

玩具及兒童產品 安全條例

Toys and Children's Products Safety Ordinance



Introduction

The Toys and Children's Products Safety Ordinance (Cap. 424) (the Ordinance) regulates the safety of toys and children's products. Under the Ordinance, a toy means a product or material that is designed or clearly intended for use in play by a child, or its packaging. A children's product means a class of products set out in Schedule 2 to the Ordinance (Schedule 2 product), or a product or material that is intended to facilitate the feeding, hygiene, relaxation, sleep, sucking or teething of a child under 4 years of age and that contains any plasticized material, or its packaging. The Ordinance requires any toy or children's product manufactured, imported or supplied for local consumption to meet the relevant safety standards. It is an offence to manufacture, import or supply toys or children's products not meeting the relevant safety standards and such products will be regarded as unsafe.

Safety Standards

Under section 3 of the Ordinance, a person must not manufacture, import or supply for local consumption a toy unless the toy complies with all the applicable requirements contained in one of the following three sets of toy standards as listed in Schedule 1 —

International Standard

ISO 8124 series established by the International Organization for Standardization and IEC 62115 standard (for electric toys) established by the International Electrotechnical Commission;

European Standard

EN 71 series and EN 62115 (for electric toys) established by the European Committee for Standardization; and

ASTM Standard

ASTM F963 established by the ASTM International.

Under section 5 of the Ordinance, a person must not manufacture, import or supply for local consumption a Schedule 2 product unless the product complies with all the applicable requirements contained in any one of the corresponding Schedule 2 product standards listed in Schedule 2.

Under section 8 of the Ordinance, a person must not manufacture, import or supply for local consumption a toy or children's product unless the toy or children's product complies with the general safety requirement and each additional safety standard. That provision imposes a duty on the manufacturers, importers and suppliers to ensure that their products are reasonably safe. A toy or a Schedule 2 product is regarded as complying with the general safety requirement if the toy complies with all the applicable requirements contained in one of the three sets of toy standards as listed in Schedule 1, or the Schedule 2 product complies with all the applicable requirements contained in any one of the corresponding Schedule 2 product standards listed in Schedule 2.

Additional Safety Standard

The Toys and Children's Products Safety (Additional Safety Standards or Requirements) Regulation (the Regulation) made under the Ordinance imposes the following additional safety standards for toys and children's products —

(1) Identification Markings

Section 5 and 10 of the Regulation requires all toys and children's products to carry the full name, trade mark or other identification mark and the local address of the manufacturer, importer or supplier either in English, Chinese or both languages. Such information must be legibly marked in a conspicuous position on the toys or children's products, their packaging, a label securely affixed to them or their packaging, or a document enclosed in their packaging.

(2) Bilingual Warnings or Cautions

Section 6 and 11 of the Regulation requires that, where a toy or children's product or its packaging is marked with, or where a label affixed to a toy or children's product or its packaging, or a document enclosed in the packaging contains, any warning or caution with respect to its safe keeping, use, consumption or disposal, such warning or caution must be legible and in both English and Chinese. The bilingual warning or caution must be marked in a conspicuous position on the toy or children's product, its packaging, a label securely affixed to the toy or children's product or its packaging, or a document enclosed in the packaging.

(3) Concentration of Phthalates in Toys and Children's Products

The Regulation provides for the control on the concentration limits of six types of phthalates in toys as well as children's products intended to facilitate the feeding, hygiene, relaxation, sleep, sucking or teething of a child under 4 years of age and containing any plasticized material. The six types of phthalates are Benzyl

Butyl Phthalate (BBP), Dibutyl Phthalate (DBP), Di (2-Ethylhexyl) Phthalate (DEHP) (grouped as Class 1 phthalates) and Diisodecyl Phthalate (DIDP), Diisononyl Phthalate (DINP), Di-N-Octyl Phthalate (DNOP) (grouped as Class 2 phthalates).

The Regulation stipulates that the total weight of the Class 1 phthalates in a toy or children's product must not exceed 0.1% of the total weight of the plasticized materials in the toy or children's product. If a toy, a children's product, or its part(s) can be placed into the mouth of a child under 4 years of age, the total weight of the Class 2 phthalates in the toy, children's product or such part(s) must not exceed 0.1% of the total weight of the plasticized materials in the toy, children's product or such part(s). (Please refer to the detailed provisions in sections 7 to 9 and 13 to 15. Guidelines have been issued to provide technical guidance on the operation of the relevant provisions. The Guidelines are available at www.customs.gov.hk/filemanager/common/pdf/Guidelines_Eng.pdf)

Laboratory Testing for Toys and Children's Products

A person may, at his own expense, have a toy, Schedule 2 product or any other children's product tested by an approved laboratory to determine whether or not it complies with (wherever appropriate) the specified safety standards or additional safety standards.

Approved laboratories are those laboratories approved in writing by the Commissioner for Innovation and Technology for the purpose of testing toys and children's products, namely all laboratories accredited under the Hong

Kong Laboratory Accreditation Scheme (HOKLAS) and all laboratories accredited under those Schemes which have concluded mutual recognition agreements (MRA) with HOKLAS. The approval is confined to those tests in respect of which the laboratories are accredited and the results of which are issued on test reports or certificates bearing the logo or accreditation mark of the Scheme granting the accreditation.

Enforcement

The Commissioner of Customs and Excise (CCE) enforces the Ordinance and Regulation. In general, he will act on complaints and conduct spot checks. In accordance with the provisions in the Ordinance, CCE may serve on any person the following notices or impose the following requirements —

Notice to Warn To require that person, at his own expense and by his own arrangements, to publish a warning that a product may be unsafe unless certain steps are taken;

Prohibition Notice To prohibit that person from supplying a product that is believed to be unsafe for a specified period of time;

Recall Notice To require the immediate removal of products that are believed to be unsafe from sale and the retrieval of the products (e.g. by an offer to buy-back or exchange) already supplied.

Other Requirements

CCE may require —

(a) the manufacturer, importer or supplier of a toy or children's product to have it tested in the form and manner specified by CCE;

- (b) the manufacturer, importer or supplier of a toy or children's product to modify it, or its labelling, or advertising to comply with the specified safety standards, an additional safety standard or the general safety requirement; and
- (c) a person who advertises a toy or children's product to include a specified warning notice in the advertisement.

Channel of Appeal

A person who is aggrieved by a decision or action of CCE may appeal to an Appeal Board which comprises members of the general public, representatives from the toys or children's products industry, legal practitioners and professionals in product safety, to be appointed by the Secretary for Commerce and Economic Development. Within 14 days after the decision or action of CCE, the appellant shall deliver to him a notice of appeal stating the substance of the matter and reasons for the appeal.

Defence of Due Diligence

In any proceedings against a person for an offence under section 3, 5, 8, 10, 11, 12 or 13 or a regulation made under section 35, it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence. In deciding whether the defence of due diligence is made out, a court may take into consideration the existence of any certificate issued by an approved laboratory under section 9(2) showing that samples of the toy or children's product which is the subject of prosecution had been tested before being

sold and had complied with the safety standards specified in the certificate.

Recovery of Expenses of Enforcement

A person, once convicted, may be ordered by the court to reimburse the Government Chemist for any costs associated with testing the products and CCE for any expenditure which has been or may be incurred by him.

Penalties

The Ordinance requires manufacturers, importers and suppliers of toys and children's products to ensure that the products they manufacture, import or supply are safe, and (wherever applicable) to comply with the notices issued by CCE. A breach may result in a fine of \$100,000 and one year's imprisonment on first conviction and a fine of \$500,000 and two years' imprisonment on subsequent conviction.

Enquiries

For complaints on unsafe toys and children's products, please call Customs hotline 2545 6182.

For general enquiries, please call 2815 7711, or write to Consumer Protection Bureau, Customs and Excise Department, 14/F, Customs Headquarters Building, 222 Java Road, North Point, Hong Kong, or e-mail to customsenquiry@customs.gov.hk

The Product Standards Information Bureau (PSIB) of the Innovation and Technology Commission operates a library with a collection of documents and publications on safety standards. Those interested are welcome to visit the library. The PSIB is located on 36/F, Immigration Tower, 7 Gloucester Road, Wan Chai,

Hong Kong. Its telephone and fax numbers are 2829 4820 and 2824 1302 respectively.

For information on approved laboratories, those interested may approach Hong Kong Accreditation Service (HKAS) at the same address and fax number as PSIB's. Its telephone number is 2829 4840.

Publication

The copy of the Ordinance can be ordered through the following channels:

- Visit the online Government Bookstore at www.bookstore.gov.hk
- Download the order form from the Information Services Department website at www.isd.gov.hk/eng/bookorder.htm and submit the order direct online or by fax to 2523 7195
- By e-mail to puborder@isd.gov.hk

For enquiries, please call the Publications Sales Unit at 2537 1910.

This pamphlet is not a legal document. It is only a brief introduction to the Toys and Children's Products Safety Ordinance. You must read the Ordinance itself and, if necessary, seek independent legal advice for full and accurate understanding of the Ordinance.