

# Toys: How to Manufacture, Design and Supply Toys Safely - Compliance and Enforcement of Labelling and Packaging of Toys under the Law

Manufacturers, importers and distributors of toys in the UK must ensure that their products **comply** with the laws of the European Union (“EU”) and the United Kingdom (“UK”) before making toys available on the EU market. The **manufacture, design, supply, labelling and packaging** of **toys** are heavily regulated by the **Toy Safety Directive 2009/48/EC** (“Directive”) which was implemented in the UK by the **Toys (Safety) Regulations 2011** (“Regulation”). The Directive lays down rules on the **safety of toys** and on their free movement in the EU. Each operator in the supply chain has a **specific role** to play under the Directive and must comply.

*The manufacturer must ensure that the toy has been designed and manufactured to comply with the essential safety requirements during its foreseeable and normal period of use.*

Toys and the **chemicals** they contain must not cause any damage or injury to the health or safety of children or users of those toys. Therefore, all toys which are sold within the UK are required to meet the requirements of the Directive as implemented by the Regulation, and must be **CE marked**.

In this article we refer to the provisions of the Regulation and the Directive where applicable.

## Definition of Toys

Under the Directive, **‘toys’ are defined** as:

*...Products designed or intended, whether or not exclusively, for use in play by children under 14 years of age...*

The following are **not classed** as toys under the Directive and are excluded from the Directive:

- **Playground equipment** intended for public use;
- Automatic **playing machines**, whether coin operated or not, intended for public use;
- **Toy vehicles equipped with combustion engines**;
- **Toy steam engines**;
- **Slings and catapults**;
- **Decorative objects** for festivities and celebrations;

- **Products for collectors**, provided that the product or its packaging bears a visible and legible indication that it is intended for collectors of 14 years of age and above. Examples of this category are:
  - Detailed and faithful **scale models**;
  - Kits for the assembly of detailed scale models;
  - **Folk dolls and decorative dolls** and other similar articles;
  - Historical **replicas of toys**;
  - **Reproductions of real fire arms**;
  
- **Sports equipment**, including roller skates, inline skates, and skateboards intended for children with a body mass of more than 20kg;
  
- **Bicycles** with a maximum saddle height of more than 435mm, measured as the vertical distance from the ground to the top of the seat surface, with the seat in a horizontal position and with the seat pillar set to the minimum insertion mark;
  
- **Scooters and other means of transport designed for sport** or which are intended to be used for travel on public roads or public pathways;
  
- **Electrically driven vehicles** which are intended to be used for travel on public roads, public pathways, or the pavement thereof;
  
- **Aquatic equipment** intended to be used in deep water, and swimming learning devices for children, such as swim seats and swimming aids;
  
- **Puzzles** with more than **500 pieces**;
  
- **Guns and pistols using compressed gas**, with the exception of water guns and water pistols, and bows for archery over 120 cm long;
  
- **Fireworks**, including percussion caps which are not specifically designed for toys;
  
- **Products and games using sharp-pointed missiles**, such as sets of darts with metallic points;
  
- **Functional educational products**, such as electric ovens, irons or other functional products operated at a nominal voltage exceeding 24 volts which are sold exclusively for teaching purposes under adult supervision;
  
- **Products intended for use for educational purposes in schools** and other pedagogical contexts under the surveillance of an adult instructor, such as science equipment;
  
- **Electronic equipment**, such as personal computers and game consoles, used to access interactive software and their associated peripherals, unless the electronic equipment or the associated peripherals are specifically designed for and targeted at children and have a play value on their own, such as specially designed personal computers, key boards, joy sticks or steering wheels;
  
- **Interactive software**, intended for leisure and entertainment, such as computer games, and their storage media, such as CDs;

- Babies' soothers;
- Child-appealing luminaires;
- Electrical transformers for toys;
- Fashion accessories for children which are not for use in play.

The definition is vague. The UK government has given some guidance in determining whether a product falls within the scope of the Directive:

- *Not all items sold in a toy shop will fall within the definition of a toy;*
- *Packaging of the item should not on its own be taken as conclusive;*
- *Not all items intended for use by children will be toys;*
- *Items which are intended for very young children which the manufacturer considers could not be 'used in play' by them could be 'used in play' by their older siblings;*
- *An item may be a toy as well as having another function;*
- *Any label or statement on, or with, an item indicating that it is not a toy, or is not intended for anyone under 14 years, would not necessarily be regarded as conclusive by enforcement authorities.*

## Placing a Toy on the Market

Under the Directive, certain terms are defined as follows:

'**Making available on the market**' means any supply of a toy for distribution, consumption or use on the EU market in the course of a commercial activity, whether in return for payment or free of charge.

'**Placing on the market**' means the first making available of a toy on the EU market.

'**Manufacturer**' means any natural or legal person who manufactures a toy or has a toy designed or manufactured, and markets that toy under his name or trademark.

'**Importer**' means any natural or legal person established within the EU who places a toy from a third country on the EU market.

'**Distributor**' means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a toy available on the market.

'**Economic operators**' means the manufacturer, the authorised representative, the importer and the distributor.

**Section 10** of the **Regulation** places the **prohibition on placing toys on the market** in the UK:

### **Prohibitions on placing toys on the market**

- 10.-(1) A manufacturer **must not place** a toy on the market unless it will comply with the essential safety requirements during its foreseeable and normal period of use.
- (2) A manufacturer must not place a toy on the market without having complied with—

- (a) regulation 11 (design and manufacture of toys in accordance with essential safety requirements);
- (b) regulation 12 (safety assessment);
- (c) regulation 13 (applicable conformity assessment procedures);
- (d) regulations 15 (EC declaration of conformity and CE marking);
- (e) regulation 17(1) to (3) (drawing up of technical documentation);
- (f) regulation 19 (information identifying toy and manufacturer);
- (g) regulation 20 (instructions for use, safety information and warnings); and
- (h) regulation 21 (compliance procedures for series production).

There are similar provisions under the Directive applying to importers.

### **Monitoring of toys**

Under section 23 of the **Regulation**, the manufacturer should conduct sample testing and monitoring and have procedures in place to comply with recalls and to deal with complaints by having a complaints register:

23. (1) *The manufacturer must take such of the following actions in relation to a toy as the manufacturer considers appropriate for the purpose of protecting the health and safety of consumers, taking into account any **risk presented by the toy**.*
- (2) *The actions are–*
- (a) *carrying out sample testing of marketed toys;*
  - (b) *investigating any complaint made in relation to the toy;*
  - (c) *keeping a register of–*
    - (i) *any such complaints;*
    - (ii) *any toy in relation to which any provision of these Regulations has not been complied with; and*
    - (iii) *any toy which has been recalled; and*
  - (d) *keeping distributors informed of any action taken by the manufacturer in accordance with sub-paragraph (a), (b) or (c).*

### **Non-compliant toys and toys presenting a risk**

Section 24 of the Regulation, sets out the steps that a manufacturer has to take to address any non-compliance:

- 24.–(1) *Where a manufacturer has placed a toy on the market and has reason to believe that any provision of these Regulations has not in fact been complied with by the manufacturer in relation to the toy, the manufacturer must immediately–*
- (a) **take the corrective measures** *which are necessary to ensure that the provision is complied with in relation to the toy, or withdraw or recall the toy, if appropriate; and*
  - (b) *where the toy presents a risk, provide the relevant enforcement authority with information about the following matters.*
- (2) *The matters are–*
- (a) *the risk presented by the toy;*
  - (b) *the non-compliance in question; and*
  - (c) *any corrective measures taken in accordance with paragraph (1)(a).*
- (3) *An enforcement authority may request a manufacturer who has placed a toy on the market to cooperate with it in relation to any action taken or to be taken to eliminate any risk posed by the toy.*
- (4) *The request must be accompanied by the reasons for making the request*

*(5) The manufacturer must comply with the request.*

### **Manufacturer's Authorised Representative**

A manufacturer may, by a **written mandate**, appoint a person established within the EU as the manufacturer's authorised representative to act on the manufacturer's behalf in relation to specified tasks in relation to a toy.

A manufacturer who has appointed an authorised representative to **perform an obligation** on behalf of the manufacturer's under the Regulations **remains responsible for the proper performance of that obligation**.

### **Key Obligations**

The key obligations of manufacturers, importers and/or suppliers of toys include:

- Creating and keeping a **Technical File**;
- Producing a **Declaration of Conformity**; and
- **Affixing a CE mark** to the toys.

It should be noted that all toys that fall within its scope of the Directive irrespective of whether they are sold or given away, new or second-hand will be caught by the Directive or the Regulation in the case of the UK. Therefore, all manufacturers, importers or distributors of toys will be liable under the law. There is an **exception** under the Directive for **trade fairs and exhibitions**:

#### **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*

Usually, the CE marking that has to be **affixed to the toys** would be achieved by the **manufacturer** of the toys who would be responsible for **non-compliance**. Where the toys are manufactured outside of the EU, the responsibility would lie with the **importer** or **distributor** for any **non-compliance**.

There are rules governing the **affixing of the CE marking**:

- The CE marking must be affixed visibly, legibly and indelibly to the toy.
- In certain circumstances, the CE marking may be affixed to a counter display.
- Where the CE marking is not visible from outside the packaging, it shall as a minimum be affixed to the packaging.

### **Responsibilities of Manufacturer, Importer and Distributor in the Supply Chain**

Any **economic operator** that either **places a toy on the market** under **its own name or trademark**

or modifies a toy in such a way that compliance with applicable requirements may be affected should be considered to be the **manufacturer** and should **assume the obligations of the manufacturer**.

<p><b>Manufacturer</b></p>	<p>Conformity assessment</p>	<p>The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the complete conformity assessment procedure for toys. Conformity assessment should therefore remain the obligation of the manufacturer alone.</p>
<p><b>Importers and Manufacturers</b></p>	<p><b>Assessment and Conformity Procedures:</b> For toys from imported outside the EU into the EU</p>	<p>It is necessary to ensure that toys from third countries entering the Community market comply with all applicable EU requirements, and in particular that appropriate <b>assessment procedures have been carried out by manufacturers with regard to those toys</b>.</p> <p>Provision should therefore be made for importers to make sure that the toys they place on the market comply with the applicable requirements and that they do not place on the market toys which do not comply with such requirements or which <b>present a risk</b>.</p> <p>For the same reason, provision should also be made for importers to make sure that:</p> <ul style="list-style-type: none"> <li>■ <b>Conformity assessment procedures</b> have been carried out;</li> <li>■ <b>Product marking and documentation drawn up by manufacturers are available</b> for inspection by the supervisory authorities.</li> </ul>

<p><b>Importers</b></p>	<p>Contact details.</p>	<p>When placing a toy on the market, importers should indicate on the toy their name and the address at which they can be contacted. Exceptions would apply where the size or nature of the toy does not allow for such an indication.</p> <p>This includes cases where importers would have to open the packaging to put their name and address on the product.</p>
<p><b>Distributors</b></p>	<p>Act with due care.</p>	<p>Where distributors make toys available on the market after the toys have been placed on the market by the manufacturers or the importers, it should act with due care to ensure that their handling of the toys do not adversely affect the compliance of the toys.</p> <p>Both importers and distributors are expected to act with due care in relation to the requirements applicable when placing or making toys available on the market.</p>

## Obligations of Manufacturers

The Directive imposes a number of obligations on manufacturers (“Article 4”), as follows:

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 risk, manufacturers 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. 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.*

## Obligations of Importers

Importers must only place compliant toys on the EU market. Before placing a toy on the market, importers must ensure that:

- The appropriate conformity assessment procedure has been carried out by the manufacturer;
- The manufacturer has drawn up the technical documentation;
- The toy bears the required conformity marking and is accompanied by the required documents;
- They 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 toy is accompanied by instructions and safety information;
- While a toy is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements under the Directive;
- With regard to the **risks** presented by a toy, 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
  - Keep **distributors informed** of such monitoring.
- 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;
- Where such importers consider or have reason to believe that a toy which they have placed on the market is not in conformity with the relevant EU laws, 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 Trading Standards in the UK, giving details, in particular, of the non-compliance and of any corrective measures taken;
- 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;
- Further to a reasoned request from Trading Standards provide them with all the information and documentation necessary to demonstrate the conformity of the toy;
- The manufacturer has complied with the other requirements of the Directive.

## Obligations of Distributors

When **making a toy available on the market**, distributors must act with due care in relation to the applicable requirements. Before making a toy available on the market, distributors must:

- Verify that the toy bears the required conformity marking;
- That the toy is accompanied by the required documents;
- Ensure that they are instructions and safety information are available;

Where a distributor considers or has reason to believe that a toy is not in conformity with the requirements of the Directive, 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 accordingly.

Distributors shall ensure that, while a toy is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements the Directive.

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 EU laws must ensure 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 Trading Standards, giving details, in particular, of the non-compliance and of any corrective measures taken.

Distributors shall, further to a reasoned request from a competent national authority, provide that authority with all the information and documentation necessary to demonstrate **Cases in which obligations of manufacturers apply to importers and distributors.**

## Chemicals

The Directive places a limit on the **amount of chemicals** that may be contained in materials used for toys. The criteria will be applied until 31 May 2015 for classifying substances.

### *Substances*

The substance fulfills the criteria for specific **hazard classes or categories** as set out in Annex I of Regulation (EC) No 1272/2008.

### *Mixtures*

A mixture will be dangerous as defined in Directive 67/548/EEC. The criteria for specific hazard classes or categories will be applied from 1 June 2015:

The **substance or mixture** fulfills the criteria for any of the following hazard classes or categories set out in Annex I of Regulation (EC) No 1272/2008:

- Hazard classes 2.1 to 2.4, 2.6 and 2.7, 2.8 types A and B, 2.9, 2.10, 2.12, 2.13 categories 1 and 2, 2.14 categories 1 and 2, 2.15 types A to F;
- Hazard classes 3.1 to 3.6, 3.7 adverse effects on sexual function and fertility or on development, 3.8 effects other than narcotic effects, 3.9 and 3.10;
- Hazard class 4.1;
- Hazard class 5.1.

From 31 May 2015, the relevant concentrations for the classification of mixtures containing the substances must be in accordance with Directive 1999/45/EC.

From 1 June 2015, the relevant concentrations for the classification of mixtures containing the substances shall be those established in accordance with Regulation (EC) No 1272/2008.

For **categories of substances and mixtures classified as carcinogenic, mutagenic or toxic for reproduction (CMR)** it should be noted that:

*...Chemicals that are susceptible to provoke cancer, change genetic information or harm reproduction* i.e. **Carcinogenic, Mutagenic or toxic for Reproduction substances**, are no longer allowed in accessible parts of toys:

- In the case of certain substances like **nickel**, tolerable limits have been introduced. In cases such as heavy metals and lead, they may **no longer be intentionally used** in those parts of toys that are accessible to children.
- Allergenic fragrances are **forbidden**:
  - If they are known to have a **strong allergenic potential**;
  - If they have to be **labelled on the toy**; or
  - If they are known to be **potentially allergenic** for some consumers.

## Safety

Manufacturers must have a **traceability system** in place for the toy throughout the whole supply chain.

Manufacturers must ensure that a toy is accompanied by such **instructions** for use and safety information as is appropriate. To meet the **safety standard** laid down by the Directive, manufacturers have two options:

- Manufacture toys in accordance with the **harmonised standards** - manufacturers may **self-certify**; or
- Allow a notified body to **type tests** the toys.

There are further obligations on the manufacturer:

- Make a **declaration of conformity**;
- Affix the **CE mark** to the product;
- Maintain a **technical file** comprising information about the toys<sup>1</sup>;
- Adopt standard operating procedures to ensure production of the toys remain in conformity;
- Where appropriate conduct sample testing;
- Maintain a register of complaints of non-conforming toys (where appropriate);

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<sup>1</sup>The Technical has to be kept for a period of 10 years after the toy has been placed on the market in the EU

The **technical documentation** must contain all relevant data or details of the means used by the manufacturer to ensure that toys comply with the requirements of the Regulation.

## Safety Assessments

Manufacturers must carry out an **analysis** of the **chemical, physical, mechanical, electrical, flammability, hygiene** and **radioactivity hazards** that the toy may present, before placing a toy on the market, as well as an **assessment of the potential exposure** to such hazards.

The EC-type examination certificate shall be withdrawn if the **toy fails to comply** with the requirements set out in the Directive.

## Warnings

Toys must bear the appropriate **warnings**. 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.

### *General warnings*

There are **minimum warnings** laid down by the Directive such as the minimum or maximum age of the user.

### *Toys not intended for use by children under 36 months*

Toys which might be dangerous for children under 36 months of age must bear a warning such as **'Not suitable for children under 36 months'** or 'Not suitable for children under three years' or a warning in the form of the following graphic:



These warnings shall be accompanied by a brief indication, which may appear in the instructions for use, of the specific hazard calling for this precaution, where applicable. The following toys must bear certain warnings:

- Activity toys;
- Functional toys;
- Chemical toys;
- Skates, roller skates, inline skates, skateboards, scooters;

- Aquatic toys;
- Toys in food;
- Imitations of protective masks and helmets;
- Toys intended to be strung across a cradle, cot or perambulator by means of strings, cords, elastics or straps;
- Packaging for fragrances in olfactory board games, cosmetic kits and gustative games

Under Annex III of the Directive, an **EC Declaration of Conformity** must include:

- *No ... (unique identification of the toy(s))*
- *Name and address of the manufacturer or his authorised representative:*
- *This declaration of conformity is issued under the sole responsibility of the manufacturer:*
- *Object of the declaration (identification of toy allowing traceability). It shall include a colour image of sufficient clarity to enable the identification of the toy.*
- *The object of the declaration described in point 4 is in conformity with the relevant Community harmonisation legislation:*
- *References to the relevant harmonised standards used, or references to the specifications in relation to which conformity is declared:*
- *Where applicable: the notified body ... (name, number) ... performed ... (description of intervention) ... and issued the certificate:*
- *Additional information: Signed for and on behalf of: (place and date of issue) (name, function)(signature)*

Under Annex IV of the Directive the **technical documentation** must comprise:

- *a detailed description of the design and manufacture, including a list of components and materials used in the toy as well as the safety data sheets on chemicals used, to be obtained from the chemical suppliers;*
- *the safety assessment(s) carried out in accordance with Article 18;*
- *a description of the conformity assessment procedure followed;*
- *a copy of the EC declaration of conformity;*
- *the addresses of the places of manufacture and storage;*
- *copies of documents that the manufacturer has submitted to a notified body, if involved;*
- *test reports and description of the means whereby the manufacturer ensured conformity of production with the harmonised standards, if the manufacturer followed the internal production control procedure referred to in Article 19(2); and*
- *a copy of the EC-type examination certificate, a description of the means whereby the manufacturer ensured conformity of the production with the product type as described in the EC-type examination certificate, and copies of the documents that the manufacturer submitted to the notified body, if the manufacturer submitted the toy to EC-type examination and followed the conformity to type procedure referred to in Article 19(3).*

## Properties

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.

Accessible edges, protrusions, cords, cables and fastenings on toys must be designed and manufactured in such a way that the risks of physical injury from contact with them are reduced as far as possible.

Toys must be designed and manufactured in such a way as not to present any risk or only the minimum risk inherent to their use which could be caused by the movement of their parts.

Toys and their parts:

- **Must Not** present a risk of strangulation;
- **Must Not** pose a risk of asphyxiation by closing off the flow of air as a result of airway obstruction external to the mouth and nose;
- Must be of such dimensions to prevent a risk of asphyxiation;
- Clearly intended for use by children under 36 months, and their component parts and any of their detachable parts must be of such dimensions as to prevent their being swallowed or inhaled. This also applies to other toys which are intended to be put in the mouth, and to their component parts and any of their detachable parts;
- Packaging in which toys are contained for retail sale must not present a risk of strangulation or asphyxiation;
- Contained within food or co-mingled with food must have their own packaging;
- Toys must not constitute a dangerous flammable element in the child's environment. They must therefore be composed of materials which fulfill one or more of the following conditions:
  - They do not burn if directly exposed to a flame or spark or other potential source of fire;
  - they are not readily flammable (the flame goes out as soon as the fire cause disappears);
  - If they do ignite, they burn slowly and present a low rate of spread of the flame;
  - Irrespective of the toy's chemical composition, they are designed so as to mechanically delay the combustion process.

- Toys and, in particular, chemical games and toys, must not contain as such substances or mixtures:
  - Which, when mixed together, may explode through chemical reaction or through heating; or
  - Which could explode when mixed with certain oxidising substances.

### *Chemical Properties*

Toys must be **designed and manufactured** in such a way that they pose no risks of adverse effects on human health due to exposure to the chemical substances or mixtures of which the toys are composed or which they contain when the toys are used.

Toys that are themselves **substances or mixtures** must comply with the classification, packaging and labelling of dangerous substances; the classification, packaging and labelling of dangerous preparations and the **classification, labelling and packaging** of substances and mixtures.

Toys shall not contain certain **allergenic fragrances**. However, the presence of traces of these fragrances shall be allowed provided that such presence is technically unavoidable under good manufacturing practice and does not exceed 100 mg/kg.

### **Classification, Labelling and Packaging**

There are a number of labelling requirements for toys including:

- The **name and address** of the manufacturer/importer;
- The **type, batch, model** or serial number;
- The CE mark (there has to be compliance with the affixing of CE marking as laid down by the Directive);
- **Warnings**; and
- **Instructions**.

Toys that are **second hand do not need to be labelled with the CE mark** or the address of the manufacturer or distributor, but they must still be safe. Special warnings and instructions are required for both second hand and new toys.

### *Essential safety requirements*

The essential safety requirements are concerned with issues such as labelling to provide **traceability** to the manufacturer, safety warnings, the construction of the toys to avoid hazards such as sharp edges, hot parts, risks of entrapment etc., and the avoidance of toxic substances such as heavy metals, harmful chemicals and allergenic fragrances.

## Non Compliance

The following will be treated as non-compliance that:

- The CE marking has not been affixed;
- The EC declaration of conformity has not been drawn up;
- The EC declaration of conformity has not been drawn up correctly; or
- Technical documentation is either not available or not complete.

Where the non-compliance is persistent, the appropriate measures will be taken to restrict or prohibit the toy being made available on the market, or shall ensure that it is **recalled** or **withdrawn** from the market.

## Penalties

Trading Standards in the UK can:

- **Prohibit** or **restrict** a toy from being made available on the market;
- **Withdraw** a toy;
- **Recall** a toy; or
- Commence proceedings.

No proceedings shall be brought more than three years after the commission of the offence.

## Enforcement action in cases of formal non-compliance

Trading Standards in the UK may serve a compliance notice on an economic operator if it finds that a non-compliance of any of the following types has occurred in relation to a toy:

- **No CE marking** has been affixed;
- A CE marking has been affixed but there has been **other contraventions**;
- The manufacturer has **not drawn up an EC declaration of conformity**;
- The manufacturer has drawn up an EC declaration of conformity but the **declaration does not comply with certain provision of the Regulation**; or
- The **technical documentation is unavailable or incomplete**.

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