

EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND NORTHERN IRELAND PROTOCOL

2021/867 Harmonised Standards for toys

COMMISSION IMPLEMENTING DECISION (EU) 2021/867 of 28 May 2021 on harmonised standards for toys drafted in support of Directive 2009/48/EC of the European Parliament and of the Council

Submitted by the Department for Business, Energy and Industrial Strategy on 9 July 2021

SUBJECT MATTER

1. This Commission Implementing Decision publishes a number of harmonised standards for toys, regulated under the Toys Directive 2009/48/EC, in the Official Journal of the European Union.
2. Toys that are in conformity with published harmonised standards are presumed to be in conformity with the requirements in the Toys Directive covered by those standards. Following harmonised standards is therefore optional but assists industry by setting out ways in which the legal requirements may be met (although industry may choose other ways to demonstrate that the legal safety requirements are met). The harmonised standards will apply to products placed on the EU market. As the EU Toys Directive is included in Annex 2 of the Ireland/Northern Ireland Protocol, this will also apply to products placed on the market in Northern Ireland.
3. The list of permitted preservatives has been updated in CEN (European Committee for Standardisation) revised harmonised standard EN 71-7:2014+A2:2018 'Safety of toys – Part 7: Finger paints – Requirements and test methods'.
4. Test methods have been updated in CEN revised harmonised standard EN 71-12:2013 'Safety of toys – Part 12: N-Nitrosamines and N-nitrosatable substances'.
5. Additionally, the revised harmonised standard EN 62115:2005 'Electric toys – Safety' is adopted which makes provision for the addition of further warnings to ensure better consumer information on the hazards associated with swallowing coin batteries. It updates the accessibility requirements for coin and button batteries, to ensure a higher level of protection, and it adds new requirements for toys connected to domestic appliances, including computers, to protect users from electric shock. It also revises the testing criteria for electrical toys.

6. References to previous versions of these harmonised standards are withdrawn and replaced with references to these revised versions. To give businesses sufficient time to adapt to these changes, the previous versions are to be phased out over time (latest withdrawal is 21 February 2022).
7. This Decision enters into force on the day of its publication in the Official Journal of the European Union. It was published on 31 May 2021.

SCRUTINY HISTORY

8. This is the first commission Decision relating to the EU Toys Directive for which an Explanatory Memorandum has been produced.

MINISTERIAL RESPONSIBILITY

9. The Secretary of State for the Department for Business, Energy and Industrial Strategy has responsibility for toys safety policy.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

10. The Devolved Administrations have been consulted on this Explanatory Memorandum. Product safety is a reserved matter for Scotland and Wales and consumer safety in relation to goods is reserved in respect of Northern Ireland. They did not raise any issues.
11. As the EU Toys Directive is included within the Northern Ireland Protocol, Northern Ireland has an interest as the revised standards can be used in Northern Ireland to demonstrate compliance with the objectives of the Toys Directive.
12. These changes will apply to goods placed on the Northern Ireland market on or after the date that the Decision enters into force. The UK (in respect of GB) has replaced the system of “harmonised standards” with a system of “designated standards”. Designated standards are those which have been devised by certain standardisation bodies, for example BSI and CEN, which are ‘designated’ by the Secretary of State by publishing a reference to them.
13. Under the Government’s commitments to Northern Ireland’s unfettered access to the rest of the UK market, toys that meet the technical requirements to be placed on the market in Northern Ireland will be able to be placed on the GB market.

LEGAL AND PROCEDURAL ISSUES

14. There are no legal and procedural issues as this Decision does not apply to Great Britain. It applies to Northern Ireland, as per the Northern Ireland Protocol, where the references of the harmonised standards for toys drafted in support of the Toys Directive (2009/48/EC) listed in Annex I to this Decision will be able to be relied upon to give rise to a presumption of conformity for the

safety requirements covered by those standards, twenty days after publication in the Official Journal.

POLICY IMPLICATIONS

15. The UK (in respect of GB) has replaced EU harmonised standards with designated standards, which are standards designated by the relevant Secretary of State by publishing a reference to them and which provide a presumption of conformity with relevant GB requirements.
16. The UK will make its own decision on revisions to designated standards for products placed on the GB market in due course. As noted above, there is no legal obligation to use designated or harmonised standards. However, should the standard be used by a manufacturer to demonstrate compliance with the essential requirements there are legal effects where an established process must be followed to demonstrate the standard is being met.
17. The revisions to the EU harmonised standards list will not automatically change the UK's designated standards list. Updated versions of standards are assessed by relevant Government Departments against the essential safety requirements, and where appropriate, the list of designated standards is amended.
18. The revised standard takes effect in Northern Ireland on publication of the Decision and will be relevant for products placed on the market in NI. However, some of the previous harmonised standards will continue to apply in Northern Ireland until they are formally withdrawn. There is a phased withdrawal plan set out in the Decision in Annex 2 to achieve this.
19. These changes will apply in relation to toys placed on the Northern Ireland market on and after the date that the Decision enters into force. Under the Government's commitments to Northern Ireland's unfettered access to the rest of the UK market, toys that meet the technical requirements to be placed on the market in Northern Ireland will be able to be placed on the GB market.
20. No data is currently available on the number or proportion of toy products, or manufacturers that rely on these harmonised standards. No data is currently available on the financial impact expected from these changes, either in the EU or UK. For the majority of toys placed on the market in the EU and UK, a manufacturer can self-declare compliance with the relevant technical requirements.

CONSULTATION

21. As part of the process of developing this standard, a public consultation was held. In accordance with the Northern Ireland Protocol, the changes made by this Decision will be automatically applicable in NI.

FINANCIAL IMPLICATIONS

22. There is no data available on the financial implications of these changes.

MINISTERIAL NAME AND SIGNATURE

A handwritten signature in blue ink, appearing to read 'Paul Scully', written in a cursive style.

Paul Scully

Parliamentary Under Secretary of State

Department for Business, Energy and Industrial Strategy