
STATUTORY INSTRUMENTS

1989 No. 1275

The Toys (Safety) Regulations 1989

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Toys (Safety) Regulations 1989.

(2) Paragraph (1) and this paragraph of this regulation and regulations 3, 7 and 8 below shall come into force on 1st September 1989 and the remaining provisions of these Regulations shall come into force on 1st January 1990.

(3) The Toys (Safety) Regulations 1974(1) are hereby revoked provided that those Regulations shall continue to apply to toys to which these Regulations do not apply by virtue of regulation 2(1) and (2) below.

(4) The Toys (Safety) Regulations (Northern Ireland) 1975(2) are hereby revoked provided that those Regulations shall continue to apply to toys to which these Regulations do not apply by virtue of regulation 2(1) and (2) below.

Application of Regulations

2.—(1) Subject to paragraph (2) below, these Regulations do not apply to any toy which was supplied for the first time in the Community before 1st January 1990 and which does not bear the EC mark.

(2) As from 1st February 1992 these Regulations 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 EC mark.

(3) Regulation 12 below does 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.

(4) The Pencils and Graphic Instruments (Safety) Regulations 1974(3) and the Pencils and Graphic Instruments (Safety) Regulations (Northern Ireland) 1975(4) 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;

“the Community” means the European Economic Community;

(1) S.I.1974/1367.

(2) S.R. (N.I.) 1975 No. 290.

(3) S.I. 1974/226.

(4) S.R. (N.I.) 1975 No. 49.

“the Directive” means Council Directive [88/378/EEC](#) on the approximation of the laws of the member States concerning the safety of toys⁽⁵⁾;

“EC mark” means the EC mark of conformity referred to in regulation 9 consisting of the symbol “CE” of which a form is shown for purposes of illustration in Schedule 1;

“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;

“essential safety requirements” means the requirements in Annex II of the 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⁽⁶⁾;

“relevant national standard” means a standard which is applicable to the toy in question and of which the reference number is published—

- (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;

“safe”, in relation to toys which 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, has the same meaning as in section 19(1) of the 1987 Act;

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

“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.

(2) “Approved body” in regulation 8 (except “approved bodies” in paragraph (5) of that regulation) means a body approved by the Secretary of State pursuant to regulation 7 and elsewhere in these Regulations (including the above-mentioned reference in regulation 8(5)) means a body so approved or one approved by another member State of the Community for the purposes of the 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.

Requirement for toys to satisfy the essential safety requirements

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

Toys bearing the EC mark denoting conformity with relevant national standards

5. Any toy supplied for the first time in the Community on or after 1st January 1990 which bears the EC mark denoting conformity with the relevant national standards where those standards relate to all matters covered by the essential safety requirements applicable to the toy shall be taken to satisfy the requirement in regulation 4, unless there are reasonable grounds for suspecting that the toy does not satisfy that requirement.

(5) OJNo. L187, 16.7.88, p. 1.

(6) OJ No. L109, 26.4.83, p. 8.

Toys bearing the EC mark denoting conformity with an approved model

6. Any toy supplied for the first time in the Community on or after 1st January 1990 which has not been manufactured, or which has been manufactured only partly, in conformity with the relevant national standards 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 shall be taken to satisfy the requirement in regulation 4 if an EC type-examination certificate is in force in respect of a model of the toy and if the toy bears the EC mark denoting conformity with that model, unless there are reasonable grounds for suspecting that the toy does not satisfy that requirement.

Approved bodies

7.—(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

8.—(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 be safe; 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 of the

Community 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.

EC mark and other information on or accompanying toys

9.—(1) Subject to paragraph (2) below, there shall be put on every toy to which these Regulations apply, or on the packaging of the toy, the EC mark by which—

- (a) where the toy has been manufactured in accordance with the relevant national standards and those standards relate to all the matters covered by the essential safety requirements applicable to the toy, the manufacturer or his authorised representative established in the Community confirms that 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,

the manufacturer or his authorised representative established in the Community confirms that the toy conforms with a model in respect of which an EC type-examination certificate is in force,

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) In the case of a small toy or a toy consisting of small parts the information (including the EC mark) mentioned in paragraph (1) above may appear instead of as provided in paragraph (1) above 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.
- (3) Where the information (including the EC mark) 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.
- (4) Any of the information mentioned in paragraph (1) above, other than the EC mark, may be abbreviated provided that the abbreviation enables such manufacturer, authorised representative or importer as is mentioned in that paragraph to be identified.
- (5) Information shall not be given in connection with a toy by means of a misleading mark or inscription or otherwise which is likely to be confused with the EC mark.
- (6) Toys shall be accompanied by the appropriate warnings and indications of precautions to be taken during use contained in Annex IV of the Directive which is set out in Schedule 4.
- (7) It shall not be a sufficient compliance with paragraph (6) above to give information in a language other than English.

Requirement to keep available and give information about toys which bear the EC mark

10.—(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 EC mark denoting conformity with the relevant national standards 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 at 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 EC mark denoting conformity 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 at a reasonable time—

- (a) a detailed description of manufacture;
- (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 EC mark

11. A person who supplies a toy which does not bear the EC mark 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 at a reasonable time.

Prohibition on supply

12. No person shall supply any toy in respect of which any of the requirements of regulation 4 or 9 is not satisfied.

Duties of enforcement authorities

13. 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

14. 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

15.—(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 10(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.

25th July 1989

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