

Council Directive of 3 May 1988 on the approximation of the laws of the Member States concerning the safety of toys (88/378/EEC) (repealed)

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## ANNEX I

### PRODUCTS NOT REGARDED AS TOYS FOR THE PURPOSE OF THIS DIRECTIVE (Article 1 (1))

1. Christmas decorations
2. Detailed scale models for adult collectors
3. Equipment intended to be used collectively in playgrounds
4. Sports equipment
5. Aquatic equipment intended to be used in deep water
6. Folk dolls and decorative dolls and other similar articles for adult collectors
7. 'Professional' toys installed in public places (shopping centres, stations, etc.)
8. Puzzles with more than 500 pieces or without picture, intended for specialists
9. Air guns and air pistols
10. Fireworks, including percussion caps<sup>(1)</sup>
11. Slings and catapults
12. Sets of darts with metallic points
13. Electric ovens, irons or other functional products operated at a nominal voltage exceeding 24 volts
14. Products containing heating elements intended for use under the supervision of an adult in a teaching context
15. Vehicles with combustion engines
16. Toy steam engines
17. Bicycles designed for sport or for travel on the public highway
18. Video toys that can be connected to a video screen, operated at a nominal voltage exceeding 24 volts
19. Babies' dummies
20. Faithful reproductions of real fire arms
21. Fashion jewellery for children

## ANNEX II

### ESSENTIAL SAFETY REQUIREMENTS FOR TOYS

#### I. GENERAL PRINCIPLES

1. In compliance with the requirements of Article 2 of the Directive, the users of toys as well as third parties must be protected against health hazards and risk of physical

injury when toys are used as intended or in a foreseeable way, bearing in mind the normal behaviour of children. Such risks are those:

- (a) which are connected with the design, construction or composition of the toy;
- (b) which are inherent in the use of the toy and cannot be completely eliminated by modifying the toy's construction and composition without altering its function or depriving it of its essential properties.

2.

- (a) The degree of risk present in the use of a toy must be commensurate with the ability of the users, and where appropriate their supervisors, to cope with it. This applies in particular to toys which, by virtue of their functions, dimensions and characteristics, are intended for use by children of under 36 months.
- (b) To observe this principle, a minimum age for users of toys and/or the need to ensure that they are used only under adult supervision must be specified where appropriate.

3. Labels on toys and/or their packaging and the instructions for use which accompany them must draw the attention of users or their supervisors fully and effectively to the risks involved in using them and to the ways of avoiding such risks.

## II. PARTICULAR RISKS

1. Physical and mechanical properties

- (a) Toys and their parts and, in the case of fixed toys, their anchorages, must have the requisite mechanical strength and, where appropriate, stability to withstand the stresses to which they are subjected during use without breaking or becoming liable to distortion at the risk of causing physical injury.
- (b) Accessible edges, protrusions, cords, cables and fastenings on toys must be so designed and constructed that the risks of physical injury from contact with them are reduced as far as possible.
- (c) Toys must be so designed and constructed as to minimize the risk of physical injury which could be caused by the movement of their parts.
- (d) Toys, and their component parts, and any detachable parts of toys which are clearly intended for use by children under 36 months must be of such dimensions as to prevent their being swallowed and/or inhaled.
- (e) Toys, and their parts and the packaging in which they are contained for retail sale must not present risk of strangulation or suffocation.
- (f) Toys intended for use in shallow water which are capable of carrying or supporting a child on the water must be designed and constructed so as to reduce as far as possible, taking into account the recommended use of the toy, any risk of loss of buoyancy of the toy and loss of support afforded to the child.
- (g) Toys which it is possible to get inside and which thereby constitute an enclosed space for occupants must have a means of exit which the latter can open easily from the inside.
- (h) Toys conferring mobility on their users must, as far as possible, incorporate a braking system which is suited to the type of toy and is commensurate with the kinetic energy

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developed by it. Such a system must be easy for the user to operate without risk of ejection or physical injury for the user or for third parties.

- (i) The form and composition of projectiles and the kinetic energy they may develop when fired from a toy designed for that purpose must be such that, taking into account the nature of the toy, there is no unreasonable risk of physical injury to the user or to third parties.
- (j) Toys containing heating elements must be so constructed as to ensure that:
  - the maximum temperature of any accessible surfaces does not cause burns when touched,
  - liquids and gases contained within toys do not reach temperatures or pressures which are such that their escape from a toy, other than for reasons essential to the proper functioning of the toy, might cause burns, scalds or other physical injury.

## 2. Flammability

- (a) Toys must not constitute a dangerous flammable element in the child's environment. They must therefore be composed of materials which:
  1. do not burn if directly exposed to a flame or spark or other potential seat of fire; or
  2. are not readily flammable (the flame goes out as soon as the fire cause disappears); or
  3. if they do ignite, burn slowly and present a low rate of spread of the flame; or
  4. irrespective of the toy's chemical composition, are treated so as to delay the combustion process.

Such combustible materials must not constitute a risk of ignition for other materials used in the toy.

- (b) Toys which, for reasons essential to their functioning, contain dangerous substances or [<sup>F1</sup>mixtures as defined in Council Directive 67/548/EEC<sup>(2)</sup>, in particular materials and equipment for chemistry experiments, model assembly, plastic or ceramic moulding, enamelling, photography or similar activities, must not contain, as such, substances or mixtures which may become flammable due to the loss of non-flammable volatile components.
- (c) Toys must not be explosive or contain elements or substances likely to explode when used as specified in Article 2 (1) of the Directive. This provision does not apply to toy percussion caps, for which reference should be made to point 10 of Annex I and the related footnote.
- (d) Toys and, in particular, chemical games and toys, must not contain as such substances or mixtures]:
  - which, when mixed, may explode:
    - through chemical reaction, or through heating,
    - when mixed with oxidizing substances,
  - which contain volatile components which are flammable in air and liable to form flammable or explosive vapour/air mixture.

### Textual Amendments

- F1** Substituted by Directive 2008/112/EC of the European Parliament and of the Council of 16 December 2008 amending Council Directives 76/768/EEC, 88/378/EEC, 1999/13/EC and Directives 2000/53/EC, 2002/96/EC and 2004/42/EC of the European Parliament and of the Council in order to adapt them to Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures (Text with EEA relevance).

### 3. Chemical properties

1. Toys must be so designed and constructed that, when used as specified in Article 2 (1) of the Directive, they do not present health hazards or risks of physical injury by ingestion, inhalation or contact with the skin, mucous tissues or eyes.

They must in all cases comply with the relevant Community legislation relating to certain categories of products or to the prohibition, restriction of use or labelling of certain dangerous substances and [F1]mixtures.

2. In particular, for the protection of children's health, bioavailability resulting from the use of toys must not, as an objective, exceed the following levels per day:
  - 0,2 µg for antimony,
  - 0,1 µg for arsenic,
  - 25,0 µg for barium,
  - 0,6 µg for cadmium,
  - 0,3 µg for chromium,
  - 0,7 µg for lead,
  - 0,5 µg for mercury,
  - 5,0 µg for selenium,

or such other values as may be laid down for these or other substances in Community legislation based on scientific evidence.

The bioavailability of these substances means the soluble extract having toxicological significance.

3. Toys must not contain dangerous substances or mixtures within the meaning of Directives 67/548/EEC and 88/379/EEC<sup>(3)</sup> in amounts which may harm the health of children using them. At all events it is strictly forbidden to include, in a toy, dangerous substances or mixtures if they are intended to be used as such while the toy is being used.

However, where a limited number of substances or mixtures are essential to the functioning of certain toys, in particular materials and equipment for chemistry experiments, model assembly, plastic or ceramic moulding, enamelling, photography or similar activities, they are permitted up to a maximum concentration level to be defined for each substance or [F1]mixture] by mandate to the European Committee for Standardization (CEN) according to the procedure of the committee set up by Directive 83/189/EEC, provided the permitted substances and mixtures] comply with the Community classification rules in respect of labelling, without prejudice to point 4 of Annex IV.

### 4. Electrical properties

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- (a) Electric toys must not be powered by electricity of a nominal voltage exceeding 24 volts and no part of the toy may exceed 24 volts.
- (b) Parts of toys which are connected to, or liable to come into contact with a source of electricity capable of causing electric shock, together with the cables or other conductors through which electricity is conveyed to such parts, must be properly insulated and mechanically protected so as to prevent the risk of such shock.
- (c) Electric toys must be so designed and constructed as to ensure that the maximum temperatures reached by all directly accessible surfaces are not such as to cause burns when touched.

#### 5. Hygiene

Toys must be so designed and manufactured as to meet the requirements of hygiene and cleanliness in order to avoid any risk of infection, sickness and contamination.

#### 6. Radioactivity

Toys must not contain radioactive elements or substances in forms or proportions likely to be detrimental to a child's health. Council Directive 80/836/Euratom shall apply<sup>(4)</sup>.

### ANNEX III

#### CONDITIONS TO BE FULFILLED BY THE APPROVED BODIES (Article 9 (1))

The bodies designated by the Member States must fulfil the following minimum conditions:

- 1. availability of personnel and of the necessary means and equipment;
- 2. technical competence and professional integrity of personnel;
- 3. independence, in carrying out the tests, preparing the reports, issuing the certificates and performing the surveillance provided for in this Directive, of staff and technical personnel in relation to all circles, groups or persons directly or indirectly concerned with toys;
- 4. maintenance of professional secrecy by personnel;
- 5. subscription of a civil liability insurance unless that liability is covered by the state under national law.

Fulfilment of the conditions under 1 and 2 shall be verified at intervals by the competent authorities of the Member States.

## ANNEX IV

WARNINGS AND INDICATIONS OF  
PRECAUTIONS TO BE TAKEN WHEN USING TOYS  
(Article 11 (5))

Toys must be accompanied by appropriate clearly legible warnings in order to reduce inherent risks in their use as described in the essential requirements, and specifically:

## 1. Toys not intended for children under 36 months

Toys which might be dangerous for children under 36 months of age shall bear a warning, for example: 'Not suitable for children under 36 months' or 'Not suitable for children under three years' together with a brief indication, which may also appear in the instructions for use, of the specific risks calling for this restriction.

This provision does not apply to toys which, on account of their function, dimensions, characteristics, properties or other cogent grounds, are manifestly unsuitable for children under 36 months.

## 2. Slides, suspended swings and rings, trapezes, ropes and similar toys attached to a crossbeam

Such toys shall be accompanied by instructions drawing attention to the need to carry out checks and maintenance of the main parts (suspensions, fixings, anchorages, etc.) at intervals, and pointing out that, if these checks are not carried out, the toy may cause a fall or overturn.

Instructions must also be given as to correct assembly of the toy, indicating those parts which can present dangers if it is incorrectly assembled.

## 3. Functional toys

Functional toys or their packaging shall bear the marking 'Warning: to be used under the direct supervision of an adult'.

In addition, these toys shall be accompanied by directions giving working instructions as well as the precautions to be taken by the user, with the warning that failure to take these precautions would expose the user to the hazards — to be specified — normally associated with the appliance or product of which the toy is a scale model or an imitation. It will also be indicated that the toy must be kept out of the reach of very young children.

'Functional toys' means toys which are used in the same way as, and are often scale models of, appliances or installations intended for adults.

## 4. Toys containing inherently dangerous substances or [F1mixtures]. Chemical toys

(a) Without prejudice to the application of the provisions laid down in Community directives on the classification, packaging and labelling of dangerous substances or [F1mixtures, the instructions for use of toys containing inherently dangerous substances or mixtures shall bear a warning of the dangerous nature of these substances or mixtures] and an indication of the precautions to be taken by the user in order to avoid hazards associated with them, which shall be specified concisely according to the type of toy. The first aid to be given in the event of serious accidents resulting from the use of this type of toy shall also be mentioned. It shall also be stated that the toys must be kept out of reach of very young children.

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- (b) In addition to the instructions provided for in (a), chemical toys shall bear the following marking on their packaging:

‘Warning: for children over<sup>(5)</sup> years of age only. For use under adult supervision’.

In particular, the following are regarded as chemical toys: chemistry sets, plastic embedding sets, miniature workshops for ceramics, enamelling or photography and similar toys.

5. Skates and skateboards for children

If these products are offered for sale as toys they shall bear the marking:

‘Warning: protective equipment should be worn’.

Moreover, the instructions for use shall contain a reminder that the toy must be used with caution, since it requires great skill, so as to avoid falls or collisions causing injury to the user and third parties. Some indication shall also be given as to recommended protective equipment (helmets, gloves, knee-pads, elbow-pads, etc.).

6. Toys intended for use in water

The toys intended for use in water defined in Section II. 1 (f) of Annex II shall contain the warning in accordance with CEN's brief to adapt standard EN/71, parts 1 and 2:

‘Warning! Only to be used in water in which the child is within its depth and under supervision’.

## [<sup>F2</sup>ANNEX V

### CE CONFORMITY MARKING

#### Textual Amendments

**F2** Inserted by Council Directive 93/68/EEC of 22 July 1993 amending Directives 87/404/EEC (simple pressure vessels), 88/378/EEC (safety of toys), 89/106/EEC (construction products), 89/336/EEC (electromagnetic compatibility), 89/392/EEC (machinery), 89/686/EEC (personal protective equipment), 90/384/EEC (non-automatic weighing instruments), 90/385/EEC (active implantable medicinal devices), 90/396/EEC (appliances burning gaseous fuels), 91/263/EEC (telecommunications terminal equipment), 92/42/EEC (new hot-water boilers fired with liquid or gaseous fuels) and 73/23/EEC (electrical equipment designed for use within certain voltage limits).

- The CE conformity marking shall consist of the initials ‘CE’ taking the following form:
- If the CE marking is reduced or enlarged the proportions given in the above graduated drawing must be respected.
- The various components of the CE marking must have substantially the same vertical dimension, which may not be less than 5 mm.]



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- (1) With the exception of percussion caps specifically designed for use in toys without prejudice to more stringent provisions already existing in certain Member States.
- (2) OJ No 196, 16. 8. 1967, p. 1/67.
- (3) [OJ No L 187, 16. 7. 1988, p. 14.](#)
- (4) [OJ No L 246, 17. 9. 1980, p. 1.](#)
- (5) Age to be decided by the manufacturer.