

**Guidelines**  
**For**  
**The Toys and Children's Products Safety**  
**(Additional Safety Standards or Requirements) Regulation**

**27 June 2014**

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## **Introduction**

The Toys and Children's Products Safety (Additional Safety Standards or Requirements) Regulation (the Regulation), made in February 2014 under section 35 of the Toys and Children's Products Safety Ordinance (Cap. 424) (the Ordinance) as amended by the Toys and Children's Products Safety (Amendment) Ordinance 2013, comes into operation on 1 July 2014. The Customs and Excise Department (C&ED) is the enforcement agency.

2. The Regulation provides for, among other matters, the control on the concentration limits of six types of phthalates in certain toys and children's products. The six types of phthalates are –

- benzyl butyl phthalate (BBP);
- dibutyl phthalate (DBP);
- di(2-ethylhexyl) phthalate (also known as bis(2-ethylhexyl) phthalate or diethylhexyl phthalate) (DEHP);
- diisodecyl phthalate (DIDP);
- diisononyl phthalate (DINP); and
- di-n-octyl phthalate (DNOP).

3. This set of guidelines comes into effect on 1 July 2014. It is issued by C&ED to provide technical guidance on the operation of sections 2, 3, 7, 8, 9, 12, 13, 14 and 15 of the Regulation concerning the control on the concentration limits of the above six types of phthalates, so as to facilitate compliance by manufacturers, importers or suppliers of toys or children's products concerned. The examples used in the guidelines seek to illustrate the coverage of those regulations and how they may be enforced in practice. The examples however do not cover each and every toy, children's product or situation which may be covered by the sections. Accordingly, even if a particular toy, children's product or situation is not mentioned in the guidelines, it does not necessarily

imply that such a toy, children's product or situation falls outside the coverage of the sections.

4. This set of guidelines is neither legally binding nor is it subsidiary legislation made under the Ordinance. It is not a definitive interpretation of the relevant sections of the Regulation. It does not serve to give any legal advice, nor does it substitute, add, supplement or amend the statutory provisions of the Regulation. Manufacturers, importers or suppliers of toys or children's products concerned should refer to the Regulation for the relevant statutory provisions and seek their own legal advice if necessary.

## **Scope of Application of the Regulation**

### ***Six types of phthalates subject to control***

5. The Regulation provides for the control on the concentration limits of six types of phthalates, i.e. Class 1 phthalates comprising BBP, DBP and DEHP, and Class 2 phthalates comprising DIDP, DINP and DNOP. The Regulation does not control phthalates other than these six types of phthalates.

### ***Toys and children's products subject to control***

6. Pursuant to section 3, the phthalate control under the Regulation applies to a toy. "Toy", in accordance with the Ordinance, means a product or material that is designed or clearly intended for use in play by a child. The phthalate control does not apply to the packaging of a toy.

7. Section 3 as read with section 12, the phthalate control under the Regulation also applies to a children's product that is intended to facilitate the feeding, hygiene, relaxation, sleep, sucking or teething of a child under 4 years of age and contains any plasticized material. The phthalate control does not apply to the packaging of a children's product.

### ***Application of concentration limits of six types of phthalates***

8. Paragraphs 9 to 18 below set out the applicable concentration limits of the six types of phthalates in toys and children's products, which are subject to the exclusion provisions set out in paragraph 21 below.

## *Toys*

### Class 1 phthalates

9. Section 7 provides that the total weight of the Class 1 phthalates in a toy must not exceed 0.1% of the total weight of the plasticized materials in the toy.

### Class 2 phthalates

10. Sections 8 and 9 regulate the concentration limit of Class 2 phthalates in toys capable of being entirely or partly placed into the mouth of a child under 4 years of age.

11. If a toy can be entirely placed into the mouth of a child under 4 years of age, the total weight of the Class 2 phthalates in the toy must not exceed 0.1% of the total weight of the plasticized materials in the toy.

12. If only one part of a toy can be placed into the mouth of a child under 4 years of age, the total weight of the Class 2 phthalates in that part must not exceed 0.1% of the total weight of the plasticized materials in that part.

13. If more than one part of a toy can be placed into the mouth of a child under 4 years of age, the total weight of the Class 2 phthalates in those parts must not exceed 0.1% of the total weight of the plasticized materials in those parts.

## *Children's products*

### Class 1 phthalates

14. Section 13 provides that the total weight of the Class 1 phthalates in a children's product must not exceed 0.1% of the total weight of the plasticized materials in the product.

## Class 2 phthalates

15. Sections 14 and 15 regulate the concentration limit of Class 2 phthalates in children's products capable of being entirely or partly placed into the mouth of a child under 4 years of age.

16. If a children's product can be entirely placed into the mouth of a child under 4 years of age, the total weight of the Class 2 phthalates in the children's product must not exceed 0.1% of the total weight of the plasticized materials in the product.

17. If only one part of a children's product can be placed into the mouth of a child under 4 years of age, the total weight of the Class 2 phthalates in that part must not exceed 0.1% of the total weight of the plasticized materials in that part.

18. If more than one part of a children's product can be placed into the mouth of a child under 4 years of age, the total weight of the Class 2 phthalates in those parts must not exceed 0.1% of the total weight of the plasticized materials in those parts.

19. There are numerous children's products being supplied in the market. Some examples are shown below –

<b>To facilitate</b>	<b>Children's product</b>
Feeding	<ul style="list-style-type: none"><li>● bib</li><li>● bottle teat</li><li>● feeding bottle</li><li>● children's high chair and multi-purpose high chair for domestic use</li><li>● eating cutlery or utensil</li></ul>

<b>To facilitate</b>	<b>Children's product</b>
Hygiene	<ul style="list-style-type: none"> <li>● toothbrush</li> <li>● tongue cleanser</li> <li>● changing mat</li> <li>● bathing aid</li> </ul>
Relaxation	<ul style="list-style-type: none"> <li>● babies' dummy</li> <li>● plastic play mat</li> <li>● babies' bassinet / cradle / rocker chair</li> </ul>
Sleep	<ul style="list-style-type: none"> <li>● babies' blanket</li> <li>● children's cot for domestic use</li> <li>● carry cot and similar handled product and stand</li> <li>● crib mattress, pad and cover</li> <li>● pillow with plastic cover</li> </ul>
Sucking	<ul style="list-style-type: none"> <li>● sipper cup</li> <li>● straw</li> </ul>
Teething	<ul style="list-style-type: none"> <li>● teether / teething ring</li> <li>● gum soother</li> </ul>

20. Some products containing plasticized materials such as baby slings, baby carriages and strollers may have multiple functions. Whether these products are subject to the phthalate control under the Regulation would depend mainly on whether they are intended to facilitate the feeding, hygiene, relaxation, sleep, sucking or teething of a child under 4 years of age. When considering whether a product has any of these functions, relevant factors to be taken into account include (but are not limited to) any promotion/ marketing material, advertisement and user manual of the product.

*“Inaccessible parts” of toys and children's products not subject to control*

21. Pursuant to sections 7(3), 7(4), 8(3), 8(4), 9(4), 9(5), 13(3), 13(4), 14(3), 14(4), 15(4) and 15(5), any component part of a toy or children's



product that is inaccessible is not to be taken into account in determining the total weight of the Class 1 or Class 2 phthalates or the plasticized materials in the toy or children's product. A component part of a toy is inaccessible if it cannot come into contact with a child (for Class 1 phthalates) or the mouth of a child under 4 years of age (for Class 2 phthalates) through reasonably foreseeable use of the toy. A component part of a children's product is inaccessible if it cannot come into contact with a child under 4 years of age (for Class 1 phthalates) or the mouth of a child under 4 years of age (for Class 2 phthalates) through reasonably foreseeable use of the product. The expression "reasonably foreseeable" means "what a reasonable person could have anticipated". "Use" as defined in section 2 includes "improper use".

22. Reasonably foreseeable improper use of a toy or children's product may, depending on the purposes for which the toy or children's product is designed, include any tearing, bending, breaking, throwing or mouthing of the toy or children's product. An example of a component part that is inaccessible is a cable which remains securely enclosed inside a toy or children's product even if a child throws the toy or children's product around.

23. In determining the "reasonably foreseeable use" of a toy or children's product, and whether a component part of a toy or children's product is inaccessible, C&ED may make reference to the relevant use and abuse tests in the international safety standards (e.g. ISO 8124) or standards adopted in advanced economies such as the European Union and the United States (e.g. BS EN 71 and ASTM F963), as appropriate.

## **Toys or Children's Products that "can be placed into the mouth"**

24. Section 2(2) stipulates that a toy or children's product can be placed into the mouth of a child under 4 years of age if –

- (a) each dimension of the toy or product is less than 5 cm; or
- (b) the toy or product can, in a reasonably foreseeable manner, be brought to the mouth of such a child and kept in the mouth so that the toy or product can be sucked or chewed.

25. Section 2(3) stipulates that a part of a toy or children's product can be placed into the mouth of a child under 4 years of age if –

- (a) at least one of the dimensions of the part is less than 5 cm; or
- (b) the part can, in a reasonably foreseeable manner, be brought to the mouth of such a child and kept in the mouth so that the part can be sucked or chewed.

26. In general, a toy, a children's product, or a part of it will not be regarded as "can be placed into the mouth" if it can just be licked.

27. Section 2(4) specifies that an inflatable toy, children's product, or part of a toy or children's product should be considered in its deflated state for the purposes of sections 2(2) and 2(3).

28. The expression "reasonably foreseeable" in sections 2(2) and 2(3) means "what a reasonable person could have anticipated". When considering whether a toy, a children's product, or a part of it can in a reasonably foreseeable manner be placed into a child's mouth, relevant factors to be taken into account would include (but are not limited to) the use, size, shape or material of the toy or children's product.

29. Some examples are shown below to illustrate how a toy, a children's product or its parts are regarded as "can be placed into the mouth" –

Example 1 – toy (doll)



- Hands, feet and leaf-shaped cap can be placed into the mouth as at least one of their dimensions is less than 5 cm (see section 2(3)(a)).
- Head and body are considered as parts that cannot be placed into the mouth if none of their dimensions is less than 5 cm, and they cannot in a reasonably foreseeable manner be brought to a child's mouth so that they can be sucked or chewed (see section 2(3)).

Example 2 – toy (inflatable ball)



- The ball can be placed into the mouth as one of its dimensions is less than 5 cm when deflated (see sections 2(3)(a) and 2(4)).
- Air-inflation inlet with stopper can be placed into the mouth as all of its dimensions are less than 5 cm (see section 2(3)(a)).

### Example 3 – children’s product (teether)



- Any part of the teether that is less than 5 cm in one dimension can be placed into the mouth (see section 2(3)(a)).

### Example 4 – children’s product (changing mat)



- Edges of the changing mat can be placed into the mouth if at least one of their dimensions is less than 5 cm (see section 2(3)(a)).
- Centre part and backside of the changing mat are considered as parts that cannot be placed into the mouth. The centre part can just be licked. The backside cannot come into contact with a child’s mouth through reasonably foreseeable use of the changing mat. (See sections 2(3)(b) and 15(5).)

### Example 5 – children’s product (high chair)



- Tray of the high chair can be placed into the mouth if at least one of its dimensions is less than 5 cm (see section 2(3)(a)).
- As the seat back, footrest, legs and wheels of the high chair cannot come into contact with a child’s mouth through reasonably foreseeable use of the high chair, they are considered as parts that cannot be placed into the mouth (see sections 2(3)(b) and 15(5)).

## Testing of Phthalates

30. The Regulation does not specify any particular test methods for determining whether a toy or children's product complies with the relevant sections of the Regulation concerning the control on the concentration limits of the six types of phthalates. Manufacturers, importers or suppliers may have a toy or children's product tested by an approved laboratory<sup>1</sup> using any commonly used test methods (e.g. BS EN 14372:2004<sup>2</sup> of the European Union, CPSC-CH-C1001-09.3<sup>3</sup> of the United States, Method C-34<sup>4</sup> of Canada and GB/T 22048-2008<sup>5</sup> of the Mainland).

31. Advanced economies such as the European Union and the United States have already implemented control on the concentration limits of the six types of phthalates in toys and children's products. If manufacturers, importers or suppliers provide a test certificate showing compliance of a toy or children's product with the phthalate requirements implemented in these advanced economies to indicate compliance with the relevant sections of the Regulation, C&ED would examine such certificates on a case by case basis. For example, a test certificate may show the concentration of each of the six types of phthalates in each component part of a product. Pursuant to sections 7, 8, 9, 13, 14 and 15 of the Regulation, the total weight of the Class 1 phthalates and the total

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<sup>1</sup> An approved laboratory refers to a laboratory approved in writing by the Commissioner for Innovation and Technology for the purpose of testing toys and children's products. It includes a laboratory accredited under the Hong Kong Laboratory Accreditation Scheme (HOKLAS); and a laboratory accredited under those Schemes which have concluded mutual recognition agreements with HOKLAS.

<sup>2</sup> BS EN 14372:2004 – “Child use and care articles – Cutlery and feeding utensils – Safety requirements and tests” established by the European Committee for Standardization.

<sup>3</sup> CPSC-CH-C1001-09.3 – “Standard Operating Procedure for Determination of Phthalates” used by the Consumer Product Safety Commission of the United States.

<sup>4</sup> Method C-34 – “Determination of Phthalates in Polyvinyl Chloride Consumer Products” provided by Health Canada.

<sup>5</sup> GB/T 22048-2008 – “Toys and children's products – Determination of phthalate plasticizers in polyvinyl chloride plastic” published by the General Administration of Quality Supervision, Inspection and Quarantine of the Mainland.

weight of the Class 2 phthalates must not exceed 0.1% of the total weight of the plasticized materials in the product. Generally speaking, where such test certificate could show that the aggregated concentration of the Class 1 phthalates and the aggregated concentration of the Class 2 phthalates in each component part of a product do not exceed 0.1%, the product would comply with the phthalate requirements under the Regulation. If necessary, C&ED may have the toy or children's product tested by the Government Chemist.

## **Enquiries**

32. Any enquiries on this set of guidelines can be made with C&ED through the following means –

### By telephone

(852) 2815 7711

### By email

customsenquiry@customs.gov.hk

### By fax

(852) 3108 3427

### By post

Customs and Excise Department  
Consumer Protection Bureau (1)  
14/F, Customs Headquarters Building  
222 Java Road, North Point  
Hong Kong

Customs and Excise Department

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