

Product Risk Radar

Toy Safety Directive / Regulation

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What is the Toy Safety Directive 2009/48/EC and the European Commission's proposed Toy Safety Regulation?

The Toy Safety Directive (“**TSD**”) is intended to provide a common standard for the safety of toys throughout the whole of the EEA, and outlines various provisions that toy products must comply with (including, mechanical and physical safety, flammability, and, in particular, concentration limits for chemical substances in the accessible parts of toys). Owing to several shortcomings identified by the European Commission (“**EC**”), on 5 October 2021, the EC commenced a review of the existing TSD entitled “Protecting children from unsafe toys and strengthening the Single Market – revision of the Toy Safety Directive”. On 28 July 2023, the EC published its **legislative proposal** to revise the existing TSD. Most significantly, the EC has proposed to convert the existing TSD into a new Toy Safety Regulation (“**TSR**”).

Proposals for a Toy Safety Regulation

The Commission's evaluation of the TSD identified several shortcomings that could compromise the health and safety of children, in particular, where chemicals are concerned. The evaluation also noted that market surveillance remained particularly challenging, especially for online sales and found that the transposition into national law by Member States of the regular amendments to the TSD for chemical requirements was not always satisfactory.

If the TSR is adopted, as a regulation it would be directly applicable across the EU without the need for Member States to implement the requirements.

The key proposals of the Commission's TSR are to:

- Introduce more stringent rules on harmful substances. The proposal maintains the current prohibition of substances that are carcinogenic, mutagenic or toxic for reproduction and proposes to extend this prohibition to the use of other harmful chemicals in toys.
- Expand Article 10 of the TSD to introduce a “general safety requirement”, which includes children's psychological and mental health, wellbeing, and cognitive development.

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- Require that batteries in toys comply with other applicable EU rules, including the forthcoming Batteries Regulation (which is anticipated to replace the Regulation on registration, evaluation, authorisation, and restriction of chemicals (REACH) and the Batteries Directive).
- Replace the existing Declaration of Conformity with a Digital Product Passport. It is proposed that all toys will require a Digital Product Passport, which will include information on compliance with the TSR. Digital Product Passports will also be used for screening at external borders and will help to identify shipments that require detailed control at customs.
- Require manufacturers and importers to indicate an “electronic address” in addition to their postal address.
- Require manufacturers and importers to make publicly available a telephone number, electronic address, dedicated section of their website, or another communication channel to allow consumers to file complaints.
- Require all toys to have a digital product passport, which would include information on compliance with the Regulation. Importers would have to submit digital product passports for all toys at EU borders, including for those sold online. Furthermore, if toys were to present risks not foreseen by the Regulation, the Commission would have the power to remove them from the EU market.

What does this mean for you?

This development will be of particular interest to those involved in the manufacture and supply of toys within the EU. If adopted, the TSR will provide the safety criteria that must be met in order for a toy to legally circulate on the EU market. Therefore, manufacturers, importers and suppliers alike need to be aware of any changes to the TSR and ensure they implement any necessary changes to their manufacturing practices to make sure their toys are compliant and meet the required market standards.

Next steps

The Commission feedback period closed on 31 October 2023 with 109 responses received. On 13 November 2023, the European Parliamentary Committee on the Environment, Public Health and Food Safety adopted amendments to its draft opinion on the proposal and on 5 December 2023, the European Parliamentary IMCO Committee adopted amendments to its draft report. The first text is not yet available.

The European Commission’s proposal for the TSR includes a 30-month transition period for most provisions, after which all toys placed on the market will need to comply with the new requirements.

The European Parliament’s plenary session is scheduled for 11 March 2024.

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