

Directive 2009/48/EC of the European Parliament and of the Council
of 18 June 2009 on the safety of toys (Text with EEA relevance)

CHAPTER II

OBLIGATIONS OF ECONOMIC OPERATORS

Article 4

Obligations of manufacturers

1 When placing their toys on the market, manufacturers shall ensure that they have been designed and manufactured in accordance with the requirements set out in Article 10 and Annex II.

2 Manufacturers shall draw up the required technical documentation in accordance with Article 21 and carry out or have carried out the applicable conformity assessment procedure in accordance with Article 19.

Where compliance of a toy with the applicable requirements has been demonstrated by that procedure, manufacturers shall draw up an EC declaration of conformity, as referred to in Article 15, and affix the CE marking, as set out in Article 17(1).

3 Manufacturers shall keep the technical documentation and the EC declaration of conformity for a period of 10 years after the toy has been placed on the market.

4 Manufacturers shall ensure that procedures are in place for series production to remain in conformity. Changes in toy design or characteristics and changes in the harmonised standards by reference to which conformity of a toy is declared shall be adequately taken into account.

When deemed appropriate with regard to the risks presented by a toy, manufacturers shall, to protect the health and safety of consumers, carry out sample testing of marketed toys, investigate, and, if necessary, keep a register of complaints, of non-conforming toys and toy recalls, and shall keep distributors informed of any such monitoring.

5 Manufacturers shall ensure that their toys bear a type, batch, serial or model number or other element allowing their identification, or, where the size or nature of the toy does not allow it, that the required information is provided on the packaging or in a document accompanying the toy.

6 Manufacturers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the toy or, where that is not possible, on its packaging or in a document accompanying the toy. The address shall indicate a single point at which the manufacturer can be contacted.

7 Manufacturers shall ensure that the toy is accompanied by instructions and safety information in a language or languages easily understood by consumers, as determined by the Member State concerned.

8 Manufacturers who consider or have reason to believe that a toy which they have placed on the market is not in conformity with the relevant Community harmonisation legislation shall immediately take the corrective measures necessary to bring that toy into conformity, to withdraw it or recall it, if appropriate. Furthermore, where the toy presents a

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risk, manufactures shall immediately inform the competent national authorities of the Member States in which they made the toy available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

9 Manufacturers shall, further to a reasoned request from a competent national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of the toy, in a language easily understood by that authority. They shall cooperate with that authority, at its request, as regards any action taken to eliminate the risks posed by toys which they have placed on the market.

Article 5

Authorised representatives

1 A manufacturer may, by a written mandate, appoint an authorised representative.

2 The obligations laid down in Article 4(1) and the drawing up of technical documentation shall not form part of the authorised representative's mandate.

3 An authorised representative shall perform the tasks specified in the mandate received from the manufacturer. The mandate shall allow the authorised representative to do at least the following:

- a keep the EC declaration of conformity and the technical documentation at the disposal of national surveillance authorities for a period of 10 years after the toy has been placed on the market;
- b further to a reasoned request from a competent national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of a toy;
- c cooperate with the competent national authorities, at their request, on any action taken to eliminate the risks posed by toys covered by the mandate.

Article 6

Obligations of importers

1 Importers shall place only compliant toys on the Community market.

2 Before placing a toy on the market, importers shall ensure that the appropriate conformity assessment procedure has been carried out by the manufacturer.

They shall ensure that the manufacturer has drawn up the technical documentation, that the toy bears the required conformity marking and is accompanied by the required documents, and that the manufacturer has complied with the requirements set out in Article 4(5) and (6).

Where an importer considers or has reason to believe that a toy is not in conformity with the requirements set out in Article 10 and Annex II, it shall not place the toy on the market until the toy has been brought into conformity. Furthermore, where the toy presents a risk, the importer shall inform the manufacturer and the market surveillance authorities to that effect.

3 Importers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the toy or, where that is not possible, on its packaging or in a document accompanying the toy.

4 Importers shall ensure that the toy is accompanied by instructions and safety information in a language or languages easily understood by consumers, as determined by the Member State concerned.

5 Importers shall ensure that, while a toy is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in Article 10 and Annex II.

6 When deemed appropriate with regard to the risks presented by a toy, importers shall, to protect the health and safety of consumers, carry out sample testing of marketed toys, investigate, and, if necessary, keep a register of complaints, of non-conforming toys and toy recalls, and shall keep distributors informed of such monitoring.

7 Importers who consider or have reason to believe that a toy which they have placed on the market is not in conformity with the relevant Community harmonisation legislation shall immediately take the corrective measures necessary to bring that toy into conformity, to withdraw it or recall it, if appropriate. Furthermore, where the toy presents a risk, importers shall immediately inform the competent national authorities of the Member States in which they made the toy available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

8 Importers shall, for a period of 10 years after the toy has been placed on the market, keep a copy of the EC declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation can be made available to those authorities, upon request.

9 Importers shall, further to a reasoned request from a competent national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of the toy in a language easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by toys which they have placed on the market.

Article 7

Obligations of distributors

1 When making a toy available on the market, distributors shall act with due care in relation to the applicable requirements.

2 Before making a toy available on the market, distributors shall verify that the toy bears the required conformity marking, that it is accompanied by the required documents and by instructions and safety information in a language or languages easily understood by consumers in the Member State in which the toy is to be made available on the market, and that the manufacturer and the importer have complied with the requirements set out in Article 4(5) and (6) and Article 6(3).

Where a distributor considers or has reason to believe that a toy is not in conformity with the requirements set out in Article 10 and Annex II, it shall not make the toy available on the market until the toy has been brought into conformity. Furthermore, where the toy presents a risk, the distributor shall inform the manufacturer or the importer, as well as the market surveillance authorities, to that effect.

3 Distributors shall ensure that, while a toy is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in Article 10 and Annex II.

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4 Distributors who consider or have reason to believe that a toy which they have made available on the market is not in conformity with the relevant Community harmonisation legislation shall make sure that the corrective measures necessary to bring that toy into conformity, to withdraw it or recall it, if appropriate, are taken. Furthermore, where the toy presents a risk, distributors shall immediately inform the competent national authorities of the Member States in which they made the toy available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

5 Distributors shall, further to a reasoned request from a competent national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of the toy. They shall cooperate with that authority, at its request, as regards any action taken to eliminate the risks posed by toys which they have made available on the market.

Article 8

Cases in which obligations of manufacturers apply to importers and distributors

An importer or distributor shall be considered a manufacturer for the purposes of this Directive and be subject to the obligations of the manufacturer under Article 4 where it places a toy on the market under its name or trademark or modifies a toy already placed on the market in such a way that compliance with the applicable requirements may be affected.

Article 9

Identification of economic operators

Economic operators shall, on request, identify the following to the market surveillance authorities:

- (a) any economic operator who has supplied them with a toy;
- (b) any economic operator to whom they have supplied a toy.

Economic operators shall be able to present the information referred to in the first paragraph for a period of 10 years after the toy has been placed on the market, in the case of the manufacturer, and for a period of 10 years after they have been supplied with the toy, in the case of other economic operators.