

1 Windsor Framework: toy safety¹

Overview

1.1 The European Commission has recently [proposed changes to EU rules regulating toy safety](#). If adopted at EU-level, the proposal under scrutiny would revoke the [Toy Directive \(2009/48/EC\)](#) and introduce new specific safety requirements that toys must meet to be placed on the EU market, including in Northern Ireland under the terms of the Windsor Framework. The Proposal would be within the scope of the Stormont Brake.

1.2 At present, toy safety is regulated at EU-level by [Directive 2009/48/EC](#) on the safety of toys (the ‘Toy Safety Directive’ or ‘Directive’). The Directive lays down the safety requirements that toys must meet in order to be placed on the EU market, whether they are manufactured in the EU or in non-EU countries. The Directive contains a general prohibition on substances in toys that are carcinogenic, mutagenic, or toxic for reproduction (CMRs). At the same time, the Directive aims to ensure the free movement of toys within the EU’s Single Market.

1.3 The Commission has identified several inadequacies that have emerged during the practical application of the Directive since its adoption in 2009, in particular, concerning risks posed by harmful chemicals.

1.4 The proposed EU Regulation has been published following the EU’s ‘Chemicals Strategy for Sustainability’, which calls for extending the so-called ‘generic approach’ towards harmful chemicals (based on generic preventive bans) to ensure that consumers, vulnerable groups, and the natural environment are more consistently protected. The proposed EU Regulation would create a general prohibition on CMRs with regards to the following additional classifications:

- endocrine disruptors;
- specific target organ toxicity; and
- respiratory sensitisers.

1.5 As a result, if chemicals used in toys fall within any of these classifications, they will not be able to be placed on the EU market. The proposal will, however, allow for derogations to these bans in specific circumstances where there is sufficient evidence to demonstrate that a chemical does not pose a risk to children, and there are no suitable alternatives available.

1.6 Under current EU rules there are limits in place for some specific chemicals when used in toys intended for children under the age of 36 months. The proposal under scrutiny would extend these limits to toys for children up to the age of 14, not just those intended for younger children.

1.7 Additionally, the proposed EU Regulation would create a new requirement for a ‘Digital Product Passport’ (DPP) for toys at EU borders, including toys sold online.

¹ Proposal for a Regulation of the European Parliament and of the Council on the safety of toys and repealing Directive 2009/48/EC; COM number: COM(2023)462; Legal base: Article 114 TFEU; Dept: Department for Business and Trade; Devolved Administrations: Consulted; ESC number: 42235.

This would oblige all economic operators to attach a ‘data carrier’ to toys, providing safety information on the product. This would be a change to the current paper-based requirements, though the information provided would largely be the same.

The Government’s position

1.8 In his [Explanatory Memorandum](#) (EM) on the proposal, the Minister for Enterprise, Markets and Small Business, Kevin Hollinrake MP, says that the UK will make its own decision on revisions to chemical classifications or specific usage limits for toys, as well as on the implementation of a digital product passport or similar in due course.

1.9 The Minister notes that the implementation of the EU proposal will not change the requirements for products placed on the Great Britain (GB) market. However, for GB manufacturers placing covered products on the EU market, they will need to comply with the changes made by the proposal once it is adopted.

1.10 The proposal was deposited in Parliament as it will be applicable in Northern Ireland, when adopted, under the terms of the Windsor Framework, subject to the potential operation of the Stormont Brake. The Minister confirms this and says that the changes would apply 30 months after the date the proposed EU Regulation enters into force. He also says that the Government are committed to ensuring that Northern Ireland (NI) has unfettered access to the rest of the UK market, therefore toys that meet the technical requirements to be placed on the market in NI would be able to be placed on the GB market.

1.11 The Minister refers to a consultation on the future of the UK’s Product Safety Regulatory Framework that concluded on 24 October 2023. The consultation sought views on proposals to modernise the UK’s safety framework to ensure that it remains fit for purpose and provides protection for consumers now and in the future. The Minister argues that whilst the Government will consider the benefits and risks of adopting similar measures as set out in the EU’s proposal, this will need to be done in light of any wider considerations stemming from the responses received to the consultation.

1.12 There has been no formal consultation by the Government on the impact that the proposed EU Regulation will have on covered stakeholders in GB or NI.

1.13 The Minister also notes that the EU have considered any potential financial implications in an impact assessment for those who need to comply with these changes, including Northern Ireland. The Government has not completed its own impact assessment for GB. The Minister says an impact assessment will be completed at the time any such proposals are presented for GB.

The Committee’s position

1.14 We note that the Government’s assessment is at an early stage. We therefore look forward to further information in due course, notably around the implications of the proposal for regulatory divergence between GB and NI.

1.15 If the Government decide to implement any GB changes to chemical classifications or specific usage limit following the consultation into the UK's Product Safety Regulatory Framework, we look forward to a full impact assessment, which includes financial implications.

1.16 There has been no formal consultation by the UK Government on the proposed changes from this EU Regulation with impacted stakeholders (such as NI manufacturers), despite the changes being automatically applicable to NI under the Windsor Framework. We note the Stormont Brake may be relevant for this proposed EU Regulation. We query if a consultation will take place with relevant stakeholders, such as economic operators in GB and NI.

Actions

1.17 We are reporting these documents to the House as politically important.

1.18 We have written to the Minister requesting further information.

Letter from the Chair to the Minister for Enterprise, Markets and Small Business (Kevin Hollinrake MP)

We considered your Explanatory Memorandum on the above proposals at our meeting on 13 December 2023. We look forward to further information from you as your assessment evolves, notably around the implications of the proposal for regulatory divergence between Great Britain and Northern Ireland.

When you next write, we ask that you update us on your progress towards reviewing sector specific legislation covering toys, in the context of the now closed consultation on the UK's Product Safety Regulatory Framework. We ask that you address how the Government's strategy for toy safety regulation differs or aligns with the proposed EU Regulation under scrutiny.

We are also interested in hearing if you intend to consult covered stakeholder (such as manufacturers) in GB and NI on these proposed EU changes, considering they will be automatically applicable to NI under the Windsor Framework. We note the proposal is subject to the potential operation of the Stormont Brake.

We ask that you respond to this letter within four months.