

CONSUMER PROTECTION

Act 11 of 1991 – 15 June 1991

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1 Short title

This Act may be cited as the Consumer Protection Act.

2 Interpretation

In this Act –

“authorised officer” means a person authorised in writing by the Minister to assist the enforcement authority in carrying out its functions under this Act;

“certificate of authority” means such certificate of identity and authority as the Minister may issue to an authorised officer;

“credit sale agreement” has the same meaning as in the Hire Purchase and Credit Sale Act;

“drug” has the same meaning as in the Pharmacy Act ;

“enforcement authority” means the Ministry of Trade and Shipping;

“Export Processing Zone Certificate” means a certificate issued under the Export Processing Zones Act (now the Industrial Expansion Act);

“food” has the same meaning as in the Food Act;

“goods” includes substances, growing crops and things comprised in land by virtue of being attached to it and any machinery or vehicle;

“hire purchase agreement” has the same meaning as in the Hire Purchase and Credit Sale Act;

“information” includes accounts, estimates and returns;

“mark” has the same meaning as in the Trade Marks Act;

“medicine” has the same meaning as in the Pharmacy Act;

“Minister” means the Minister to whom responsibility for the subject of consumer protection is assigned;

“motor vehicle” has the same meaning as in the Road Traffic Act;

“notice” means a notice in writing;

“prohibition notice” means a notice under section 5;

“record” includes any books or documents and any records in non-documentary form;

“safety regulations” means safety regulations made under section 4;

“substance” means any natural or artificial substance whether in solid, liquid or gaseous form or in the form of a vapour and includes substances that are comprised in or mixed with other goods;

“supply” in relation to goods –

(a) means any transaction by way of trade whether for money or for money’s worth;

(b) includes an exchange of goods, a credit sale agreement, a hire purchase agreement and giving the goods as a prize or otherwise as a gift;

(c) includes also offering to supply, exposing for supply or being in possession for supply;

“tobacco” includes any tobacco product within the meaning of the Tobacco Production and Marketing Act and any article or substance containing tobacco and intended for oral or nasal use.

3 General safety requirements

(1) No person shall supply any goods which suffer from any fault with regard to any prescribed quality, quantity, potency, purity or standard or, in the case of any machinery or motor vehicle, with regard to the quality, nature or manner of its performance.

(2) This section shall not apply to –

(a) growing crops or things comprised in land by virtue of being attached to it;

(b) water, food, animal feed or chemical fertiliser;

(c) aircraft;

(d) drugs or medicine;

- (e) tobacco; and
- (f) goods intended exclusively for export under the Export Processing Zone Certificate (now the Industrial Expansion Act).

4 Safety regulations

- (1) **The Minister may make such safety regulations as he thinks fit for the purposes of this Act.**
- (2) The regulations made under subsection (1) may, in particular, provide for –
 - (a) the composition, design, construction, finish or packing of goods;
 - (b) the giving, refusing, alteration, cancellation or approval of such goods;
 - (c) prohibiting persons from supplying goods to which this section applies, including components and raw materials thereof;
 - (d) standards to be applied in carrying out any test or inspection of goods;
 - (e) the requiring of a mark, warning or instructions to be put on or to accompany the goods;
 - (f) levying of fees.
- (3) The power to make regulations under this section shall include power to make provision for different classes of goods.
- (4) This section shall apply to any goods other than those specified in section 3(2).

5 Prohibition notice

- (1) **The enforcement authority may serve on any person a prohibition notice prohibiting that person from supplying any goods which in its opinion are not safe for use or consumption.**
- (2) A notice issued under subsection (1) shall specify the reasons for which the goods are believed not to be safe for use or consumption.
- (3) A person who has been served with a prohibition notice may, within 10 days of the receipt thereof, make representations in writing to the Minister, specifying the grounds on which he relies.
- (4) Upon receipt of any representations under subsection (3), the Minister shall hear the representor within 15 days and take a decision.
- (5) Where the Minister maintains a prohibition notice, the person on whom it was served shall cease forthwith to supply the goods to which the notice relates or such of the goods in respect of which the notice is maintained.

6 Power to vary or revoke any safety regulation

The Minister may –

- (a) vary, amend or revoke a prohibition notice; and
- (b) by notice, require any person to furnish such information or records as may be reasonably required in relation to any matter under this Act.

7 Power of search

- (1) **An authorised officer may, at all reasonable times and on showing his certificate of authority, enter any trading premises for the purposes of ensuring that the provisions of this Act are being complied with.**
- (2) Where the authorised officer has reasonable grounds for suspecting that there has been a contravention in relation to any goods, he may –
 - (a) inspect the records of such goods and seize them, if necessary;
 - (b) take a sample of the goods.

8 Obstruction of authorised officer

No person shall –

- (a) obstruct an authorised officer in the performance of his functions under section 7;
- (b) fail or refuse to give to an authorised officer such information as he may reasonably require in the performance of his functions under section 7.

9 Offences and penalties

- (1) **Any person who contravenes this Act or any regulations made under it or a prohibition notice served under section 5, shall commit an offence and shall, on conviction, be liable –**

- (a) in the case of a first offence, to a fine of not less than 500 rupees and not exceeding 5,000 rupees; and
 - (b) in the case of a second or subsequent offence, to a fine of not less than 1,000 rupees and not exceeding 10,000 rupees and to imprisonment for a term not exceeding 12 months.
- (2) Notwithstanding section 114 of the Courts Act and section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act, a Magistrate shall have jurisdiction to try an offence under this Act and may impose any penalty provided by this Act.
- (3) Sections 152 and 153 of the Criminal Procedure Act shall not apply to an offence under this Act.

The Toys (Safety) Regulations 1994.

LEGAL SUPPLEMENT

to the Government Gazette of Mauritius No. 23 of 11 March 1994

Government Notice No. 43 of 1994

THE CONSUMER PROTECTION ACT 1991
Regulations made by the Minister under section 4 (1) of the
Consumer Protection Act 1991

1. These regulations may be cited as the Toys (Safety) Regulations 1994.

2. In these regulations-

"Act" means the Consumer Protection act 1991;

"essential safety requirements" means the requirements specified in the First Schedule;

"enforcement authority" includes any officer of the Ministry of Trade and Shipping;

"European standard" means any standard for toys which is applicable in the European Economic Community;

"manufacturer" includes any representatives authorised by him;

"Mauritian standard" means the standard as defined in section 2 of the Mauritius Standards Bureau Act 1993;

"safe", in relation to any goods, means such that there is no risk, or no risk apart from one reduced to a minimum, that any of the following will, whether immediately or after a definite or indefinite period, cause the death of, or any personal injury to, any person --

- (a) toys;
- (b) the keeping, use or consumption of the toys;
- (c) the assembly of any toy, which is, or is to be supplied unassembled;
- (d) any emission or leakage of any substance from any toy or as a result of the keeping of the use of the toy;

"toy" means any product or material designed or clearly intended for use in play by children under 14 years of age, but does not include products specified in the Second Schedule.

- 3. These regulations shall not apply to any toy which was supplied in Mauritius before 1 March, 1994.
- 4. Every toy shall satisfy the essential safety requirement specified in the First Schedule;
- 5. Every toy supplied in Mauritius which is accompanied by a certificate of conformity with the European standard or Mauritian standard, as the case may be, shall be deemed to satisfy the essential safety requirements.

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- 6. (1) There shall be put on every toy or on the package of toy -
 - (a) where it is manufactured in Mauritius, the name or trade name or mark and the address of the manufacturer; and
 - (b) where it is imported into Mauritius, the name or trade name or mark and address of the importer.
- (2) (a) Subject to subparagraph (b), the name, trade name or mark of the manufacturer or of the importer shall be put in a visible, easily legible and indelible form..

The trade name or mark shall only appear as an alternative to the name where the trade name or mark enable the manufacturer or importer to be identified.

- (3) Where a toy consists of various parts, the requirements specified in paragraphs (1) and (2) shall put--
 - (a) on a label attached to the toy;
 - (b) on an accompanying printed label or leaflet; or
 - (c) where the toy is not individually packaged, on the box or other package containing the toy.
- (4) Where the information specified in paragraph (3) does not appear on, or is not attached to the toy, the attention of any person to whom the toy is supplied for

private use or consumption shall be drawn to the advisability of keeping or noting such information, as the case may be.

- (5) Any information specified in paragraph (3) may be abbreviated provided that the abbreviation enables the manufacturer or importer, as the case may be, to be identified.
- (6) Every toy shall be accompanied by the appropriate warnings and indication of precautions to be taken during use specified in the Third Schedule.
- (7)
 - (1) Every manufacturer of toys manufactured in Mauritius or, where they are imported into Mauritius, the importer, shall keep certain information in respect of toys supplied in Mauritius for inspection by the enforcement authority.
 - (2) The information specified in paragraph (1) shall contain -
 - (a) a description of the means, such as the use of a test report or technical file whereby the manufacturer ensures conformity of production with the European standard or the Mauritius standard or the essential safety requirements;
 - (b) the address of the place of manufacturer or storage of the toys;
 - (3) Where any requirements specified in paragraph (1) is not complied with, the enforcement authority may require the manufacturer or importer, as the case may be, to have a toy, in respect of which the requirement is not complied with, tested within a reasonable period by a third party at the expense of the manufacturer or importer, as the case may be.
 - (4) The test shall be carried out for the purpose of ascertaining whether the European standard or the Mauritian standard and the essential safety requirements are complied with and the manufacturer or importer shall comply with any requirement imposed by the enforcement.
8. Every imported of toys imported before 1 March 1994 shall give to the enforcement authority the date when the toy was first supplied in Mauritius.
9.
 - (1) Any person who supplied any toy in respect of which the requirement specified in these regulations have not been complied with shall commit an offence.
 - (2) Any manufacturer or imported of toys who contravened these regulations shall commit an offence.

Made by the Minister on 28 February 1994.

FIRST SCHEDULE
(regulations 2 and 4)

Essential Safety Requirements for Toys

I - GENERAL PRINCIPLES

1. (1) Every user of toys as well as third parties shall be protected against health hazards and risks of physical injury when toys are used as intended or in a foreseeable way, bearing in mind the normal behaviour of children.

(2) Such risks are those which are --
 - (a) connected with the design, construction or composition of the toy;
 - (b) inherent in the use of the toy and cannot be completely eliminated by modifying the toy's construction and composition without altering its function or depriving it of its essential properties.

2. (1) The degree of risk present in the use of a toy must be commensurate with the ability of the users, and where appropriate their supervisors, to cope with it. This applies in particular to toys which, by virtue of their functions, dimensions and characteristics, are intended for use by children under 3 years of age.

(2) To observe this principle, a minimum age for users of toys and the need to ensure that they are use only under adult supervision shall be specified where appropriate.

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3. Labels on toys or their packages and the instructions for use which accompany them shall draw the attention of users or their supervisors fully and effectively to the risks involved in using them and to the ways of avoiding such risks.

II - PARTICULAR RISKS

Physical and mechanical properties

4. the
- (1) Toys and their parts and, in the case of fixed toys, their anchorages, shall have requisite mechanical strength and, where appropriate, stability to withstand the stress to which they are subjected during use without breaking or becoming liable to distortion at the risk of causing physical injury.
 - (2) Accessible edges, protrusions, cords, cables and fastenings on toys shall be so designed and constructed that the risks of physical injury from contact with them are reduced as far as possible.
 - (3) Toys shall be so designed and constructed as to minimise the risk of physical injury which could be caused by the movement of their parts.
 - (4) Toys, and their component parts, and any detachable parts of toys which are clearly intended for use by children under 3 years of age shall be of such dimensions as to prevent their being swallowed or inhaled.
 - (5) Toys, and their parts and the packaging in which they are contained for retail sale shall not prevent risk of strangulation or suffocation.
 - (6) Toys intended for use in shallow water which are capable of carrying or supporting a child on the water shall be so designed and constructed as to reduce as far as possible, taking into account the recommended use of the toy, and risk of loss of buoyancy of the toy and loss of support afforded to the child.
 - (7) Toys which give possibility of getting inside and which thereby constitute an enclosed space for occupants shall have a means of exit which can open easily from the inside.
 - (8)
 - (a) Toys conferring mobility on their users shall, as far as possible, incorporate a braking system which is suited to the type of toy and is commensurate with the kinetic energy developed by it.
 - (b) Such a system shall be easy for the user to operate without the risk of ejection or physical injury for the user or for third parties.
 - (9) The form and composition of projectiles and the kinetic energy they may develop when fired from a toy designed for that purpose shall be such that, taking into account the nature of the toy, there is no unreasonable risk of physical injury to the user or to third parties.
 - (10) Toys containing heating elements shall be constructed as to ensure that -

- (a) the maximum temperature of any accessible surfaces does not cause burns when touched;
- (b) liquids and gases contained within toys do not reach temperatures or pressures which are such that their escape from a toy, other than for reasons essential to the proper functioning of the toy, might cause burns, scalds or other physical injury.

Flammability

5. (1) (a) Toys shall not constitute a dangerous flammable element in the child's environment and shall therefore be composed of materials which -
- (i) do not burn if directly exposed to a flame or spark or other potential seat of fire;
 - (ii) are not readily flammable or the flame goes off as soon the fire disappears;
 - (iii) where they do ignite, burn slowly and present a low rate of spread of the flame; or
 - (iv) irrespective of the toy's chemical composition, are treated so as delay the combustion process.
- (b) The combustible materials shall not constitute a risk of ignition for other materials used in the toy.
- (2) Toys which, for reasons essential to their functioning, contain dangerous substances or preparations, in particular materials and equipment for chemistry experiments, model assembly, plastic or ceramic moulding, enamelling, photography or similar activities, shall not contain substances or preparations which may become flammable due to the loss of non-flammable volatile components .
- (3) (a) Toys shall not be explosive or contain elements or substances likely to explode.
- (b) Paragraph (a) shall not apply to toy percussion caps.
- (3) Toys and, in particular, chemical games and toys, shall not contain such substances or preparations --
- (a) which, when mixed, may explode;
 - (b) through chemical reaction, or through heating;
 - (c) when mixed with oxidizing substances;
 - (d) which contain volatile components which are flammable or explosive vapour/air mixture.

Chemical properties

6. (1) Toys shall be so designed and constructed that they do not present health hazards or risks

of physical injury by ingestion, inhalation or contact with the skin, mucous tissues or eyes.

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(2) Toys shall in all cases comply with the relevant Mauritian legislation relating to certain categories of products or to the prohibition, restriction or use of labeling of certain dangerous substances and, preparations.

(3) (a) In particular, for the protection of children's health, bio-availability resulting from the use of toys shall not, as an objective, exceed the following levels per day -

- (i) 0.2 ug for antimony;
- (ii) 0.1 ug for arsenic'
- (iii) 25.0 ug for barium
- (iv) 0.6 ug for cadmium
- (v) 0.3 ug for chromium
- (vi) 0.7 ug for lead;
- (vii) 0.5 ug for mercury;
- (viii) 5.0 ug for selenium; or
- (ix) such other values as may be based on scientific evidence.

(c) The bioavailability of the substances specified in paragraph (a) means their soluble extract having toxicological significance.

(4) Toys shall not contain dangerous substances or preparations in amounts which may harm the health of children using them. At all events no person shall include, in a toy, dangerous substances or preparations if they are intended to be used as such while the toy is being used.

Electrical properties

7. (1) Electric toys shall not be powered by electricity of a nominal voltage exceeding 24 volts

and no part of the toy shall exceed 24 volts.

- (2) Parts of toys which are connected to, or liable to come into contact with a source of electricity capable of causing electric shock, together with the cable or other conductors through which electricity is conveyed to such parts, shall be properly insulated and mechanically protected so as to prevent the risk of electric shock.
- (3) Electric toys shall be so designed and constructed as to ensure that the maximum temperatures reached by all directly accessible surfaces are not such as to cause burns when touched..

Hygiene

8. Toys shall be so designed and manufactured as to meet the requirements of hygiene and cleanliness in order to avoid any risk of infection, sickness and contamination.

Radioactivity

9. Toys shall not contain radioactive elements or substances in forms or proportions likely to be detrimental to a child's health.

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SECOND SCHEDULE (regulation 2)

Products not regarded as toys for the purpose of this regulation

1. Christmas decorations
2. Detailed scale models for adult collectors
3. Equipment intended to be used collectively in playground
4. Sports equipment
5. Aquatic equipment intended to used in deep water
6. Folk dolls and decorative dolls and other similar articles for adult collectors
7. "Professional" toys installed in public places (shopping centres, stations, etc.)
8. Puzzles with more than 500 pieces or without picture, intended for specialists.
9. Air guns and air pistols.
10. Fireworks, including percussion caps other than percussion caps specifically designed for use in toys.
11. Slings and catapults.
12. Sets of darts with metallic points.
13. Electric ovens, irons or other functional products operated at a nominal voltage exceeding 24 volts.
14. Products containing heating elements intended for use under the supervision of an adult in a teaching context.
15. Vehicles with combustion engines
16. Toy steam engine.
17. Bicycles designed for sport or for travel on the public highway

18. Video toys that can be connected to a video screen operated at a nominal voltage exceeding 24 volts.
19. Babies dummies
20. Faithful reproduction of real fire arms
21. Fashion jewellery for children

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THIRD SCHEDULE
(regulation 6)

Warnings and indications of precautions to be taken when using toys

1. Toys shall be accompanied by appropriate clearly legible warnings in order to reduce inherent risks in their use as described in the essential safety requirements.

Toys not intended for children under 3 years of age

2. (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 age" 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.
3. (1) 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 dangerous if it is incorrectly assembled.

Functional toys

4. (1) "Functional toys" means toys which are used in the same way as, and are often models of, appliances for installations intended for adults.
- (2) Functional toys or their packages shall bear the words "**warning - to be used under the direct supervision of an adult**".
- (3) Functional toys shall be accompanied by directions --
- (a) 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.
 - (b) that the toy shall be kept out of the reach of very young children.
5. (1) "Chemical toys" means chemistry sets, plastic embedding sets, miniature workshops for ceramics, enamelling or photography and similar toys.

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- (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 * years of age only. For use under adult supervision."
6. Where skates and skateboard 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."

*Age to be decided by the manufacturer