

## **CONSUMER PROTECTION ACT 1999**

### **DRAFT CONSUMER PROTECTION (CERTIFICATE OF CONFORMANCE AND CONFORMITY MARK OF SAFETY STANDARDS) (AMENDMENT) REGULATIONS 2015**

In exercise of the powers conferred by section 19 and 150 of the Consumer Protection Act 1999 [Act 599], the Minister makes the following regulations:

#### **Citation and commencement**

1. (1) These Regulations may be cited as the Consumer Protection (Certificate of Conformance and Conformity Mark of Safety Standards) (Amendment) Regulations 2015.
- (2) These Regulations come into operation on xx xx 201x.

#### **Interpretation**

2. In these Regulations, unless the context otherwise requires-

“goods” means the goods as specified in column (1) of the First Schedule;

“accredited laboratory” means a laboratory accredited by the Department of Standards Malaysia or recognized through any arrangement made by the Department of Standards Malaysia;

“product owner” means the product owner as specified in column (3) of the First Schedule;

“certificate of conformance” means the certificate made under regulation 5 pursuant to a declaration by the product owner under regulation 4;

“conformity mark” means the conformity mark as specified in the Second Schedule.

#### **Registration of business activity prior to declaration**

3. (1) The product owner, before making the declaration pursuant to regulation 4, shall register his business activity of supplying or offering or advertising for supply or importing any goods in the manner determined by the Controller.
- (2) A registration number shall be assigned in the manner determined by the Controller to each product owner so registered.
- (3) For the purpose of registration under subregulation (1), the product owner shall provide to the Controller any documents as determine by the Controller.
- (4) The Controller may, at any time after receiving the application for registration under subregulation (1), request in writing for the product owner to provide such additional document or information within the time specified by the Controller.

(5) Where subregulation (3) or (4) is not complied with, the application for registration shall be deemed to have been withdrawn, but without prejudice to a fresh application being made by the product owner.

(6) Any product owner who fails to comply with this regulation commits an offence.

### **Declaration of conformance**

4. (1) A product owner who intend to supply, or offer or advertise to supply, or import any goods including but not limited to gift, prize, free offer or other free item of the same kind shall ensure that the goods have been tested by an accredited laboratory and is compliant with the safety standards relating to such goods as specified in column (2) of the First Schedule.

(2) The product owner shall declare that the goods have conformed to the safety standards in the form of a certificate of conformance which shall be issued in the manner determined by the Controller.

(3) Any product owner who fails to comply with this regulation commits an offence.

### **Certificate of conformance**

5. (1) The product owner shall produce the certificate of conformance to the Controller in the manner determined by the Controller and the Controller shall assign a reference number to each certificate of conformance.

(2) The product owner shall keep the certificate of conformance and maintain records or documents relating to the specification of the goods and its conformance to the standards issued by the accredited laboratory and any other document as determined by the Controller and shall, upon request, furnish the Controller or Assistant Controller with the said certificate of conformance, records or documents.

(3) The product owner shall provide to the distributor or retailer of its goods the reference number of the certificate of conformance for such goods in writing, or a copy of the certificate of conformance, and the distributor or retailer shall produce that reference number or the copy of the certificate of conformance to the Controller or Assistant Controller whenever requested to do so.

(4) Where the distributor enters into any dealings with other distributors or retailers for the goods, the distributor shall provide to such other distributor or retailer the reference number of the certificate of conformance in writing, or a copy of the certificate of conformance, and the distributor or retailer shall produce the reference number or the copy of the certificate of conformance to the Controller or Assistant Controller whenever requested to do so.

(5) Certificate of conformance, records or documents relating to the, specification of the goods and its conformance to the standards issued by the accredited laboratory and any other document as determined by the Controller shall be maintained for at least 12 months.

(6) Any person who fails to comply with this regulation commits an offence.

### **Marking or affixing of conformity mark or particulars on goods, etc.**

6. (1) The product owner who has satisfied the requirements mentioned under regulations 3, 4 and 5 shall mark or affix the goods with the conformity mark and the particulars as specified in subregulation (2).

(2) The goods shall be indelibly marked or affixed, in a conspicuous position easily read by any person, with the following particulars:

- (a) either one of the conformity mark, as specified in the Second Schedule, of a minimum size of 5 mm x 5 mm;
- (b) the registration number assigned to the product owner under subregulation 3(2) which is to be placed below the conformity mark; and
- (c) the name and address of the product owner or any authorized representative of the product owner, which may include the distributor or retailer of the goods

(3) Where the manner of marking and affixing as provided under subregulation (2) is not practical to be done on the goods, the particulars under subregulation (2) may be marked or affixed on each unit of packaging, box or container in which the goods are supplied to the consumers.

(4) Any person who fails to comply with this regulation commits an offence.

### **Obligation of product owner**

7. (1) The product owner shall carry out corrective action as soon as practicable upon receiving information that the goods have caused or is likely to cause injury to person or is otherwise unsafe or the goods placed in the market is not compliant with these Regulations.

(2) The product owner shall inform the Controller within 14 days of the information referred to in subregulation (1) and the corrective action taken by the product owner.

(3) Notwithstanding subregulation (2), the Controller may, as he deem fits, specify any corrective action to be taken by the product owner and the product owner shall carry out the corrective action so ordered by the Controller within a time specified by the Controller.

(4) Any goods found to have caused or is likely to cause injury to a person or is otherwise unsafe or the goods placed in the market is not compliant with these Regulations, the Controller may order the product owner to withdraw the goods from the market.

(5) Any product owner who fails to comply with this regulation commits an offence.

### **Goods for sampling, demonstration or research and development purposes**

8. (1) Any person who imports goods for the purposes of sampling, demonstration or research and development are exempted from regulations 3, 4, 5, 6 and 7.

(2) Notwithstanding subregulation (1), such person shall complete and submit a notification form as determined by the Controller to notify the Controller of the importation of such goods.

(3) The Controller may, provide exemption from regulations 3, 4, 5, 6 and 7 for the purpose deemed appropriate by the Controller.

(4) Any person who fails to comply with this regulation or who supplies such goods otherwise than for the purpose of this regulation commits an offence.

### **Non-compliance with safety standards**

9. Failure to comply with these Regulations is deemed to be a failure to comply with the safety standards under section 19 of the Act.

### **Saving**

10. These Regulations shall come into operation on the commencement date, however, shall not apply to goods that were already supplied prior to the commencement date.

### **Revocation**

11. The Consumer Protection (Certificate of Conformance and Conformity Mark of Safety Standard) Regulations 2010 [P.U. (A) 253/2010] is revoked.

## **FIRST SCHEDULE**

[Regulation 5]

<b>Goods</b>	<b>Regulations</b>	<b>Product Owner</b>
1. Toys	<i>Consumer Protection (Safety Standards for Toys) Regulations 2009 [P.U. (A) 275/2009]</i>	<i>Local manufacturers or importers or suppliers including retailers who conduct repackaging activities</i>

SECOND SCHEDULE

[Regulation 6]

CONFORMITY MARK OF SAFETY STANDARDS

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## **CONSUMER PROTECTION ACT 1999**

### **DRAFT CONSUMER PROTECTION (SAFETY STANDARDS FOR TOYS) (AMENDMENT) REGULATIONS 2015**

In exercise of the powers conferred by section 19 of the Consumer Protection Act 1999 [Act 599], the Minister makes the following regulations:

#### **Citation and commencement**

1. (1) These regulations may be cited as the Consumer Protection (Safety Standards for Toys) (Amendment) Regulations 2015.
- (2) These Regulations come into operation on xx xx 201x.

#### **Safety standards for toys**

2. (1) The standard specifications declared under section 15 of the Standards of Malaysia Act 1996 [Act 549] as specified in the First Schedule are prescribed as the safety standards for toys for the purpose of section 19 of this Act.
- (2) For the purposes of these Regulations, “toys” means any goods designed or intended for use in play by children less than fourteen years of age but does not include the goods specified in the Second Schedule.
- (3) For the avoidance of doubt, any toys which are the counterparts of any goods specified in the Second Schedule shall be subject to the safety standards as prescribed in sub regulation (1).
- (4) Any product owner who fails to comply with this regulation and First Schedule commits an offence.

#### **Saving**

Any revision made to the safety standards for toys as specified in the First Schedule after the coming into operation of these Regulations shall not be subjected to the toys of which the same safety standards have been prescribed under the principle Regulations prior to the revision.

FIRST SCHEDULE

[Subregulation 2(1)]

SAFETY STANDARDS FOR TOYS

No	Specification Number	Part	Specification
1.	MS ISO 8124-1	-	Safety of Toys – Part 1 : Safety aspects related to mechanical and physical properties
2.	MS ISO 8124-2	-	Safety of Toys – Part 2 : Flammability
3.	MS ISO 8124-3	-	Safety of Toys – Part 3 : Migration of certain elements
4.	MS 1774	Part 4	Safety of toys – Part 4 : Experimental sets for chemistry and related activities
5.	MS 1774	Part 5	Safety of toys – Part 5 : Chemical toys (sets) other than experimental sets
6.	MS 1725	-	Safety of electric toys
7.	ISO 8124-1	Part 1	Safety of toys – Part 1: Safety aspects related to mechanical and physical properties
8.	ISO 8124-2	Part 2	Safety of toys – Part 2: Flammability
9.	ISO 8124-3	Part 3	Safety of toys – Part 3: Migration of certain elements
10.	ISO 8124-4	Part 4	Safety of toys – Part 4: Swings, slides and similar activity toys for indoor and outdoor family domestic use
11.	ISO 8124-6	Part 6	Safety of Toys – Part 6 Certain phthalate esters in toys and children's product
12.	EN 71-1	Part 1	Safety of toys – Part 1: Mechanical and physical properties
13.	EN 71-2	Part 2	Safety of toys – Part 2: Flammability
14.	EN 71-3	Part 3	Safety of toys – Part 3: Migration of certain elements
15.	EN 71-4	Part 4	Safety of toys – Part 4: Experimental sets for chemistry and

			related activities
16.	EN 71-5	Part 5	Safety of toys – Part 5: Chemical toys (sets) other than experimental sets
17.	EN 62115	-	Electric Toys – Safety
18.	IEC 62115	-	Electric Toys – Safety
19.	ASTM F963	-	Standard Consumer Safety Specification for Toy Safety

## SECOND SCHEDULE

[Subregulation 2(2)]

### GOODS NOT REGARDED AS TOYS

1. *Festival decorations*
2. *Equipment intended to be used collectively in playgrounds*
3. *Public playground equipment*
4. *Sporting goods and equipment, camping goods, athletic equipment, musical instruments and furniture*
5. *Aquatic equipment intended to be used in deep water*
6. *Collectible products not intended for children under fourteen years of age; examples are detailed scale models, folk dolls and decorative dolls and other similar articles*
7. *Toys installed in public places (shopping centers, arcades, etc.)*
8. *Jigsaw puzzles having more than 500 pieces or without a picture, for specialists*
9. *Compressed air and gas operated guns and pistols*
10. *Fireworks including percussion caps, except percussion caps specifically designed for toys*
11. *Slingshots*
12. *Dart with metallic points*
13. *Electric ovens, irons or other functional products operated at a nominal voltage greater than 24 V*
14. *Products containing heating elements intended for use under the supervision of an adult in a teaching context*
15. *Models of aircraft, rockets, boats and land vehicles powered by combustion engines*
16. *Toy steam engines*
17. *Bicycles, except bicycles with a maximum saddle height of 435 mm*
18. *Video toys which can be connected to a video screen and which are operated at voltage exceeding 24 V*
19. *Babies' dummies / pacifiers*
20. *Faithful reproduction of real firearms*
21. *Fashion jewellery for children*
22. *Model kits, hobby and craft items in which the finished item is not primarily of play value and not intended for children under fourteen years of age*
23. *Bows for archery with an overall relaxed length exceeding 120cm*
24. *Kites, except kites with strings which have electrical resistance properties*
25. *Amusement machinery*
26. *Portable child-appealing luminaires*