

Commission Directive (EU) 2020/2088 of 11 December 2020 amending Annex II to Directive 2009/48/EC of the European Parliament and of the Council as regards the labelling of allergenic fragrances in toys (Text with EEA relevance)

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys⁽¹⁾, and in particular point (b) of the first subparagraph of Article 46(1) thereof,

Whereas:

- (1) Directive 2009/48/EC lays down a general obligation to list on the toy, on an affixed label, on the packaging or in an accompanying leaflet, if added to a toy, the names of 11 allergenic fragrances if the concentrations of those fragrances exceed 100 mg/kg in the toy or components thereof. Those allergenic fragrances are listed in the table in the third paragraph of point 11 of Part III of Annex II to that Directive.
- (2) The Scientific Committee on Consumer Safety (SCCS), which assists the Commission as an independent risk assessment body in the area of cosmetic products, notes in its opinion of 26 and 27 June 2012⁽²⁾ that contact allergy to fragrances is a common, significant and relevant problem in Europe and that exposure to fragrances occurs from the use of other consumer products, such as toys. The SCCS also notes that, in recent years, it has become a trend to add fragrance chemicals to many types of consumer products, such as children's toys, which may contribute significantly to the fragrance exposure of the consumer by the dermal route. The SCCS adds that the consumer is exposed to fragrance substances from a wide variety of cosmetic products, other consumer products, pharmaceuticals and occupational exposures, and that all those exposures are of importance in the context of contact allergy as it is not the source of exposure that is critical, but the cumulative dose per unit area. In the opinion, a number of established contact allergens in humans are listed in Table 13-1.
- (3) A survey of allergenic substances in products for children carried out by the Environmental Protection Agency in Denmark⁽³⁾ shows the presence of allergenic fragrances in toys, namely modelling clays, slimes, a doll, a teddy bear, and rubber bands.

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- (4) The Expert Group on Toys Safety advises the Commission in the preparation of legislative proposals and policy initiatives in the area of toy safety. The mission of its subgroup on Chemicals in Toys (subgroup Chemicals) is to provide advice with regard to chemical substances which may be used in toys.
- (5) The Expert Group on Toys Safety recalled, at its meeting on 13 September 2019⁽⁴⁾, that an allergenic substance, whether present in cosmetic products or in toys, is always allergenic. That so-called intrinsic property of the substance is independent from the use of the substance and is therefore present irrespective of whether the allergenic substance is used in cosmetics or in toys. Consequently, the Expert Group considered that an allergenic substance presenting a risk in cosmetic products could equally present a risk in toys. It therefore underlined the importance to take thorough account of the opinions of the SCCS and of its predecessor committees on allergenic fragrances in cosmetic products when regulating allergenic fragrances in toys.
- (6) At the meeting of the subgroup Chemicals of 3 May 2018⁽⁵⁾, the majority of its members concluded that the established contact allergens in humans listed in Table 13-1 of the SCCS opinion of 26 and 27 June 2012 should be added to the list of allergenic fragrances that have to be listed on the toy, on an affixed label, on the packaging or in an accompanying leaflet, laid down in the table in the third paragraph of point 11 of Part III of Annex II to Directive 2009/48/EC.
- (7) On 13 September 2019, the Expert Group on Toys Safety confirmed the conclusions of the subgroup Chemicals.
- (8) At its meeting on 13 September 2019, the Expert Group on Toys Safety noted that entry 4 in the table in the third paragraph of point 11 of Part III of Annex II to Directive 2009/48/EC on citronellol, CAS number 106-22-9, covers only the mixture of the two enantiomeric forms of citronellol. The labelling requirements should however, according to the Expert Group, also cover the two individual enantiomeric forms listed as CAS numbers 1117-61-9 and 7540-51-4 in Table 13-1 of the SCCS opinion of 26 and 27 June 2012.
- (9) In light of the SCCS opinion of 26 and 27 June 2012 and the recommendation of the Expert Group on Toys Safety of 13 September 2019, the allergenic fragrances listed in Table 13-1 of the SCCS opinion of 26 and 27 June 2012 should be subject to labelling requirements when present in toys. The fragrances that are not yet subject to a prohibition or labelling requirements laid down in Directive 2009/48/EC, should therefore be included in the table in the third paragraph of point 11 of Part III of Annex II to that Directive.
- (10) Directive 2009/48/EC should therefore be amended accordingly.
- (11) The measures provided for in this Directive are in accordance with the opinion of the Committee established under Article 47(1) of Directive 2009/48/EC,

HAS ADOPTED THIS DIRECTIVE:

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Article 1

Annex II to Directive 2009/48/EC is amended in accordance with the Annex to this Directive.

Article 2

1 Member States shall adopt and publish, by 4 July 2022 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 5 July 2022.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 11 December 2020.

For the Commission

The President

Ursula VON DER LEYEN