

Coatings for Professional Use

Code of Practice covering the sale and safe
management of these products

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Purpose

This Code of Practice is intended as a reference document for use by coating manufacturers and their distributor and other route-to-market partners, to clarify the legislative requirements with respect to the sale of 'Professional Use Only' products, to address the concerns of our industry with regard to the unsafe use of such products by members of the public, and to encourage better understanding and the formalisation of acknowledged responsibilities on the part of all stakeholders involved in the supply and sale of these products into the UK market.

Background

The UK coatings manufacturing industry, represented by the BCF and its members, provide a wide variety of products to both professionals and consumers (Do-It-Yourself / DIY users) with varying levels of hazard associated with them. BCF members continue to make significant efforts to minimise the possibility of 'Professional Use Only' products being sold illegally or otherwise to the general public. However, especially with the growth of online sales / internet trading, it appears that this problem is becoming more prevalent across a wide range of coating sectors, including but not limited to aerospace coatings, protective coatings for metal substrates and vehicle refinish paints.

Products for professional use often contain substances with known hazards with regard to human health and the environment. It is critical that they are used according to the manufacturer's recommended guidance, and that proper protection and controls are employed. Users should be made fully aware of potential exposure risks related to human health and the environment, and they should follow the recommended precautions with regard to the correct operating / application conditions, risk management measures (including the use of Personal Protective Equipment (PPE)), and the disposal of any leftover material (including sanding dust, sanding paper and washing liquids). This need for awareness and the correct controls also applies to members of the public who apply any specialist DIY products that contain hazardous substances. In the case of products sold for professional users only, additional specialised training in the safe use of the product and the use of specific protective equipment may also be required according to the risks that need to be managed.

Definition

For the purposes of this document, the phrases such as 'For Professional Use Only' refer to paints and coatings that are intended to be applied by professionally trained and qualified personnel, in either an industrial or non-industrial scenario. The phrase is used to distinguish between products that require careful risk management (through the use of correct procedures, engineering controls such as extraction, and Personal Protective Equipment), and those that can be sold directly to the general public ('Consumer use' products).

Legislation and the authorities

Professional Use Only

The principle legislation related to 'For Professional Use Only' products may be found within the REACH Regulation (EC) 1907/2006.

By law (reference REACH Article 31), suppliers of chemical products classified as hazardous must provide a safety data sheet (SDS) to professional users.

Exposure scenarios may preclude the use of a substance, either on its own, or in a mixture, for use by non-professionals. In these cases a suitable phrase should be marked on the container and included in the SDS.

Products that contain any Category 1A or 1B Carcinogenic, Mutagenic or Reprotoxic (CMR) substances, as a substance, or in a mixture above the relevant threshold, may not be sold to the consumer, and must be marked 'Restricted to professional users'.

Flammable gases, liquids or solids must not be used in aerosol dispensers intended for entertainment and decorative purposes (such as metallic glitter and artificial snow), and these types of aerosols must be labelled 'For professional users only'. Note that this does not apply to aerosol spray paints that are available across the counter for consumers to paint e.g. bicycles.

Professional users may be distinguished by referencing a named company account (with e.g. letterhead, business cards and where required a VAT number) or by providing some form of certification or registration. Sellers must ensure that products cannot be bought without such proof e.g. cash sales to casual buyers are not possible. There should also be a confirmatory check that the product being sold matches the use and activity of the professional purchasing it.

Internet Sales

Sales of products over the internet are required to abide by the following UK law – 'The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (SI2013:3134)'.

Products labelled as 'For Professional Use Only' or similar should only be made available via the internet if it can be ensured that these cannot be purchased by the general public. A Safety Data Sheet must be provided prior to or along with supply of the product.

For hazardous products sold through the internet, advertisements must make full mention of the hazards.

Enforcement at EU level

The European Chemicals Agency (ECHA) announced on 10th November 2015 that their Forum for Exchange of Information on Enforcement has decided to run a pilot project during 2016 on internet sales of chemicals in the EU – 'The intention is to enforce that legal provisions are complied with (e.g. appropriate information is provided to customers) when substances and mixtures are offered for sale on the internet.'

Further information on the work of the Forum may be found here

<http://echa.europa.eu/web/guest/about-us/who-we-are/enforcement-forum>

Enforcement at UK level

The HSE's Chemicals Regulation Directorate (CRD) compliance department has now created an e-mail address for all parties (members of the public, companies, organisations and authorities) to use to inform the authorities if illegal activity related to internet selling is believed to be taking place – crdcompliance@hse.gsi.gov.uk.

Responsibilities related to the supply of Professional Use products

Companies selling products marked as 'For Professional Use only' should ensure that they understand and meet their responsibilities as follows:

Responsibility	Manufacturers	Recipients
Ensure that the product and packaging is clearly labelled with the phrase 'For Professional Use only' or similar	✓	
For first supply, provide an up-to-date Safety Data Sheet, which refers to 'For Professional Use only' in section 1	✓	
Ensure as far as possible that the end user for the product is a professional user	✓	✓
For onward supply, similarly provide an up-to-date SDS with reference to professional use and ensure as far as possible that the end user for the product is a professional user		✓
Ensure that the end user is aware of the hazards and appropriate risk management measures recommended, to ensure the safe use of the product, and safe disposal of waste product if subsequently required	✓	✓

Check-list for all Route-to-Market contacts

If there are any doubts arising once these questions have been considered then we recommend that the supply of product be suspended until the concerns have been satisfactorily addressed.

To ensure that the supply of products designated 'For Professional Use Only' is under control, and is meeting the requirements of the authorities, the following list of questions should be considered by all parties (manufacturers, suppliers, distributors, retailers, end users) involved in the supply and receipt of such products:-

1. Is the product classified and confirmed as being 'For Professional Use Only'?
2. Is the product clearly labelled as such, and packaged correctly?
3. Does the recipient hold sufficient proof that the final user of the product can be considered to be a 'professional', with appropriate knowledge and experience regarding the correct use of the recommended Personal Protective Equipment (PPE) and / or the appropriate engineering controls (e.g. extraction) in place to ensure safe use?
4. Has an up-to-date Safety Data Sheet for the product been supplied by the manufacturer / seller, to make the recipient aware of the hazards and risk management recommendations prior to, or with, purchase of the product?
5. Does the Safety Data Sheet clearly stipulate 'For Professional Use Only' (usually to be found under section 1 - intended use)?
6. Is the product going to be sold on to additional downstream parties in the supply chain?
7. If so, does the recipient understand their responsibilities with regard to any intentional onward sale and distribution of the product?
8. Has every effort been made to ensure that this onward sale will comply with the legal requirements and responsibilities, and that the final end user of the product may be identified as a 'professional' user?

If the product is additionally intended for sale via the internet:

9. What assurances are in place that sales are only to professional users?
10. Are you certain that these assurances are sufficient, and would satisfy the enforcement authorities?
11. Are the correct procedures being followed with regard to the advertising, packaging, labelling and transport of this Professional Use product?