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STATUTORY INSTRUMENTS

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**2011 No. 1881**

**The Toys (Safety) Regulations 2011**

**PART 1**

**Preliminary**

**Citation and commencement**

- 1.—(1) These Regulations may be cited as the Toys (Safety) Regulations 2011.
- (2) These Regulations come into force on 19th August 2011.

**Revocation, saving and amendment**

- 2.—(1) The Toys (Safety) Regulations 1995(1) (“the 1995 Regulations”) and the Toys (Safety) (Amendment) Regulations 2010 (2) are revoked.
- (2) The 1995 Regulations, as amended, continue to apply, as if they had not been revoked, to a toy placed on the market before these Regulations come into force.
- (3) The Pencils and Graphic Instruments (Safety) Regulations 1998(3) are amended as follows.
- (4) In regulation 1, insert after paragraph (2)—
  - “(3) These Regulations do not apply to any article to which the Toys (Safety) Regulations 2011 apply.”

**Interpretation**

3. In these Regulations—
  - “the 1987 Act” means the Consumer Protection Act 1987;
  - “the Directive” means Directive 2009/48/EC of the European Parliament and of the Council of 18th June 2009 on the safety of toys(4);
  - “the GPSR” means the General Product Safety Regulations 2005(5);
  - “authorised representative” means a person who has been appointed in accordance with regulation 25(1);
  - “CE marking” means a marking—
    - (a) by which a manufacturer indicates that a toy will comply with the essential safety requirements during its foreseeable and normal period of use; and

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(1) S.I. 1995/204, amended by S.I. 2004/1769, S.I. 2005/1082 and S.I. 2010/1928.

(2) S.I. 2010/1928

(3) S.I. 1998/2406. (S.I. 1998/2406 does not apply, by virtue of regulation 2(3) of S.I. 1995/204, to articles which are toys to which S.I. 1995/204 applies.)

(4) OJ No L 170, 30.6.2009, p1.

(5) S.I. 2005/1803.

- (b) which takes the form set out in Annex II of Regulation (EC) No 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93<sup>(6)</sup>;

“conformity assessment” means the process demonstrating whether specified requirements relating to a toy have been fulfilled;

“conformity assessment activities” means activities relating to conformity assessment, including calibration, testing, certification and inspection;

“distributor” means any person who—

- (a) is in the supply chain for a toy, other than the manufacturer or the importer; and  
 (b) makes the toy available on the market;

“economic operator” means a manufacturer, an authorised representative, an importer or a distributor;

“enforcement authority” has the same meaning as in section 45(1) of the 1987 Act;

“essential safety requirements” has the meaning given in regulation 5;

“harm” means physical injury or any other damage to health, including long-term health effects;

“harmonised standard” means a standard adopted by one of the European standardisation bodies listed in Annex I to Directive 98/34/EC of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations<sup>(7)</sup> on the basis of a request made by the European Commission in accordance with Article 6 of that Directive, the reference of which standard has been published in the Official Journal of the European Union;

“hazard” means a potential source of harm;

“importer” means any person who—

- (a) is established within the EU; and  
 (b) places a toy from a third country on the EU market;

“intended for use by” means that a parent or supervisor shall reasonably be able to assume by virtue of the functions, dimensions and characteristics of a toy that it is intended for use by children of the stated age group;

“make available on the market” means supply in the course of a commercial activity (whether in return for payment or free of charge) for distribution, consumption or use on the EU market, and related expressions shall be construed accordingly;

“manufacturer” means a person who—

- (a) manufactures a toy or has a toy designed or manufactured; and  
 (b) markets that toy under that person’s name or trademark;

“Module” means a Module of Annex II to Decision No 768/2008/EC of the European Parliament and of the Council on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC<sup>(8)</sup> and Module A, B or C shall be construed accordingly;

“notified body designation” has the meaning given in regulation 40;

<sup>(6)</sup> OJ No L 218, 13.8.2008, p30.

<sup>(7)</sup> OJ No L 204, 21.7.1998, p37, to which there are amendments not relevant to these Regulations.

<sup>(8)</sup> OJ No L 218, 13.8.2008, p82.

“place on the market” means make a toy available on the EU market for the first time, and related expressions shall be construed accordingly;

“recall” means take any measure aimed at achieving the return of a toy that has already been made available to the end user;

“risk” means the probable rate of occurrence of a hazard causing harm and the degree of severity of the harm;

“supply” includes offering to supply, agreeing to supply, exposing for supply and possessing for supply;

“toy” has the meaning given in regulation 4;

“UK notified body” has the meaning given in regulation 40;

“withdraw” means take any measure aimed at preventing a toy in the supply chain from being made available on the market.

### **Toys to which these Regulations apply**

4.—(1) These Regulations apply to toys placed on the market on or after 19th August 2011.

(2) Toys are products designed or intended (whether or not exclusively) for use in play by children under 14 years old.

(3) These Regulations do not apply to—

- (a) playground equipment intended for public use;
- (b) automatic playing machines intended for public use, whether coin operated or not;
- (c) toy vehicles equipped with combustion engines;
- (d) toy steam engines;
- (e) slings and catapults;
- (f) products listed in Annex I to the Directive, as amended from time to time.

### **Essential safety requirements**

5.—(1) The essential safety requirements in respect of a toy are—

- (a) the general safety requirement set out in paragraphs (2) to (5); and
- (b) the particular safety requirements set out in Annex II to the Directive (as amended from time to time), so far as relevant.

(2) Toys, including the chemicals they contain, must not jeopardise the safety or health of users or third parties when they are used as intended or in a foreseeable way, bearing in mind the behaviour of children.

(3) The ability of the users and, where appropriate, their supervisors must be taken into account, in particular, in the case of toys which are intended for use by children under 36 months or by other specified age groups.

(4) Information as to the matters mentioned in paragraph (5), aimed at users of the toy or their supervisors, must be preceded by the word “Warning” or “Warnings” and must be marked in English in a clearly visible, easily legible, understandable and accurate manner on—

- (a) the toy, a label affixed to the toy, or the toy’s packaging; and
- (b) any instructions for use which accompany the toy.

(5) The matters are—

- (a) the inherent hazards and risks of harm involved in using the toy; and

- (b) the ways of avoiding such hazards and risks.

### **Particular safety requirements for toys placed on the market before 20th July 2013**

6. Where a toy is placed on the market before 20th July 2013, the particular safety requirements in respect of chemical properties are those in paragraph 3 of Part II of Annex II to Council Directive [88/378/EEC](#) on the approximation of the laws of the Member States concerning the safety of toys<sup>(9)</sup>, and not those in Part III of Annex II to the Directive.

### **Presumption of conformity**

7.—(1) A toy which conforms with harmonised standards shall be presumed to comply with the essential safety requirements to the extent that those requirements are covered by those standards.

- (2) The presumption set out in paragraph (1) is rebuttable.

### **Exception for trade fairs or exhibitions**

8.—(1) A toy which does not bear the CE marking, or in relation to which any other requirement of these Regulations is not complied with, may be shown or used at a trade fair or exhibition.

- (2) Such a toy must be accompanied by a sign which indicates clearly that—

- (a) the toy does not comply with the Directive; and
- (b) the toy will not be made available in the EU before being brought into conformity with the Directive.

### **Parts 1 and 2 are safety regulations within the meaning of the 1987 Act**

9. Parts 1 and 2 of these Regulations are for all purposes safety regulations within the meaning of the 1987 Act.

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(9) OJ No L 187, 16.7.1988, p1, amended by Directive [2008/112/EC](#) of the European Parliament and of the Council in order to adapt Council Directive [88/378/EEC](#) to Regulation (EC) No [1272/2008](#) on classification, labelling and packaging of substances and mixtures (OJ No L 345, 23.12.2008, p68); there are other amending instruments to Council Directive [88/378/EEC](#) but none is relevant.