



EUROPEAN COMMISSION  
ENTERPRISE AND INDUSTRY DIRECTORATE-GENERAL

Single Market for Goods  
Internal Market and its International Dimension

# Toy Safety Directive 2009/48/EC



## An explanatory guidance document

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## **10. ANNEX I LIST OF PRODUCTS THAT, IN PARTICULAR, ARE NOT CONSIDERED AS TOYS WITHIN THE MEANING OF THIS DIRECTIVE (ARTICLE 2(1)).**

This Annex enumerates examples of products that are not considered as toys but could be confused with toys. Since it would be impossible to enumerate all the products that are not considered as toys, the list is naturally not exhaustive. A contrario interpretation should not be drawn from the list, that is, if a particular product is not mentioned in the list, it does not mean that it is automatically a toy. Each of the exceptions needs to be considered separately. The wording for some of the exceptions in the list of Annex I is straightforward, leaving little margin for appreciation when assessing whether a product falls within the scope of the exception or not. That is the case, for example, for Points 3, 4, 8 or 9. For some other exceptions, the wording would still require a certain assessment to establish whether the conditions for the exception are met and a product is therefore not to be considered as a toy. This would be for example the case for Points 1, 14 or 19 where it may need to be assessed whether the product has a play value of its own. In the latter cases, the definition of toy in Article 2 (1) first subparagraph has to always be the basis for deciding whether a product is a toy or not. The reasonable foreseeable use will prevail over the declaration of intention of the manufacturer. If a product falls under the scope of art.2, it will be qualified as a toy and submitted to the directive's requirements (with the exception of toys listed in art. 2.2). In addition to that, the guidance documents mentioned under that Article above (point 1.2.1) give useful criteria which should always be considered in case of grey zone products.

Please note that if a consumer product does not fall under the Toys Directive, it still needs to be safe as regards the health and safety of consumers according to Directive 2001/95/EC on general product safety or any other applicable Community legislation containing specific health and safety requirements.

### *10.1.1. Point 1*

Decorative objects for festivities and celebrations

This category of products includes a variety of decorative objects, for example for Christmas or birthdays. They can be child appealing, such as a decorative Santa Claus for Christmas. However, it is important to note that a child appealing product which is not considered as a toy, still needs to be safe for children in accordance with the provisions of the General Product Safety Directive. More information and guidance can be found in the guidance document 11 "toys intended for children under and above 36 months".

### *10.1.2. Point 2*

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.

This category of products for adult collectors includes a variety of products, some of which are specifically mentioned in this point as examples.

#### 10.1.2.1. Detailed and faithful scale models

These can be for example cars, boats, aeroplanes, trains, historical buildings.

#### 10.1.2.2. Kits for the assembly of detailed scale models

These are the same kind of products as under point 10.1.2.1. but they are to be assembled by the consumer himself.

#### 10.1.2.3. Folk dolls and decorative dolls and other similar articles

A specific guidance document has been drafted to give criteria to make a distinction between dolls which should be considered as toys and articles which should be regarded as products for adult collectors (guidance document "Criteria for differentiating dolls for adult collectors from toys")

[http://ec.europa.eu/enterprise/sectors/toys/documents/guidance/index\\_en.htm](http://ec.europa.eu/enterprise/sectors/toys/documents/guidance/index_en.htm)

#### 10.1.2.4. Historical replicas of toys

Examples of these products are tin soldiers.

#### 10.1.2.5. Reproductions of real fire arms

Replicas of firearms are not considered as toys. A distinction between them and toy guns intended for playing should be done on the basis of the general criteria for classification (price, place for selling, target audience etc) as well as degree of detail.

### *10.1.3. Point 3*

Sports equipment, including roller skates, inline skates, and skateboards intended for children with a body mass of more than 20 kg

Equipment intended for sports and not for play by children under 14 is not considered as a toy. Since grey zone products exist, this point clarifies the classification by foreseeing as criteria whether the product is intended for children with a body mass of more than 20 kilos.

### *10.1.4. Point 4*

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

This point clarifies which bicycles are considered as toys intended for playing and which do not fall under the Toys Directive. The decisive criterion is the maximum saddle height. The bicycle is not a toy if the maximum saddle height is more than 435 mm

measured as the vertical distance from the ground to the top on the seat surface with the seat in a horizontal position and with the seat pillar set to the minimum insertion mark.

This point has changed from what was foreseen in Directive 88/378. In that Directive the decisive criteria was whether the bicycle was designed for sport or for travel on the public highway. In that case it was not considered as a toy. Because of the general nature of this definition it, however, led to differences in the classification of bicycles in different Member States.

Bicycles with a saddle height of more than 435 mm and less than 635 mm fall under the General Product Safety Directive and comply preferably to standard EN 14765.

#### *10.1.5. Point 5*

Scooters and other means of transport designed for sport or which are intended to be used for travel on public roads or public pathways

This point covers means of transport, in particular scooters. It is stated that they are not toys when they are designed for sport or intended to be used for travel on public roads or public pathways. Other examples include roller skis, kick sledges and kick bikes and roller-skates (which also follows from point 3). Although bicycles are means of transport, they are not considered under this point, because they are dealt with specifically in point 4. Also electrically driven vehicles are treated separately in point 6.

In contrast, some means of transport can be considered as toys, if they have a play value and are intended for children under 14 years of age, for instance some scooters with play value which are not intended to be used for travel on public roads or public pathways.

#### *10.1.6. Point 6*

Electrically driven vehicles which are intended to be used for travel on public roads, public pathways, or the pavement thereof

This point covers electrically driven vehicles. It is clarified that they are not toys when intended to be used for travel on public roads, public pathways, or on the pavement of these. In contrast, electrically driven ride on toys, that is electrically driven vehicles for children under 14 years of age with play value which are not intended for travel on public roads, pathways, on the pavement of these, are considered as toys.

#### *10.1.7. Point 7*

Aquatic equipment intended to be used in deep water, and swimming learning devices for children, such as swim seats and swimming aids

This point covers, first, aquatic equipment which is used in deep water, and secondly swimming learning devices, such as swim seats and swimming aids. The classification of aquatic equipment is dealt with specifically in a guidance document "Are certain aquatic devices/equipment covered by the Safety of Toys Directive (88/378/CEE) or not?" [http://ec.europa.eu/enterprise/sectors/toys/documents/guidance/index\\_en.htm](http://ec.europa.eu/enterprise/sectors/toys/documents/guidance/index_en.htm)

*10.1.8. Point 8*

Puzzles with more than 500 pieces

This point gives a clear cut criterion for deciding which puzzles are not toys. Puzzles with more than 500 pieces are not considered as toys.

*10.1.9. Point 9*

Guns and pistols using compressed gas, with the exception of water guns and water pistols, and bows for archery over 120 cm long

This point deals first with some type of guns that could be confused with toys. It clarifies that guns and pistols using compressed gas, for instance airguns, are not toys. However, water guns are considered as toys. Secondly, bows for archery over 120 cm long are never considered as toys.

*10.1.10. Point 10*

Fireworks, including percussion caps which are not specifically designed for toys

This point clarifies that fireworks are not considered as toys. Percussion caps are not considered as toys, except when specifically designed for toys.

*10.1.11. Point 11*

Products and games using sharp-pointed missiles, such as sets of darts with metallic points

This point specifies that if a product or game includes sharp pointed missiles it is not considered as a toy. Examples of these products include sets of darts with sharp-pointed metallic tips. Therefore, toy darts can never include metallic points.

*10.1.12. Point 12*

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

This point excludes functional educational products. As the definition in Article 3 indicates, functional product means a product which performs and is used in the same way as a product, appliance or installation intended for use by adults, and may be a scale model of such product, appliance or installation. Point 12 mentions as examples electric ovens, irons. These products cannot be considered as toys when operated at a nominal voltage exceeding 24 volts and are sold exclusively for teaching purposes under adult supervision.

*10.1.13. Point 13*

Products intended for use for educational purposes in schools and other pedagogical contexts under the surveillance of an adult instructor, such as science equipment

This point excludes products intended for educational purpose. They are excluded if for use in schools or other pedagogical framework under the surveillance of an adult instructor. As example is mentioned science equipment.

*10.1.14. Point 14*

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, key boards, joy sticks or steering wheels

This point clarifies which kind of electronic equipment cannot be considered as toys. First, electronic equipment, such as personal computers and game consoles which are used to access interactive software are not considered as toys. However, they shall be considered as toys if specifically designed and targeted at children and have a play value, such as specifically designed personal toy computers. Secondly the associated peripherals of the electronic equipment which is used to access interactive software are not considered as toys either. However, they shall be considered as toys if they are specifically designed and targeted at children and have a play value on their own, such as key boards, joy stick or steering wheels.

Example of a toy personal computer:



*10.1.15. Point 15*

Interactive software, intended for leisure and entertainment, such as computer games, and their storage media, such as CDs

This point clarifies that interactive software intended for leisure and entertainment, and their storage media should not be considered as toys. As examples are mentioned computer games and (music)CD's.

*10.1.16. Point 16*

Babies' soothers

This point specifies that babies' soothers are not toys. They are childcare articles which fall under the General Product Safety Directive.

*10.1.17. Point 17*

**Child-appealing luminaires**

This point clarifies that child-appealing luminaires, that is lamps and lightings, are not considered as toys. They do not have the play value to be classified as toys. However lamps used in a doll house are considered as toys.

The Low Voltage Directive is applicable to these products. More information on child appealing luminaires can be found on following page:

[http://ec.europa.eu/enterprise/electr\\_equipment/lv/guides/index.htm#lvdadco](http://ec.europa.eu/enterprise/electr_equipment/lv/guides/index.htm#lvdadco)

*10.1.18. Point 18*

**Electrical transformers for toys**

This point specifies that electrical transformers for toys are not considered as toy. In this context it is important to note the requirement in Annex II, part IV, point 9, which foresees that electrical transformers for toys shall not be integral part of the toy.

*10.1.19. Point 19*

**Fashion accessories for children which are not for use in play**

This point clarifies that fashion accessories, in particular jewellery for children, which are not for use in play are not considered as toys. Jewellery with play value, in contrast, is a toy, for instance jewellery sold with toy disguise costumes and (imitation) jewellery to be assembled by the child himself.