

Product Risk Radar

Toy Safety Directive / Regulation

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Purpose of 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, limits for chemical substances in the accessible parts of toys).

Owing to several shortcomings identified by the European Commission (“**EC**”), 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**”).

The European Presidency and the Council of the European Union have set out their positions and proposed amendments to the draft TSR. The next step will be for negotiations to take place to try to finalise the text of the TSR before it can be adopted.

Proposals for a Toy Safety Regulation

The EC'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 European Parliament will continue work on the proposed Toy Safety Regulation (i.e. that the EC's proposal for a new Toy Safety Regulation did not lapse following the change in Parliament).

The European Presidency has adopted its position on the draft Regulation (the most recent compromise proposal is available [here](#)). The Council of the EU published its negotiating position in May 2024 (see [here](#)), building on the

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European Presidency's latest compromise proposal. Negotiations are expected to start soon between the EU legislators on the content of the proposed TSR.

The key proposals of the TSR include the following.

- Introduce more stringent rules on harmful substances. The proposed TSR continues to include a prohibition of substances that are carcinogenic, mutagenic or toxic for reproduction. One point for negotiation between the EU legislators is the extent to which further restrictions should be introduced.
- The EC had proposed including a "general safety requirement", which includes children's psychological and mental health, wellbeing, and cognitive development. The European Presidency and the Council of the European Union proposed removing the reference to psychological and mental health, wellbeing, and cognitive development in that provision.
- Specify the obligations of fulfilment service providers and online marketplaces (e.g. to make it clear that toys not in conformity with the Toy Safety Regulation will be illegal content for the purposes of the Digital Services Act) (see the Council of the European Union's proposals).
- Add specific provisions relating to warnings on toys (e.g. minimum size) (see the Council of the European Union's proposals).
- Add requirements concerning batteries (e.g. the European Presidency and the Council of the European Union proposed requirements so that, for example, electric toys with batteries that constitute small parts shall be designed and manufactured in such a way as to ensure that access to the battery is prevented by requiring the use of a tool).
- Replace the existing Declaration of Conformity with a Digital Product Passport. It is proposed that toys will require a Digital Product Passport. The exact wording of the provisions concerning Digital Product Passports are subject to negotiation between the EU legislators.
- 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.

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, online marketplaces and other economic operators need to be aware of the final terms of the TSR and ensure they implement any necessary changes to their manufacturing practices to make sure their toys are compliant going forward.

If the text of the TSR is agreed and formally adopted later this year, businesses will still have some time to transition to the new requirements in the TSR (i.e. the TSR requirements will not apply immediately). The European Commission's proposal for the TSR includes a 30-month transition period for most provisions, after

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which all toys placed on the market will need to comply with the new requirements. The Council of the European Union proposed a longer transition period.

Having said that, businesses should take into account new requirements introduced by the EU General Product Safety Regulation, which apply from 13 December 2024. Please see [here](#) for our comments on the EU General Product Safety Regulation.

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