

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 III

**CONFORMITY OF TOYS**

*Article 10*

**Essential safety requirements**

1 Member States shall take all measures necessary to ensure that toys may not be placed on the market unless they comply with the essential safety requirements set out, as far as the general safety requirement is concerned, in paragraph 2, and, as far as the particular safety requirements are concerned, in Annex II.

2 Toys, including the chemicals they contain, shall 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.

The ability of the users and, where appropriate, their supervisors shall 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.

Labels affixed in accordance with Article 11(2) and instructions for use which accompany toys shall draw the attention of users or their supervisors to the inherent hazards and risks of harm involved in using the toys, and to the ways of avoiding such hazards and risks.

3 Toys placed on the market shall comply with the essential safety requirements during their foreseeable and normal period of use.

*Article 11*

**Warnings**

1 Where appropriate for safe use, warnings made for the purposes of Article 10(2) shall specify appropriate user limitations in accordance with Part A of Annex V.

As regards the categories of toy listed in Part B of Annex V, the warnings set out therein shall be used. The warnings set out in points 2 to 10 of Part B of Annex V shall be used as worded therein.

Toys shall not bear one or more of the specific warnings set out in Part B of Annex V where that warning conflicts with the intended use of the toy, as determined by virtue of its function, dimension and characteristics.

2 The manufacturer shall mark the warnings in a clearly visible, easily legible and understandable and accurate manner on the toy, on an affixed label or on the packaging and, if appropriate, on the instructions for use which accompany the toy. Small toys which are sold without packaging shall have appropriate warnings affixed to them.

The warnings shall be preceded by the words ‘Warning’ or ‘Warnings’, as the case may be.

Warnings which determine the decision to purchase the toy, such as those specifying the minimum and maximum ages for users and the other applicable warnings set out in Annex V, shall appear on the consumer packaging or be otherwise clearly visible to the consumer before the purchase, including in cases where the purchase is made on-line.

3 In accordance with Article 4(7), a Member State may, within its territory, stipulate that those warnings and the safety instructions shall be written in a language or languages easily understood by consumers, as determined by that Member State.

#### *Article 12*

### **Free movement**

Members States shall not impede the making available on the market in their territory of toys which comply with this Directive.

#### *Article 13*

### **Presumption of conformity**

Toys which are in conformity with harmonised standards or parts thereof, the references of which have been published in the *Official Journal of the European Union*, shall be presumed to be in conformity with the requirements covered by those standards or parts thereof set out in Article 10 and Annex II.

#### *Article 14*

### **Formal objection to a harmonised standard**

1 When a Member State or the Commission considers that a harmonised standard does not entirely satisfy the requirements which it covers and which are set out in Article 10 and Annex II, the Commission or the Member State concerned shall bring the matter before the Committee set up by Article 5 of Directive 98/34/EC, giving its arguments. The Committee shall, having consulted the relevant European standardisation bodies, deliver its opinion without delay.

2 In the light of the Committee's opinion, the Commission shall decide to publish, not to publish, to publish with restriction, to maintain, to maintain with restriction or to withdraw the references to the harmonised standard concerned in or from the *Official Journal of the European Union*.

3 The Commission shall inform the European standardisation body concerned and, if necessary, request the revision of the harmonised standards concerned.

### *Article 15*

#### **EC declaration of conformity**

1 The EC declaration of conformity shall state that the fulfilment of the requirements set out in Article 10 and Annex II has been demonstrated.

2 The EC declaration of conformity shall as a minimum contain the elements specified in Annex III to this Directive and the relevant modules set out in Annex II to Decision No 768/2008/EC and shall be continuously updated. It shall have the model structure set out in Annex III to this Directive. It shall be translated into the language or languages required by the Member State in whose market the toy is placed or made available.

3 By drawing up the EC declaration of conformity, the manufacturer shall assume responsibility for the compliance of the toy.

### *Article 16*

#### **General principles of the CE marking**

1 Toys made available on the market shall bear the CE marking.

2 The CE marking shall be subject to the general principles set out in Article 30 of Regulation (EC) No 765/2008.

3 Member States shall presume that toys bearing the CE marking comply with this Directive.

4 Toys not bearing a CE marking or which do not otherwise comply with this Directive may be shown and used at trade fairs and exhibitions, provided that they are accompanied by a sign which clearly indicates that they do not comply with this Directive and that they will not be made available in the Community before being brought into conformity.

### *Article 17*

#### **Rules and conditions for affixing the CE marking**

1 The CE marking shall be affixed visibly, legibly and indelibly to the toy, to an affixed label or to the packaging. In the case of small toys and toys consisting of small parts, the CE marking may alternatively be affixed to a label or an accompanying leaflet. Where, in the case of toys sold in counter displays, that is not technically possible, and on condition that the counter display was originally used as packaging for the toy, the CE marking may be affixed to the counter display.

Where the CE marking is not visible from outside the packaging, if any, it shall as a minimum be affixed to the packaging.

2 The CE marking shall be affixed before the toy is placed on the market. It may be followed by a pictogram or any other mark indicating a special risk or use.