

Government Notice No. 262 of 2021

THE CONSUMER PROTECTION ACT

Regulations made by the Minister under section 4(1) of the Consumer Protection Act

1. Citation

These regulations may be cited as the Toys (Safety) Regulations 2021.

2. Interpretation

In these regulations –

“Act” means the Consumer Protection Act;

“Bureau” means the Mauritius Standards Bureau established under the Mauritius Standards Bureau Act;

“Certificate of Conformity” means a document from a third-party conformity assessment body which certifies whether or not a toy is safe;

“conformity assessment body” –

(a) means a body or a certified laboratory which provides conformity assessment services and which is recognised as such under the laws of its country; and

(b) includes the Bureau;

“Conformity Report” means a document issued by the Bureau which certifies whether or not a toy is safe;

“Director-General” has the same meaning as in the Mauritius Revenue Authority Act;

“effective date”, in relation to an application, means the date by which all required documents, information and samples are submitted;

“enforcement authority” means the Ministry;

“import” has the same meaning as in the Customs Act;

“manufacturer” –

- (a) means any person who –
 - (i) produces, makes, assembles or processes toys; or
 - (ii) attaches his brand name to toys that are manufactured, assembled or processed by another person; and
- (b) includes, in the case of imported toys, the manufacturer’s representative or, in his absence, the importer;

“Mauritian standard” means the standard as defined in section 2 of the Mauritius Standards Bureau Act;

“risk assessment exercise” means the process of evaluating the potential risks or danger that may exist in a toy;

“safe” –

- (a) means the toy is free of danger or injury and the user is not exposed to danger in any form through the use of the toy; but
- (b) does not include any misuse of a toy;

“Safety Guidelines” means guidelines issued by the Bureau –

- (a) setting out the requirements for, the applicable law relating to, and the procedures for, an application for a Conformity Report;
- (b) listing all fees leviable in respect of a Conformity Report; and

(c) procedures for sampling exercise;

“Suppliers Declaration of Conformity” means a first party attestation of compliance of a toy with the requirements of the relevant safety standards, issued by the manufacturer, approved by a recognised notifying body or the scheme owner;

“supplier” includes a manufacturer or wholesaler, as the case may be, of toys;

“Test Report” means a report which contains the results of tests carried out on a toy in accordance with test methods specified in the Mauritian standard or any other regional or international toys safety-related standards;

“third party” means a person or body that is independent of the person or organisation that provides the toy and of any interest in the toy;

“toy” means –

- (a) a plaything or an item regarded as providing amusement clearly intended for use in play by children under 14 years of age; but
- (b) does not include products listed in the First Schedule;

“TradeNet” has the same meaning as in the Customs Act.

3. Manufacture, supply and import of safe toys

(1) For the purpose of section 3 of the Act, every toy manufactured, supplied, or imported, in Mauritius shall be safe and shall not suffer from any fault.

(2) No person shall import a toy or put for sale a manufactured toy unless he has a Certificate of Conformity, Suppliers Declaration of Conformity or Test Report, as the case may be.

(3) Every importer of toys shall, through the TradeNet or in such other manner as the Bureau may determine, submit to the Bureau a Test Report or a Certificate of Conformity issued by a third party or a Suppliers Declaration of Conformity as per the Safety Guidelines of the Bureau.

(4) Notwithstanding these regulations but subject to paragraph (5), where no Certificate of Conformity, Suppliers Declaration of Conformity or Test Report is submitted by the importer or where the Bureau is, after verification, not satisfied with the Certificate of Conformity, Suppliers Declaration of Conformity or Test Report submitted, the Bureau shall request the importer to apply for a Conformity Report.

(5) (a) Paragraph (4) shall not apply to an individual who imports a toy for his personal use or toys intended for collectors.

(b) Where an individual imports a toy for his personal use or toys intended for collectors, he shall give an undertaking, in the form set out in the Second Schedule, that he will take full responsibility for the toy and its use.

(c) The Director-General shall allow an individual to import up to 10 toys for personal use or toys intended for collectors.

4. Safety Guidelines

(1) The Bureau shall issue Safety Guidelines regarding the sampling, testing and safety of toys.

(2) Any Safety Guidelines shall be available for consultation at the Bureau and shall be posted on the website of the Bureau.

5. Certificate of Conformity, Suppliers Declaration of Conformity and Test Report

(1) Every toy supplied in Mauritius which is accompanied by a Certificate of Conformity in line with the Mauritian standard or

any other Regional or International standard, a Suppliers Declaration of Conformity or a Test Report, acceptable by the Bureau, shall be deemed to be safe.

(2) A Certificate of Conformity, Suppliers Declaration of Conformity or Test Report for each importer shall be valid for toys of the same model and, where applicable, shall include the batch number.

(3) A Certificate of Conformity, Suppliers Declaration of Conformity or Test Report shall be in the English or French language.

(4) Every supplier shall provide a copy of the Certificate of Conformity, Suppliers Declaration of Conformity or Test Report, as the case may be, to a reseller.

(5) Every supplier shall keep the following records beginning the date on which the toys are placed on the market for a period of at least 5 years and shall make them available for inspection by the enforcement authority –

- (a) Certificate of Conformity, Suppliers Declaration of Conformity or Test Report, as the case may be, of the toys supplied; and
- (b) the name and address of the reseller of the toys.

6. Conformity Report

- (1) An application for a conformity report shall –
 - (a) be made through the TradeNet or in such other manner as the Bureau may approve;
 - (b) be accompanied by such other document as may be required in the Safety Guidelines;
 - (c) be accompanied by the appropriate fee specified in the Safety Guidelines; and

- (d) be subject to such other conditions as may be specified in the Safety Guidelines.

(2) On receipt of an application for a Conformity Report, the Bureau shall process the application and issue the Conformity Report within the timeframe specified in the Safety Guidelines after the effective date of receipt of the application.

7. Sampling on risk based analysis

(1) Where verification, testing or analysis of the toys is required prior to the issuance of a Conformity Report, the enforcement authority shall, in accordance with the Safety Guidelines, carry out sampling based on a risk based analysis, detailing the quantity and types of sample taken.

(2) Where toys are under Customs control, the authorised officer shall take the toys or a sample of the toys, as the case may be, in accordance with section 25B(3) of the Customs Act.

(3) The sample referred to in paragraph (2) shall be handed over to the Bureau for testing and the cost of which shall be borne by the importer.

(4) The Conformity Report shall be issued within an agreed date on payment of such fees as the Bureau may determine for the purpose of verification, testing or analysis of toys.

8. Clearance from Customs

(1) For the purposes of these regulations, the Bureau shall, through the TradeNet or in such other manner as the Bureau may determine, notify the enforcement authority and the importer whether or not the toys are safe.

(2) Pursuant to paragraph (1), the enforcement authority shall, through the TradeNet or in such other manner as it may

determine, forthwith notify his decision to grant or refuse to grant the authorisation for the clearance of the toys to the Director-General and the importer.

(3) Where the enforcement authority does not authorise the clearance of toys at import, the authorised officer –

- (a) shall request the Director-General to seize the toys; and
- (b) may order the importer to reship or dispose of the toys, at his own expense.

9. Risk assessment exercise

(1) The enforcement authority may carry a risk assessment exercise in any trade premises.

(2) In case a trader is unable to submit a copy of the Certificate of Conformity, Suppliers Declaration of Conformity or Test Report in respect of the toys for which a risk assessment exercise is being carried, a sampling of the toys may be carried out in accordance with the Safety Guidelines.

(3) The sample mentioned in paragraph (2) shall be handed over to the Bureau for testing and the cost of which shall be borne by the trader.

(4) The Bureau shall issue a Conformity Report to a trader in such manner as it may determine and the enforcement authority may authorise the trader to put the toys on sale.

10. Recall notice

(1) The enforcement authority may, by written notice, issue a recall notice for toys which a trader supplies or offers to supply, where –

- (a) he has reasonable grounds to believe that the toys may cause injury to any person or that a reasonably foreseeable use or misuse of the goods may cause injury to any person; or
 - (b) the goods do not comply with safety standards.
- (2) A recall notice shall be published in 2 daily newspapers having wide circulation.
- (3) A recall notice may require a trader to –
 - (a) cease to supply certain toys;
 - (b) disclose to the public, or to a class of persons specified in the notice –
 - (i) the nature of a defect in, or a dangerous characteristic of, the toys identified in the notice; and
 - (ii) the circumstances identified in the notice in which a reasonably foreseeable use or misuse of the toys may be dangerous;
 - (c) inform the public or a class of persons specified in the notice, that the trader undertakes to –
 - (i) repair the toys;
 - (ii) replace the toys;
 - (iii) refund the full price of the toys to the consumer;
 - (iv) destroy the toys; or
 - (v) take such other action as the enforcement authority may approve.

11. Warnings

Every toy shall be accompanied by the appropriate warnings and indication of precautions to be taken during use, in the English or French language, as specified in the Third Schedule.

12. Revocation

The Toys (Safety) Regulations 1994 are revoked.

13. Offences

Any person who contravenes these regulations shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 12 months.

14. Commencement

These regulations shall come into operation on 19 October 2021.

Made by the Minister on 19 October 2021.

FIRST SCHEDULE

[Regulation 2]

PRODUCTS NOT CLASSIFIED AS TOYS

1. Automatic playing machines, whether coin operated or not, intended for public use
2. Toy vehicles equipped with combustion engines
3. Toy steam engines
4. Toy slings and toy catapults, supplied without projectiles
5. Flying toys incorporating rotor blade(s) which are capable of spinning approximately horizontally, each blade being greater than 175 millimetres in length, measured from the centre of rotation to the blade tip, and with an overall mass of the flying toy greater than 50 grammes
6. Decorative objects for festivities and celebrations
7. 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;
 - (e) reproductions of real fire arms

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8. Sports equipment including roller skates, inline skates, and skateboards intended for children with a body mass of more than 20 kilogrammes
 9. Bicycles with a maximum saddle height of more than 435 millimetres, 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
 10. Scooters and other means of transport designed for sport or which are intended to be used for travel on public roads or public pathways
 11. Electrically driven vehicles which are intended to be used for travel on public roads, public pathways, or the pavement thereof
 12. Aquatic equipment intended to be used in deep water, and swimming learning devices for children, such as swim seats and swimming aids
 13. Puzzles with more than 500 pieces
 14. Guns and pistols using compressed gas, with the exception of water guns and water pistols
 15. Bows for archery over 120 centimetres long
 16. Fireworks, including percussion caps which are not specifically designed for toys
 17. Products and games using sharp-pointed missiles, such as sets of darts with metallic points
 18. Functional educational products, such as electric ovens, irons or other functional products, as defined in EU Directive

2009/48/EC, operated at a nominal voltage exceeding 24 volts which are sold exclusively for teaching purposes under adult supervision

19. Products intended for use for educational purposes in schools and other pedagogical contexts under the surveillance of an adult instructor, such as science equipment
 20. 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
 21. Interactive software, intended for leisure and entertainment, such as computer games, and their storage media, such as CDs
 22. Babies' soothers
 23. Child-appealing luminaires
 24. Electrical transformers for toys
 25. Fashion accessories for children which are not for use in play
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SECOND SCHEDULE
[Regulation 3(5)(b)]

UNDERTAKING FOR IMPORT OF TOYS FOR PERSONAL USE

Name

National Identity Card no.

Address

Phone no. Residence Mobile

Invoice no.

Date

Bill of Lading no.

SN	Description of goods imported for personal use	Ref. no.	H.S. Code
1.			
2.			
3.			
4.			
5.			

I,,
hereby undertake that –

- (a) the goods imported by me, as described above, is strictly for personal use;
- (b) I shall not put any of them for sale on the market;
- (c) I take full responsibility for the goods and its/their use;
- (d) no liability shall incur to any authority or individual, aside from me, in the event that the usage of the above products

cause any form of damage to individuals or property. In the event, that any form of damage occurs, I shall be the sole person responsible for any civil claim or criminal prosecution; and

- (e) all the above information is true and accurate to the best of my knowledge.

.....

Signature of importer

.....

Date

THIRD SCHEDULE

[Regulation 11]

**PART I – WARNINGS AND INDICATIONS OF PRECAUTIONS
TO BE TAKEN WHEN USING TOYS**

Toys shall be accompanied by appropriate clearly legible warnings in order to reduce inherent risks to ensure the toys are safe.

**PART II – TOYS NOT INTENDED FOR CHILDREN
UNDER 3 YEARS OF AGE**

1. (1) Toys which might be dangerous for children under 3 years of age shall bear the warning “Not suitable for children under 3 years of ages” together with a brief indication, which may also appear in the instructions for use, of the specific risks calling for this restriction.

(2) Paragraph (1) shall not apply to toys which, on account of their function, dimensions, characteristics, properties or other cogent grounds, are manifestly unsuitable for children under 3 years of age.

2. Slides, suspended swings and rings, trapezes, ropes and similar toys attached to a crossbeam shall be accompanied by instructions –

- (a) to carry out checks and maintenance of the main parts such as suspensions, fixings, anchorage, etc. at intervals, and shall point out that, if these checks are not carried out, the toy may cause a fall or overturn.
- (b) for the correct assembly of the toy, indicating those parts which can present danger if it is incorrectly assembled.

PART III – FUNCTIONAL TOYS

In this part –

- (a) “functional toys” means toys which are used in the same way as, and are often models of, appliances for installations intended for adults.

- (b) functional toys or their packages shall bear the words “warning – to be used under the direct supervision of an adult”.
- (c) functional toys shall be accompanied by directions –
 - (i) giving working instructions as well as the precautions to be taken by the user, with the warning that failure to take these precautions would expose the user to the hazards – to be specified – normally associated with the appliance or product of which the toy is a scale model or an imitation;
 - (ii) that the toy shall be kept out of reach of very young children.

PART IV – MISCELLANEOUS

1. (1) “Chemical toys” means chemistry sets, plastic embedding sets, miniature workshops for ceramics, enamelling or photography and similar toys.

(2) Toys containing inherently dangerous substances or preparations shall bear indications –

- (a) of the dangerous nature of these substances or preparations;
- (b) of the precautions to be taken by the user in order to avoid hazards associated with them which shall be specified concisely according to the type of toy;
- (c) of the first aid to be given in the event of serious accidents resulting from the use of the toy; and
- (d) that the toy shall be kept out of reach of very young children.

(3) Every chemical toy shall bear the words – “Warning: for children over 14 years of age only under adult supervision”

6. Where skates and skateboards for children are offered for sale as toys they shall –

- (a) bear the words “Warning: protective equipment shall be worn”;
- (b) contain a reminder that the toy shall be used with caution, since it requires great skill, so as to avoid falls or collisions causing injury to the user and third parties;
- (c) contain indications as to the recommended protective equipment such as helmets, gloves, kneepads, elbow pads, etc. to be used.

7. Toys intended for use in water shall contain the words – “Warning: only to be used in water in which the child is within its depth and under supervision”.