

FACTSHEET

The Scope of the 2009 Toy Safety Directive

October 2009

This document is one of a series of factsheets, aimed at providing a general overview of the changes introduced by the new Toy Safety Directive (2009 TSD) as adopted in 2009. The objective of the TIE/EC factsheets is to provide guidance to toy manufacturers across the EU regarding the implementation of the 2009 TSD. A particular focus is put on the obligation of manufacturers.

The 2009 TSD will strengthen the rules as laid down in the 1988 TSD. As a result, this new legislation will require adaptations in the manufacturing chain, as well as new procedures along the supply chain.

The 2009 TSD was published in the *Official Journal of the European Union* on 30 June 2009 and entered into force on 20 July 2009. The general provisions of the 2009 TSD will be applicable to toys placed on the market as of 20 July 2011, while the chemical provisions will be applicable to toys placed on the market as of 20 July 2013 (additional 2-year transition period for chemical properties). In practice, this means that **the toys compliant with the 1988 TSD will be allowed to be placed on the market until 19 July 2011 or 19 July 2013 in the case of certain chemical provisions.**

The scope of the 2009 Toy Safety Directive

The scope of the 2009 Toy Safety Directive is covered by Article 2. It provides a definition for toys and therefore determines whether a product falls under the scope of the Directive:

“Any product or material designed or intended whether or not exclusively for use in play by children under 14 years of age”.

Compared to the 1988 TSD, the only new element is the wording ‘*whether or not exclusively*’, which has been added to indicate that the product does not have to be exclusively intended for playing purposes in order to be considered as a toy. Accordingly, products with double functions are considered as toys (e.g. key-ring with a teddy bear attached to it).

The 2009 TSD recognizes the existence of a “grey zone” for the classification of products as toys. Annex I of the 2009 TSD presents a non-exhaustive list of examples that are not considered as toys but that could be subject to confusion. These include:

- 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: (a) detailed and faithful scale models; (b) kits for the assembly of detailed scale models; (c) folk dolls and decorative dolls and other similar articles; (d) historical replicas of toys; and (e) reproductions of real fire arms;
- Sports equipment, including roller skates, inline skates, and skateboards intended for children with a body mass of more than 20 kg;

- 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;
- 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, keyboards, 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.

Further, the 2009 TSD (Article 2(2)) lists a limited number of products that comply with the definition of toys but are nonetheless excluded from the scope of the 2009 TSD:

- Playground equipment intended for public use;
- Automatic playing machines, whether coin operated or not, intended for public use;
- Toy steam engines and toy vehicles equipped with combustion engines;
- Slings and catapults.

It is worth noting that the new definition of toys was meant to be aligned with what are believed to be the current practices of toy manufacturers.

Sources of information

The final text of the 2009 TSD is available [here](#) and as a backgrounder the text of the 1988 TSD is available [here](#).

The two documents can also be found at the following URLs:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ%3A%3A2009%3A170%3A0001%3A0037%3AEN%3APDF>

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1988L0378:20090112:EN:PDF>

Important notice:

This factsheet reflects our understanding of the 2009 TSD text published in the *Official Journal of the European Union* on 30 June 2009 and is intended merely to highlight in a general manner certain provisions of that text. TIE does not make any warranties about the completeness of the information herein and assumes no responsibility for any use of or reliance on this factsheet.

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