
STATUTORY INSTRUMENTS

1995 No. 204

CONSUMER PROTECTION

The Toys (Safety) Regulations 1995

Made - - - - - *30th January 1995*

Laid before Parliament *1st February 1995*

Coming into force - - *24th February 1995*

Whereas the Secretary of State has, in accordance with section 11(5) of the Consumer Protection Act 1987⁽¹⁾, consulted such organisations as appear to him to be representative of interests substantially affected by these Regulations and such other persons as he considers appropriate:

And whereas the Secretary of State is a Minister designated⁽²⁾ for the purposes of section 2 of the European Communities Act 1972⁽³⁾ in relation to measures relating to consumer protection:

Now, therefore, the Secretary of State in exercise of the powers conferred on him by section 11 of the said Act of 1987, read with article 6 of the Consumer Protection Act 1987 (Commencement No.1) Order 1987⁽⁴⁾, and by section 2(2) of the said Act of 1972 and of all other powers enabling him in that behalf hereby makes the following Regulations:—

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Toys (Safety) Regulations 1995 and shall come into force on 24th February 1995.

(2) The Toys (Safety) Regulations 1989⁽⁵⁾ and the Toys (Safety) (Amendment) Regulations 1993⁽⁶⁾ are hereby revoked provided that the saving in relation to the continued application of the Toys (Safety) Regulations 1974⁽⁷⁾ and the Toys (Safety) Regulations (Northern Ireland) 1975⁽⁸⁾ contained in paragraphs (3) and (4) of regulation 1 of the said Regulations of 1989 shall continue to have full force and effect in relation to toys to which these Regulations do not apply by virtue of paragraph 1 of regulation 2 below.

(1) 1987 c. 43.
(2) S.I. 1993/2661.
(3) 1972 c. 68.
(4) S.I. 1987/1680.
(5) S.I. 1989/1275.
(6) S.I. 1993/1547.
(7) S.I. 1974/1367.
(8) S.R. (N.I.) 1975 No. 290.

Application

2.—(1) Subject to paragraphs (2) and (3) below, these Regulations apply to any toy except that until 1st October 1996 they do not apply to any toy which the supplier proves was supplied for the first time in the Community before 1st January 1990 and which does not bear the CE marking.

(2) Regulations 10 and 13 below do not apply in any case in which the person supplying the toy reasonably believes that it will not be used in the United Kingdom or any other member State of the Community.

(3) The Pencils and Graphic Instruments (Safety) Regulations 1974⁽⁹⁾ and the Pencils and Graphic Instruments (Safety) Regulations (Northern Ireland) 1975⁽¹⁰⁾ shall not apply to toys to which these Regulations apply.

Interpretation

3.—(1) In these Regulations, unless the context otherwise requires—

“the 1987 Act” means the Consumer Protection Act 1987;

“approved model” means a model of a toy in respect of which an EC type-examination certificate is in force;

“CE marking” means the CE conformity marking referred to in regulation 10 consisting of the initials “CE” taking the form of the specimen given in Schedule 1;

“the Community” means the European Community and other member States except that for the purposes of paragraph (1) of regulation 2, it means the European Community;

“EC type-examination certificate” means a certificate issued by an approved body that a model of a toy conforms with the essential safety requirements applicable to that toy;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993⁽¹¹⁾;

“essential safety requirements” means the requirements in Annex II of the Toys Directive which is set out in Schedule 2;

“harmonised standard” means a technical specification adopted by the European Committee for Standardisation or the European Committee for Electrotechnical Standardisation or both, upon a remit from the Commission of the Communities in accordance with Council Directive 83/189/EEC laying down a procedure for the provision of information in the field of technical standards and regulations⁽¹²⁾ as amended by the Treaty of Accession of 12th June 1985⁽¹³⁾, Council Directive 88/182/EEC⁽¹⁴⁾, Commission Decision 92/400/EEC⁽¹⁵⁾ and European Parliament and Council Directive 94/10/EEC⁽¹⁶⁾;

“member State” means a State which is a Contracting Party to the EEA Agreement but until the EEA Agreement comes into force in relation to Liechtenstein does not include the state of Liechtenstein;

“relevant national standard” means a standard the reference number of which is published—

⁽⁹⁾ S.I. 1974/226.

⁽¹⁰⁾ S.R. (N.I.) 1975 No. 49.

⁽¹¹⁾ Protocol 47 and certain Annexes to the EEA Agreement were amended by Decision No. 7/94 of the EEA Joint Committee of 21st March 1994 which came into force on 1st July 1994 (OJ No. L 160, 28.6.1994, p. 1). Council Directive 93/68/EEC was added to Chapter XXII of Annex II to the EEA Agreement by item P in Annex 3 to the said Decision No. 7/94.

⁽¹²⁾ OJ No. L 109, 26.4.1983, p. 8.

⁽¹³⁾ Signed in Madrid and Lisbon and coming into force on 1st January 1986, OJ No. L 302, 1985.

⁽¹⁴⁾ OJ No. L 81, 26.3.1988, p. 75.

⁽¹⁵⁾ OJ No. L 221, 6.8.1992, p. 55.

⁽¹⁶⁾ OJ No. L 100, 19.4.1994, p. 30.

(a) in the United Kingdom, by the Secretary of State in such manner as he considers appropriate, or

(b) in another member State of the Community,

and which corresponds to a harmonised standard the reference number of which is published in the Official Journal of the European Communities;

“supply” includes offering to supply, agreeing to supply, exposing for supply and possessing for supply, and cognate expressions shall be construed accordingly;

“toy” means any product or material designed or clearly intended for use in play by children of less than 14 years of age, but excluding those products specified in Schedule 3; and

“the Toys Directive” means Council Directive [88/378/EEC](#) on the approximation of the laws of the member States concerning the safety of toys⁽¹⁷⁾ as amended by Council Directive [93/68/EEC](#)⁽¹⁸⁾.

(2) “approved body” in regulation 9 (except “approved bodies” in paragraph (5) of that regulation) means a body approved by the Secretary of State pursuant to regulation 8 and elsewhere in these Regulations (including the above-mentioned reference in regulation 9(5)) means a body so approved or one approved by another member State of the Community for the purposes of the Toys Directive.

(3) Any reference in these Regulations to a numbered regulation or Schedule is a reference to the regulation or Schedule so numbered in these Regulations.

Essential safety requirements

4. Toys to which these Regulations apply shall satisfy the essential safety requirements.

Toys bearing CE marking

5.—(1) Any toy supplied for the first time in the Community on or after 1st January 1995 which bears the CE marking shall be presumed (which presumption shall be rebuttable) to comply with all the provisions of these Regulations, save that until 1st January 1997 any toy on which the manufacturer or his authorised representative has put the CE marking pursuant to the provisions of paragraph (10) of regulation 10 below shall be presumed (which presumption shall be rebuttable) to comply with the provisions of that paragraph.

(2) Subject to paragraph (3) below, where the toy is the subject of other Community Directives in addition to the Toys Directive, which provide among other things for the affixing of the CE marking, the CE marking affixed in relation to the Toys Directive shall indicate that the toy is presumed (which presumption shall be rebuttable) to conform to the provisions of those other Community Directives.

(3) Where any of the said Community Directives referred to in paragraph (2) above allows the manufacturer, during a transition period, to choose which arrangements apply, the CE marking shall indicate conformity only to the Community Directives applied by the manufacturer.

Conformity of toys with national standards

6. Any toy supplied for the first time in the Community on or after 1st January 1995 and which conforms with the relevant national standards applicable to it where those standards relate to all matters covered by the essential safety requirements applicable to the toy shall be presumed (which presumption shall be rebuttable) to satisfy the requirement in regulation 4.

(17) OJ No. L 187, 16.7.1988, p. 1.

(18) OJ No. L 220, 30.8.1993, p. 1.

Conformity of toys with an approved model

7. Any toy supplied for the first time in the Community on or after 1st January 1995 which has not been manufactured, or which has been manufactured only partly, in conformity with the relevant national standards applicable to it or for which no such standards exist or where the relevant national standards applicable to it relate only to some of the matters covered by the essential safety requirements applicable to the toy shall be presumed (which presumption shall be rebuttable) to satisfy the requirement in regulation 4 if an EC type-examination certificate is in force in respect of a model of the toy.

Approved bodies

8.—(1) A body approved by the Secretary of State may—

- (a) carry out examinations and tests and issue EC type-examination certificates in respect of models of toys;
- (b) ask for further examples of the model in question; and
- (c) do such other things as may be required or permitted under or in connection with these Regulations.

(2) Any approval given by the Secretary of State for the purposes of paragraph (1) above may be given for an unlimited period or for a specified period and may be given subject to conditions and the Secretary of State may withdraw any such approval if the body ceases to comply with any such condition.

EC type-examination certificate

9.—(1) Where an application for an EC type-examination certificate in respect of a model of a toy is made by the manufacturer or by his authorised representative established in the Community to an approved body such application shall be in writing and shall include—

- (a) a description of the toy;
- (b) the name and address of the manufacturer or his authorised representative in the Community and the place of manufacture of the toy; and
- (c) comprehensive manufacturing and design data,

and shall be accompanied by a model of the toy and, if required by the approved body, the prescribed fee.

(2) On an application made to it under paragraph (1) above an approved body shall—

- (a) examine the documents provided by the applicant and establish that they are in order;
- (b) check that any toy which conforms with the model would not jeopardize the safety or health of users or third parties when used as intended or in a foreseeable way, bearing in mind the normal behaviour of children; and
- (c) carry out examinations and tests using as far as possible relevant national standards and, if there is no relevant national standard covering a particular matter, harmonised standards, in order to check whether the model meets the essential safety requirements.

(3) Where the approved body, after carrying out its duties under paragraph (2) above, is satisfied that the model complies with the essential safety requirements applicable to a toy of that type, it shall grant to the applicant an EC type-examination certificate in respect of that model, subject to such conditions designed to ensure that toys which conform to the model comply with the applicable essential safety requirements as the approved body thinks fit.

(4) The certificate shall state the conclusions of the EC type-examination carried out by the approved body, indicate any conditions subject to which the certificate is granted and be accompanied by the descriptions and drawings of the toy.

(5) The approved body shall, taking the necessary measures to guarantee confidentiality, forward to the Secretary of State, the Commission of the Communities, the other member States and other approved bodies on request a copy of the certificate and, on reasonable request, a copy of any design and manufacturing schedule submitted to the approved body and reports on the examinations and tests that it has carried out.

(6) Where the approved body, after carrying out its duties under paragraph (2) above, refuses to issue an EC type-examination certificate in respect of the model of the toy in question, it shall so inform the applicant, the Secretary of State and the Commission of the Communities in writing, giving the reasons for refusal.

(7) The approved body may require a fee to be paid by the applicant (in this regulation referred to as the prescribed fee) in connection with work done by it under this regulation and the fee in every case shall be equal to the sum of—

- (a) the costs of the approved body of and in connection with the functions carried out or to be carried out under these Regulations (“the relevant service”); and
- (b) an amount on account of profit which is reasonable in the circumstances having regard to—
 - (i) the character and the extent of the work done or to be done by the approved body in providing the relevant service, and
 - (ii) the commercial rate normally charged on account of profit for that work or similar work.

CE marking and other information on or accompanying toys

10.—(1) Subject to paragraphs (2), (3), (4) and (10) below, no person shall supply any toy to which these Regulations apply and which does not have affixed to it or to its packaging the CE marking together with the name or trade name or mark and the address of the manufacturer if he is established in the Community or his authorised representative if he is so established or if neither is so established the importer into the Community in a visible, easily legible and indelible form, provided that the trade name or mark may only appear as an alternative to the name if such trade name or mark enables such manufacturer, authorised representative or importer to be identified.

(2) No manufacturer of any toy to which these Regulations apply nor any authorised representative in the Community of such a manufacturer shall supply any such toy to which or to whose packaging the CE marking is affixed unless he thereby confirms that all the provisions of these Regulations which relate to that toy have been complied with and that—

- (a) where the toy has been manufactured in accordance with the relevant national standards applicable to it and those standards relate to all the matters covered by the essential safety requirements applicable to the toy, the toy complies with those standards; or
- (b) where—
 - (i) the toy has not been manufactured in accordance with the relevant national standards applicable to that toy; or
 - (ii) the toy has been manufactured only partly in accordance with such standards; or
 - (iii) no such standards exist; or
 - (iv) the relevant national standards relate only to some of the essential safety requirements applicable to the toy,

that the toy conforms with a model in respect of which an EC type-examination certificate is in force.

(3) In the case of a small toy or a toy consisting of small parts the information (including the CE marking) mentioned in paragraph (1) above may appear instead of as provided in that paragraph in a visible, easily legible and indelible form—

- (a) on a label attached to the toy;
- (b) on an accompanying printed label or leaflet; or
- (c) where the toy is not individually packaged, on the box or other packaging containing the toy and other toys of the same kind.

(4) Paragraphs (1), (2) and (3) shall not apply in relation to a toy which has previously been supplied to any person who acquired it for private use or consumption.

(5) Where the information (including the CE marking) mentioned in paragraph (1) above does not appear on, or is not attached to, the toy, the attention of any person to whom the toy is supplied for private use or consumption shall be drawn to the advisability of keeping or noting such information, as the case may be.

(6) Any of the information mentioned in paragraph (1) above, other than the CE marking, may be abbreviated provided that the abbreviation enables such manufacturer, authorised representative or importer as is mentioned in that paragraph to be identified.

(7) Information shall not be given in connection with a toy by means of a marking which is likely to deceive any person as to the meaning and the form of the CE marking and any other marking may be affixed to the toy, its packaging or a label provided that the visibility and legibility of the CE marking is not thereby reduced.

(8) Toys shall be accompanied by the appropriate warnings and indications of precautions to be taken during use contained in Annex IV of the Toys Directive which is set out in Schedule 4.

(9) It shall not be a sufficient compliance with paragraph (8) above to give information in a language other than English.

(10) Notwithstanding the provisions of paragraph (1) above, until 1st January 1997 the manufacturer or his authorised representative established in the Community may put on every toy in the manner described in that paragraph the CE marking to confirm only that that toy complies with the provisions of sub-paragraphs (a) or (b) of paragraph (2) as the case may be and by which he does not confirm that all the provisions of these Regulations which relate to that toy have been complied with, and in which event the provisions of paragraphs (11) and (12) below and Schedule 5 shall not have effect in relation to that toy.

(11) Except in the case of a toy which in the opinion of the enforcement authority is likely to jeopardise the safety or health of any person, where an enforcement authority has reasonable grounds for suspecting that the CE marking has been affixed to any toy to which these Regulations apply in relation to which any provision of these Regulations has not been complied with in respect of that toy it may serve a notice (“a compliance notice”) on the manufacturer of that toy or his authorised representative established in the Community and in such a case sections 13, 14, 16 or 17 of the 1987 Act shall not be applied until such a notice has been so served and the person upon whom it has been served has failed to comply with its requirements.

(12) Schedule 5 shall have effect in respect of a compliance notice.

Requirement to keep available and give information about toys which bear the CE marking

11.—(1) Every manufacturer of toys established in the United Kingdom or, where the manufacturer is not established in the Community, the manufacturer’s authorised representative established in the United Kingdom or, where the manufacturer is established outside the Community

and he has no authorised representative established in the Community, the person who supplies a toy on the first occasion on which it is supplied in the Community provided that he is established in the United Kingdom shall keep the following information available for inspection by an enforcement authority or any of its officers in respect of toys supplied in the Community by such manufacturer, authorised representative or first supplier and bearing the CE marking denoting among other things conformity with the relevant national standards applicable to the toy where those standards relate to all the matters covered by the essential safety requirements applicable to the toy and shall give the information to an enforcement authority or any of its officers on his being required to give such information within a reasonable time—

- (a) a description of the means (such as the use of a test report or technical file) whereby the manufacturer ensures conformity of production with the relevant national standards;
- (b) the addresses of the places of manufacture and storage of the toys; and
- (c) detailed information concerning their design and manufacture.

(2) Every manufacturer of toys established in the United Kingdom or, where the manufacturer is not established in the Community, the manufacturer's authorised representative established in the United Kingdom or, where the manufacturer is established outside the Community and he has no authorised representative established in the Community, the person who supplies a toy on the first occasion on which it is supplied in the Community provided that he is established in the United Kingdom shall keep the following information available for inspection by an enforcement authority or any of its officers in respect of toys supplied in the Community by such manufacturer, authorised representative or first supplier which are not manufactured, or which are manufactured only partly, in accordance with the relevant national standards applicable to that toy or for which no such standards exist or where the relevant national standards relate only to some of the matters covered by the essential safety requirements applicable to the toy and which bear the CE marking denoting conformity among other things of the toy with the approved model and shall give the information to an enforcement authority or any of its officers on his being required to give such information within a reasonable time—

- (a) a detailed description of manufacturer;
- (b) a description of the means (such as the use of a test report or technical file) whereby the manufacturer ensures conformity with the approved model;
- (c) the addresses of the places of manufacture and storage of the toys;
- (d) copies of the documents which the manufacturer or his authorised representative has submitted to an approved body on an application for an EC type-examination certificate; and
- (e) the EC type-examination certificate or a copy of such a certificate, certified by the approved body which issued it as a true copy.

(3) If any of the requirements of paragraph (1) or (2) above is not satisfied, an enforcement authority or any of its officers may require such manufacturer, authorised representative or first supplier, as the case may be, as is mentioned in those paragraphs to have a toy in respect of which any such requirement is not satisfied tested within a reasonable period by an approved body at the expense of such manufacturer, authorised representative or first supplier for the purpose of ascertaining whether the relevant national standards and the essential safety requirements are complied with and the manufacturer, authorised representative or first supplier shall comply with any such requirement imposed by an enforcement authority or one of its officers.

Requirement to give information about toys which do not bear the CE marking

12. Save in relation to the supply of a toy which has previously been supplied to any person who acquired it for private use or consumption, a person who supplies a toy which does not bear the CE marking shall give to an enforcement authority, or any of its officers, all information which

he has about the date when the toy was first supplied in the Community and information about the basis on which the toy is not so marked on his being required to give such information within a reasonable time.

Prohibition on supply

13. No person shall supply any toy in respect of which the requirement of regulation 4 is not satisfied save that a person other than a manufacturer or his authorised representative established in the Community (or, where neither the manufacturer nor his authorised representative are established in the Community, the importer into the Community) may supply any toy provided that the toy would not jeopardise the safety or health of users or third parties when used as intended or in a foreseeable way, bearing in mind the normal behaviour of children.

Duties of enforcement authorities

14. Every authority and council on whom a duty is imposed by virtue of section 27 of the 1987 Act shall give immediate notice to the Secretary of State of any suspension notice served by it in respect of, or any application made by it for an order for forfeiture of, any toys to which these Regulations apply or any other thing done in respect of any such toys for the purposes of or in connection with sections 14 to 17 of that Act.

Commencement of proceedings

15. In England, Wales and Northern Ireland a magistrates' court may try an information (in the case of England and Wales) or a complaint (in the case of Northern Ireland) in respect of an offence committed under section 12 of the 1987 Act in relation to a contravention of these Regulations if (in the case of England and Wales) the information is laid or (in the case of Northern Ireland) the complaint is made within twelve months from the time when the offence is committed, and in Scotland summary proceedings for such an offence may be begun at any time within twelve months from the time when the offence is committed.

Regulations to be treated as safety regulations within the meaning of the 1987 Act

16.—(1) Subject to paragraph (2) below, these Regulations shall be treated for all purposes as if they were safety regulations within the meaning of the 1987 Act.

(2) A manufacturer, authorised representative or first supplier who contravenes regulation 11(3) above shall be guilty of an offence punishable on summary conviction with imprisonment for not more than three months or with a fine not exceeding level five on the standard scale.

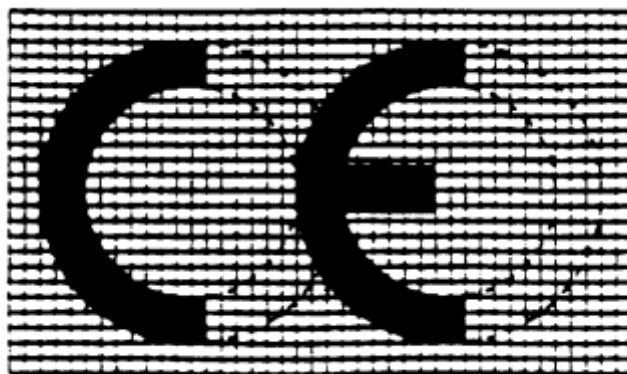
30th January 1995

Ferrers
Minister of State for Small Firms and Consumer
Affairs,
Department of Trade and Industry

SCHEDULE 1

Regulation 3(1)

SPECIMEN FORM OF CE MARKING TO BE PLACED ON OR TO ACCOMPANY TOYS



- 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 5mm.

SCHEDULE 2

Regulation 3(1)

ANNEX II OF THE TOYS DIRECTIVE
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.
- (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

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 minimise 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 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.

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 preparations as defined in Council Directive 67/548/EEC(19), 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 preparations 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 Toys Directive(20). This provision does not apply to toy percussion caps, for which reference should be made to point 10 of Annex 1 and the related footnote.
- (d) Toys and, in particular, chemical games and toys, must not contain as such substances or preparations—
 - which, when mixed, may explode:
 - through chemical reaction, or through heating,
 - when mixed with oxidising substances,
 - which contain volatile components which are flammable in air and liable to form flammable or explosive vapour/air mixture.

Chemical properties

3.

1. Toys must be so designed and constructed that, when used as specified in Article 2(1) of the Toys Directive(20), 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 preparations.

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.

(19) OJ No. L 196, 16.8.1967, p. 1/67.

(20) i.e when they are used as intended to be used or in a foreseeable way bearing in mind the normal behaviour of children of less than 14 years of age.

(20) i.e when they are used as intended to be used or in a foreseeable way bearing in mind the normal behaviour of children of less than 14 years of age.

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

3. Toys must not contain dangerous substances or preparations within the meaning of Directives 67/548/EEC and 88/379/EEC(21) 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 preparations if they are intended to be used as such while the toy is being used.

However, where a limited number of substances or preparations 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 preparation by mandate to the European Committee for Standardisation (CEN) according to the procedure of the committee set up by Directive 83/189/EEC, provided the permitted substances and preparations comply with the Community classification rules in respect of labelling, without prejudice to point 4 of Annex IV.

Electrical properties

- (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.

Hygiene

5. 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.

Radioactivity

6. 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(22).

SCHEDULE 3

Regulation 3(1)

PRODUCTS NOT REGARDED AS TOYS FOR THE PURPOSE OF THESE REGULATIONS

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.

(21) OJ No. L 187, 16.7.1988, p. 14.

(22) OJ No. L 246, 17.9.1980, p. 1.

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(23).
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.

SCHEDULE 4

Regulation 10(8)

ANNEX IV OF THE TOYS DIRECTIVE 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:

Toys not intended for children under 36 months

1. 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.

(23) Except percussion caps specifically designed for use in toys, without prejudice to the provisions of the Explosives Act 1875 (c. 17).

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

2. 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.

Functional toys

3. 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.

Toys containing inherently dangerous substances or preparations. 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 preparations, the instructions for use of toys containing inherently dangerous substances or preparations shall bear a warning of the dangerous nature of these substances or preparations 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.
- (b) In addition to the instructions provided for in (a), chemical toys shall bear the following marking on their packaging—

“Warning: for children over(24) 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.

Skates and Skateboards for children

5. 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.).

(24) Age to be decided by the manufacturer.

Toys intended for use in water

6. 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”.

SCHEDULE 5

Regulation 10(12)

COMPLIANCE NOTICE

1. The notice shall—

- (a) specify the description of the toy to which the notice relates;
- (b) state that the enforcement authority suspects that the CE marking has been affixed to the toy in circumstances where a provision or provisions of these Regulations has or have not been complied with and the reasons for that suspicion;
- (c) specify the provision or provisions referred to in paragraph (b) above;
- (d) require that person—
 - (i) to secure that any toy to which the notice relates conforms as regards the provisions concerning the CE marking and to end the infringement within such period as may be specified by the notice; or
 - (ii) to provide evidence within that period to the satisfaction of the enforcement authority that all the provisions of these Regulations have been complied with; and
- (e) warn that person that if the non-conformity continues (or if satisfactory evidence has not been produced under sub-paragraph (ii) of paragraph (d) above) within the period specified in the notice, further action may be taken under these Regulations in respect of that toy or any toy of the same type supplied by that person.

2. The notice may include directions as to the measures to be taken by that person to secure conformity of that toy with the provisions of these Regulations including different ways of securing conformity.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate with amendments the Toys (Safety) Regulations 1989 (S.I.1989/1275) (the “1989 Regulations”). They implement the requirements of Council Directive [88/378/EEC](#) (OJNo. L 187, 16.7.88, p. 1) (the “Toys Directive”) on the approximation of the laws of the member States concerning the safety of toys, as amended by Council Directive [93/68/EEC](#) (OJ No. L 220, 30.8.93, p. 1) (the “CE marking Directive”). The Regulations continue the limited saving of the provisions of the Toys (Safety) Regulations 1974 and the Toys (Safety) Regulations (Northern Ireland) 1975 (regulation 1(2)).

The 1989 Regulations applied to any toy (with certain exceptions) meaning any product or material designed or clearly intended for use in play by children of less than 14 years of age. They require toys to satisfy the essential safety requirements in Annex II of the Toys Directive and made provision for toys to be deemed to do so if they conformed to relevant national standards or to a model of the toy in respect of which there was in force an EC type-examination certificate. The 1989 Regulations prohibited the supply of toys which failed to satisfy the essential safety requirements. These Regulations re-enact those requirements with certain minor amendments (regulations 5, 6, 7 and 13 and Schedule 2).

In addition the 1989 Regulations provided for the appointment of bodies to carry out examinations and tests and to issue EC type-examination certificates. These provisions are re-enacted in these Regulations (regulations 8 and 9). The 1989 Regulations provided for the CE marking of toys and for other information to be put on toys, their packaging or to accompany them and contained provision for the retention of information by the manufacturer, his authorised representative established in the United Kingdom or any other person established in the United Kingdom who was the first supplier of the toy in the Community and to keep this information available for inspection by an enforcement authority. With certain modifications required by reason of the provisions of the CE marking Directive, these Regulations re-enact those provisions (regulations 10, 11 and 12). Provision was made in the 1989 Regulations for enforcement of its provisions and these Regulations make similar provision (regulations 15 and 16).

Those provisions of the CE marking Directive which relate to toys are implemented for the first time by these Regulations as follows:—

1. the affixing of the CE marking to toys shall be taken to confirm conformity of the toy to all the requirements of the Regulations (regulations 5 and 10 and Schedule 1) (such presumption may be rebutted) save that until 1st January 1997 the manufacturer or his authorised representative established in the Community may choose to affix the said marking to confirm only that the toy complies with relevant national standards or that it conforms to a model in respect of which there is in force an EC type-examination certificate (regulations 5 and 10(10));
2. the supply of any toy, unless it has previously been supplied for private use and consumption, is prohibited unless it has affixed to it or its packaging the CE marking together with appropriate other information (regulation 10(1));
3. the issue of a compliance notice in respect of a toy to which the CE marking has been unduly affixed, save where the toy in question is likely to jeopardise the safety or health of any person (regulation 10(11) and Schedule 5).

In addition to the above provisions and to minor consequential amendments, these Regulations separate the obligations, in respect of the essential safety requirements, placed on any person who supplies a toy from those placed on the manufacturer or his authorised representative established in the Community (or, where neither are established in the Community, the importer into the Community) who supplies a toy by making an express provision for the requirement not to supply any toy which would jeopardise the safety or health of users or third parties under certain defined conditions (regulations 10 and 13).

A compliance cost assessment in respect of these Regulations is available and a copy can be obtained from the Consumer Affairs Division of the Department of Trade and Industry Room 315, 10—18 Victoria Street, London SW1H 0NN. A copy has also been placed in the libraries of both Houses of Parliament.