSR and requirements under the three European standards. Smaller producers may need to submit product samples for laboratory testing, where the burning characteristics can be assessed under a series of

² For up to date facts each year the Department for Communities and Local Government publish annual fire statistics, available online at www.gov.uk/government/statistics/

controlled laboratory conditions. How much safety testing you are required to do is scalable, so larger producers are expected to test 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. 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 all due diligence has been undertaken, so you will have no defence if an incident occurs.

Safety Data Sheets and CLP Labelling

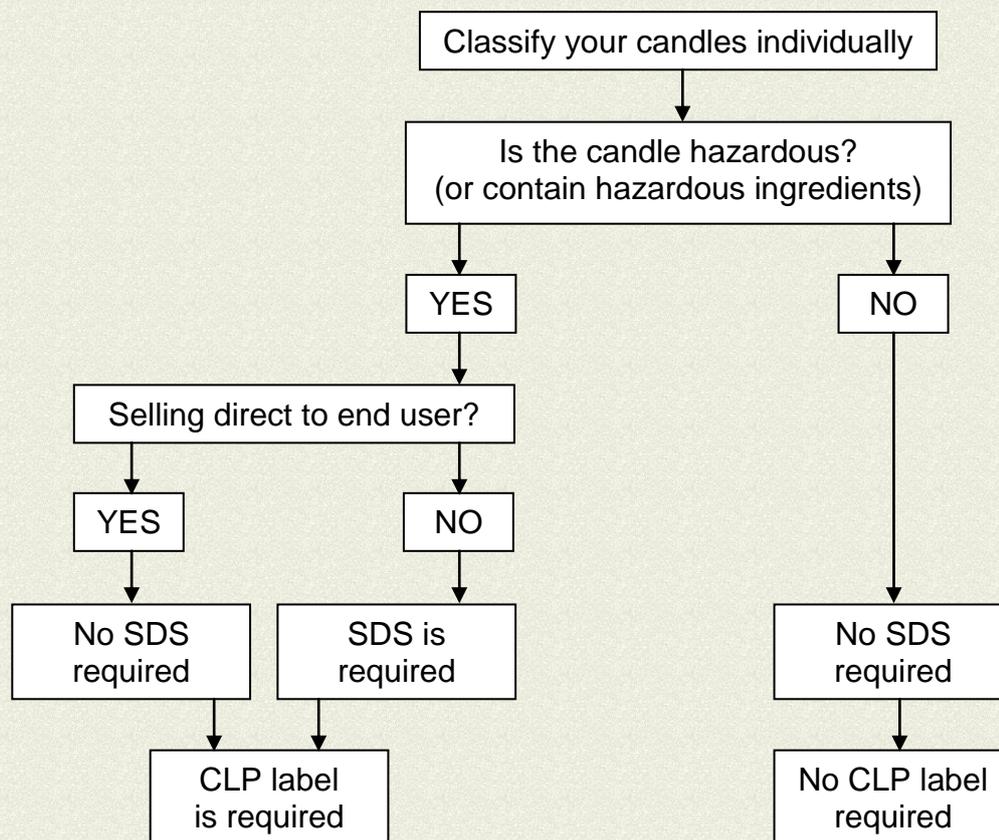
Suppliers' duties for safety data sheets and CLP labelling only apply if where a mixture has hazardous properties (as defined in the CLP regulation) or where it contains certain hazardous components above specified concentrations. If Safety Data Sheets (SDS) are to be required, the applicable legislation 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; <http://echa.europa.eu/regulations>. Candles are considered to be mixtures under both REACH and CLP as they are blends of wax, fragrances and possibly colourants. These duties, in general, apply to small scale home-based suppliers in the same way they apply to larger scale suppliers and industry. 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 sensitisers 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 sensitiser 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 sensitisers, 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.

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).

If the candle is not classified (i.e., it 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 Labels - Hazards and Warnings

Labelling must be compliant with the CLP requirements outlined above, and also with the European Standards, particularly BS EN 15494:2007 “Product Safety Labels” which specifies the format and content of product warning labels for indoor candles. The standard requires that all information supplied with a candle is presented in a clear format on the product and should be easily and non-verbally comprehensive. Such warnings may be on the product or packaging itself or available as a separate leaflet if appropriate.

It is a requirement that the General Warning Sign (see diagram below) be included in all labelling, preferably in a coloured graphic. In addition under the standard there are four mandatory safety messages which must be included on all labels. The warning message may be given as a pictogram or as text. 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.



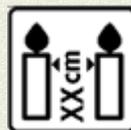
General Warning Sign. The safety information symbol or text shall be placed below or beside the general warning sign



Never leave a burning candle unattended



Burn candle out of reach of children and pets



Always leave at least 10cm between burning candles

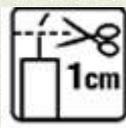


Do not burn candles on or near anything that can catch fire

In addition to the minimum safety information as outlined above, the standard encourages the use of optional safety information where appropriate. The optional ‘warnings’ depend on the type of candle being produced/sold, as they are not all appropriate to all types of candle. The diagram below gives a few popular examples 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.



Do not place candles in a draught



Trim wick to about 1 cm before lighting



Always snuff out the candle. Do not blow out



Keep the wax pool clear and clear of matches and other debris to avoid flaring

Traceability

A distributor is also required to keep and provide documentation necessary to trace the origin of unsafe products. For the most part producers mark their products with a product reference (a code or name for your candle) and/or its production batch to ease traceability. In these instances distributors' records can be used to trace an unsafe product back to its source and thereby allow the enforcement authorities an opportunity to resolve the problem at source. It also greatly assists if recalls of a certain batch are later required.

By way of giving some practical ideas, 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.

If you supply a box of 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.

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.

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 VAT requirements; risk assessments; SDS; labelling/packaging details; safety testing plan; customer complaints and recall procedures.

Websites

If you develop a website to market or sell your products other laws specific to your online presence will apply. If you have a website which merely advertises your brand then the only legal requirements are to be honest and not say anything misleading, and to 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 BCF membership (if applicable); and VAT number (if you are VAT registered).

If customers can buy 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. The full requirements are in a separate advice sheet, which can be found here:

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

Unsafe Products

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.

It is best to have a written plan on file, and be aware of your legal notification and risk assessment obligations before such an event occurs. This can be added to your technical file. It will allow for a faster response time when an incident occurs.

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 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. 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 in a paper cake case would tempt a child to take a bite. For food-shaped candles obvious 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. If in any doubt, seek further advice.

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 and main product characteristics. The Consumer Protection from Unfair Trading Regulations 2008 cover professional diligence, misleading actions and misleading omissions relating to any marketing materials, adverts, labels or verbal descriptions.

Insect Repellent Candles



Also 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.

The Format and Position of the Labelling

In terms of 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: echa.europa.eu/documents/10162/13562/clp_labelling_en.pdf. If you have any concerns about whether your labels are compliant get a second opinion from Trading Standards or the BCF.

Further online resources

GPSR legislation: www.legislation.gov.uk/uksi/2005/1803/contents/made

GPSR Guidance notes: shorl.com/jahedrokigyly

E-Commerce Regulations: www.legislation.gov.uk/uksi/2002/2013/regulation/11/made

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

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

Guidance on how to classify mixtures:

echa.europa.eu/documents/10162/13562/clp_en.pdf.

Guidance on how to apply labels:

echa.europa.eu/documents/10162/13562/clp_labelling_en.pdf

REACH and SDS fact sheet: www.hse.gov.uk/reach/resources/reachsds.pdf

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

www.youtube.com/watch?v=S2GMLmJKv7s

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 and advise 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.

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: <http://www.tradingstandards.uk/advice/index.cfm>

Royal Borough of Windsor & Maidenhead
Trading Standards Service
York House
Sheet Street
Windsor
Berkshire
SL4 1DD
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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