

The Toys (Safety) Regulations 1881 2011

Guide to the BTHA Guides



Primary Authority Assurance



Milton Keynes Council has assured BTHA guidance as 'primary authority advice'

The level of assurance that this document can give individual members is detailed below

1. BTHA Coordinated Primary Authority Partnership

British Toy and Hobby Association members who are included within the 'regulatory group', as decided by the BTHA, will be able to legally rely on primary authority advice issued by Milton Keynes Council via BTHA.

This primary authority advice will be tailored to the collective needs and circumstances of the businesses that will be eligible to receive it.

Any proposed enforcement action in the UK against any of the BTHA members within the 'regulatory group' that is inconstant with this BTHA Primary Authority assured advice, will be "directed against". This means that Milton Keynes Primary Authority may direct an enforcing authority not to take proposed enforcement action (thereby blocking the enforcement action) where such action is inconsistent with primary authority advice.

Full members of the BTHA are all invited by BTHA to join the primary authority 'regulatory group' but can opt out of the scheme if they choose to.

2. Direct Primary Authority partnerships

British Toy and Hobby Association members who are part of the 'regulatory group' under the coordinated primary authority arrangement with Milton Keynes Council CAN also have a direct primary authority partnership with Milton Keynes Council or another local authority of their choice.

BTHA members who are included in the coordinated primary authority scheme, and who also have a direct primary authority partnership, are able to enjoy the benefits of legally relying on the BTHA Primary Authority assured advice and can also obtain other primary authority assured advice tailored to their individual business needs and circumstances.

They will have control over any questions and requests for advice at their own cost.

3. No Primary Authority Partnership

BTHA Full members can chose to opt out of being a member of the scheme by confirming annually or contacting admin@btha.co.uk at any time. In some cases these companies may not have a primary authority partnership with Milton Keynes or any other Council.

Such members can use the guidance with the knowledge that it is BTHA assured guidance however as the members are not in a Primary Authority partnership they cannot legally rely on this guidance.

Further details regarding the Primary Authority agreements can be obtained from the BTHA.

LEGAL NOTICE

This document contains guidance only.

It is intended to explain obligations and how to fulfil them. However, readers are reminded that the text of the original regulation, directive or standard is the only authentic legal reference and that the information in this document does not constitute legal advice.

The British Toy and Hobby Association does not accept any liability with regard to the contents of this document.

Amendments to Toys (Safety) Regulations 2011 No. 1881 covered by this guide

SA No 696 2019

SA No 1246 2019

SA No 202 2019

SA No 676 2020

SA No 1112 2020

SA No 864 2020.

SA No 852 2020

Record of Amendments

Version	Date	Amendment	Section/page affected
1	29 June 2022	First Publication	

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1 Introduction

The original UK Toys (Safety) Regulation enacted the EU Toy Safety Directive 2009/48/EC into UK law. At that time much of the detail remained within the EU Directive and was referred to by the UK Regulations.

Now that the UK has left the EU the Toys (Safety) Regulations 2011 No. 1881 (The Regulations) have been extensively updated to stand alone and now contain the full information from the Directive, EU specific information has been removed and replaced with UK specific steps or processes.

The Regulations now become the sole legislation controlling the safety of toys in the UK. This guide is intended to give comprehensive guidance to BTHA members to ensure they can comply with The Regulations.

This guidance is for the UK Toy Safety Regulations only. Compliance to The Regulations does not ensure compliance to the European Toy Safety Directive or vice versa. Companies wishing to sell their products outside of the UK must refer to other BTHA guidance for that territory.

This document is based on the current understanding of The Regulations and may be subject to change as more information is published by BEIS and UK Enforcement Authorities.

Note that the UK, as a whole, has left the EU, however because of the differences for Northern Ireland, legislation for the UK applies only in Great Britain (GB). Hence different terms may be used at times throughout the guidance.

This guide gives an overview of The Regulations' structure and the other BTHA guides that are available. It is based on the current understanding of the Regulations and may be subject to change as more information is published by BEIS and UK Enforcement Authorities.

2 Overview

This guide gives an overview of The Regulations' structure outlining the Regulations, schedules, articles, annexes, and appendices. At the time of writing the UK Government has not produced the consolidated text of the UK Regulation but has instead issued numerous amendments to the original text. As a result, the BTHA has produced its own version of what should be the final consolidated text and therefore, it is possible that some aspects may need to be updated.

A series of guides have been produced by the BTHA to help members and other stakeholders understand their obligations under The Regulations. The guides have been made as short and simple as possible to be practical for SMEs (Small to Medium Enterprises).

The guides should always be read in conjunction with The Regulations. Other UK Government guides are also available on the gov.uk website.

For every Part, Regulation and Schedule in The Regulations, this guide:

 Where this symbol is shown, users are directed to other BTHA Guidance
Gives guidance where the subject is not contained within the BTHA guides
Indicates the parts of The Regulations that are not of direct concern for toy companies to comply with the Regulations

3 Structure of the Toy Safety Regulations

PART 1 Preliminary		
1	Citation and commencement	Regulations are the Toys (Safety) Regulations 2011 Date they come into force on 19th August 2011
2	Revocation, saving and amendment	Information about revocation of previous regulations
2A	Transitional provision in relation to EU Exit	 Brexit
3	Interpretation	This is a list of definitions – See Appendix 1
3A	Designated Standards	 Conformity Assessments
3B	Annexes to EU legislation as Schedules	This shows the requirements that were once only in the EU Toy Safety Directive and how they now appear in The Regulations.
4	Toys to which these regulations apply	This regulation provides a definition of a toy: <i>Toys are products designed or intended (whether or not exclusively) for use in play by children under 14 years old.</i> It also provides a list of products to which The Regulations do not apply: (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 Schedule 1 of The Regs (a list of products that are not considered toys)
		 Grey Areas
5	Essential Safety Requirements	 Safety Assessments, Conformity Assessments
6	Deleted Clause	
7	Presumption of Conformity	 Conformity Assessments
8	Exception for trade fairs or exhibitions	 Conformity and Traceability Markings
9	Parts 1 and 2 are safety regulations within the meaning of the 1987 Act	Legal terminology

PART 2 Prohibitions and Obligations on Economic Operators

Manufacturers and their Authorised Representatives

10	Prohibitions on placing toys on the market	Manufacturers cannot place a toy on the market without fulfilling their obligations.  Economic Operators
11	Design and manufacture of toys in accordance with Essential Safety Requirements	 Economic Operators, Safety Assessments, Product Monitoring, Conformity of Series Production
12	Safety Assessment	 Safety Assessments
13	Applicable conformity assessment procedures	 Conformity Assessments
14	Application of a Type Approval	
15	Declaration of Conformity and UK marking	 Technical Documentation, Conformity and Traceability Markings
15A	UK(NI) indication	 Conformity and Traceability Markings
15B	Register of Approved Bodies	 Conformity Assessments
16	Declaration of Conformity	 Technical Documentation
17	Technical documentation and correspondence relating to Type Examination	 Conformity Assessments
18	Toys to bear the UK mark	 Conformity and Traceability Markings
19	Information identifying toy and Manufacturer	
20	Instructions for use, safety information and warnings	 Warnings and Instructions
21	Compliance procedures for series production	 Conformity of Series Production
22	Submission of Type Examination certificate for review	 Conformity Assessments
23	Monitoring of Toys	 Product monitoring, non-compliant toys and toys presenting a risk
24	Non-compliant toys and toys presenting a risk	
25	Manufacturer's Authorised Representative	 Economic Operators

Importers

26	Prohibitions on placing toys on the market	Importers cannot place a product on the market without fulfilling their obligations  Economic Operators
27	Information identifying the Importer	 Conformity and Traceability Markings
28	Storage or transport	 Product monitoring, non-compliant toys and toys presenting a risk
29	Monitoring of toys	
30	Non-compliant toys presenting a risk	
31	Duties to retain and provide information	 Technical Documentation

Distributors

34	Storage or transport of toys under Distributor's responsibility	 Product monitoring, non-compliant toys and toys presenting a risk
35	Non-compliant toys and toys presenting a risk	
36	Duty to provide information	
37	Duty in certain circumstances to comply with Manufacturer's duties in place of Distributor's duties	 Economic Operators

All Economic Operators

38	Identification of Economic Operators to enforcement authorities	 Product monitoring, non-compliant toys and toys presenting a risk
39	Protection of the UK marking	 Conformity and Traceability Markings

39A	Obligations which are met by complying with obligations in the Directive	This lists obligations in The Regulations that are met by compliance with their associated clauses in the Toys Safety Directive. Regulation 39A ceases to have effect at the end of the period of 12 months beginning with IP completion
	Expiry of regulation 39A	
39AB	Qualifying Northern Ireland Goods	This section details the transitional arrangements related to Brexit
		 Brexit Guidance
39B	Power to amend Schedules 1, 2 and 5	This regulation states the parts of The Regulations can be amended: <ul style="list-style-type: none"> • Products that are not toys • The lists of fragrances • The list of substances that have migration limits (generally found in EN71-3) • Hygiene requirements
39C	Power to amend Appendix C to Schedule 2	This regulation states that Appendix C can be amended to add specific values for chemicals used in toys intended for use by children under 36 months or in other toys intended to be placed in the mouth
39D	Power to amend Appendix A to Schedule 2	This regulation states that Appendix A can be amended under certain conditions. Appendix A is a list of CMR substances and their permitted uses.
39E	Duty of the Secretary of State to evaluate use of hazardous substances	This states that the Regulations are to be reviewed every 5 years with regards to the occurrence of hazardous substances in toys and issue a report

Part 3 Approval of Conformity Assessment Bodies

40A	Approved Bodies	<p>This concerns the process whereby Conformity Assessment bodies become bodies. Approved bodies are those that have been approved by the secretary of state to carry out Type Approvals.</p> <p> Conformity Assessments</p>
40B	Approval of Conformity Assessment Bodies	
40C	Presumption of conformity of approved bodies	
40E	Restriction, suspension or withdrawal of approval	
40F	Operational matters in relation to approved bodies	
40G	Subsidiaries and contractors	
40H	Register of approved bodies	
41	UK national accreditation body	

Part 4 Functions of Approved Bodies

42	Duty to perform Type examinations	<p>This concerns approved Bodies. Approved bodies are those that have been approved by the secretary of state to carry out Type Approvals.</p> <p> Conformity Assessments</p>
43	Performance of Type examinations	
44	Issue and content of type examination certificate, and refusal and appeal	
45	Action (after issue of type examination certificate) where a toy fails to comply	
46	Provision of information by approved bodies to other approved bodies	
47	Instructions to approved bodies in relation to type examination certificates	
48	Deleted Clause	
49	Deleted Clause	
50	Charging of fees by an approved body	
51	Provision of information by approved bodies to the Secretary of State	

Part 5 Enforcement

52	Enforcement action in cases of formal non-compliance	 Product monitoring, non-compliant toys and toys presenting a risk
53	Enforcement action in cases of toys presenting a risk	
54	Notification of enforcement action taken in cases of toys presenting a risk	
55	Requirements relating to certain measures taken by enforcement authorities or other persons	
55A	Offence in respect of UK(NI) indication	
56	Commencement of proceedings	
57	Amendment to the General Product Safety Regulations 2005	

Part 6 Review

58	Review	This states that the Regulations are to be reviewed every 5 years and the conclusions set out in a report
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3.1 Schedules

Following the list of regulations, The Regulations include several schedules:

Schedule 1	Products that are not toys	See Appendix 2 of this document and  Grey Area Guide
Schedule 2	Particular Safety Requirements	 Safety Assessments, Conformity Assessments
Schedule 3	Declaration of Conformity	 Technical Documentation
Schedule 4	Technical Documentation	 Technical Documentation
Schedule 5	Warnings	 Markings and Warnings
Schedule 6	Conformity Assessment Procedures	 Conformity Assessments
Schedule 7	Approved Body Requirements	Contains detailed information regarding the requirements to be an Approved Body

3.2 The Regulations Appendixes

Following the schedules there is a list of Appendixes

Appendix A	List of CMR substances and their permitted uses	 Conformity Assessments  Safety Assessments
Appendix B	Classification of Substances and Mixtures	
Appendix C	Classification of Substances and Mixtures	

Appendix 1 Definitions

1987 Act	Consumer Protection Act 1987
Directive	Directive 2009/48/EC of the European Parliament and of the Council of 18th June 2009 on the safety of toys(d); (as it has effect immediately before exit day)
GPSR	General Product Safety Regulations 2005
Approved Body requirements	Has the meaning given to it in regulation 40A (<i>Approved Bodies</i>)
Authorised Representative	A person who has been appointed in accordance with regulation 25(1) (<i>A manufacturer may, by a written mandate, appoint a person established in the United Kingdom as the manufacturer’s authorised representative to act on the manufacturer’s behalf in relation to specified tasks in relation to a toy.</i>)
Conformity Assessment	The process demonstrating whether specified requirements relating to a toy have been fulfilled
Conformity Assessment activities	Activities relating to conformity assessment, including calibration, testing, certification and inspection
Designated Standard	Has the meaning given to it in regulation 3A (<i>Designated Standards</i>)
Distributor	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	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	Physical injury or any other damage to health, including long-term health effects
Hazard	A potential source of harm
Importer	A person who- (a) is established in the United Kingdom and places a toy from a country outside of the United Kingdom on the market, or— (b) is established in Northern Ireland and places a toy on the market that has been that has been supplied to them for distribution, consumption or use in the course of a commercial activity, whether in return for payment or free of charge, from an EEA state

Intended for use by	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	Supply in the course of a commercial activity (whether in return for payment or free of charge) for distribution, consumption or use on the market of Great Britain, and related expressions shall be construed accordingly
Manufacturer	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 set out in Schedule 6 (<i>Conformity assessment procedures</i>) and Module A, B or C is to be construed accordingly
Place on the market	Make a toy available on the market of Great Britain for the first time, and related expressions shall be construed accordingly
RAMS	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
Recall	Take any measure aimed at achieving the return of a toy that has already been made available to the end user
Risk	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 (<i>products designed or intended (whether or not exclusively) for use in play by children under 14 years old.</i>)
UK(NI) indication	The marking in the form set out in Schedule 1 to the Product Safety and Metrology etc. (Amendment etc.) (UK(NI) Indication) (EU Exit) Regulations 2020
UK marking	The marking in the form published in accordance with Article 30(1) of RAMS
UK national accreditation body	The body appointed by the Secretary of State in accordance with Article 4 of RAMs
Withdraw	Take any measure aimed at preventing a toy in the supply chain from being made available on the market

Appendix 2 Products that are not Toys

<p>1. Products listed in paragraphs 2 to 20 are not to be considered as toys.</p>
<p>2. Decorative objects for festivities and celebrations.</p>
<p>3. 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</p> <p>Examples of this category are—</p> <p>(a) detailed and faithful scale models;</p> <p>(b) kits for the assembly of detailed scale models;</p> <p>(c) folk dolls and decorative dolls and other similar articles;</p> <p>(d) historical replicas of toys; and</p> <p>(e) reproductions of real firearms.</p>
<p>4. Sports equipment, including roller skates, inline skates, and skateboards intended for children with a body mass of more than 20 kg.</p>
<p>5. Bicycles with a maximum saddle height of more than 435 mm, 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.</p>
<p>6. Scooters and other means of transport designed for sport or which are intended to be used for travel on public roads or public pathways.</p>
<p>7. Electrically driven vehicles which are intended to be used for travel on public roads, public pathways, or the pavement thereof.</p>
<p>8. Aquatic equipment intended to be used in deep water, and swimming learning devices for children, such as swim seats and swimming aids.</p>
<p>9. Puzzles with more than 500 pieces.</p>
<p>10. Guns and pistols using compressed gas, with the exception of water guns and water pistols, and bows for archery over 120 cm long.</p>
<p>11. Fireworks, including percussion caps which are not specifically designed for toys.</p>
<p>12. Products and games using sharp-pointed missiles, such as sets of darts with metallic points.</p>
<p>13. 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.</p>
<p>14. Products intended for use for educational purposes in schools and other pedagogical contexts under the surveillance of an adult instructor, such as science equipment.</p>

15. 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, keyboards, joy sticks or steering wheels.

16. Interactive software, intended for leisure and entertainment, such as computer games, and their storage media, such as compact disks.

17. Babies' soothers.

18. Child-appealing luminaires.

19. Electrical transformers for toys.

20. Fashion accessories for children which are not for use in play.