EXPLANATORY MEMORANDUM TO

THE MAGNETIC TOYS (SAFETY) (REVOCATION) REGULATIONS 2009

2009 No. 1347

1. This explanatory memorandum has been prepared by the Department for Business, Enterprise and Regulatory Reform and is laid before Parliament by Command of Her Majesty.
This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the Instrument

2.1 These Regulations revoke The Magnetic Toys (Safety) Regulations 2008 No. 1654 ("the Regulations") which implemented a Commission Decision which required toys containing magnets placed on the market to display a warning about the health and safety risks they posed (Commission Decision 2008/329/EC (O.J. No. L. 114/90, 26. 4. 2008)).

2.2 The Regulations were put in place as a temporary measure while standards were developed to negate these risks. Standards have been set in place under the Toy Safety Directive and the Regulations must now be revoked.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The Commission Decision was introduced under Article 13 of Directive 2001/95/EC (O.J. No. L. 11/4, 15.1. 2002) on general product safety, which allows temporary (comitology) action to be taken at the Community level when inconsistent use of normal product safety controls results in failure to remove a serious risk from the European consumer market. Such Decisions are valid for up to one year and are renewable.

4.2 An Article 13 measure was considered necessary because neither the Toys Directive 88/378/EEC (O.J. No. L. 187, 16.7.1988, p.1), nor the European toys standard EN 71 specifically addressed the risk posed by magnets when swallowed or inhaled (i.e. their ability to attract to each other through human tissue and to cause serious or even fatal injury) and were therefore not supporting consistent application of normal product safety controls in respect of this risk.

4.3 The warning requirement was a short to medium-term awareness-raising measure. The longer term objective was to revise the European standard to include requirements that would remove these risks from magnets. Once a revised standard was in place the Commission Decision would be allowed to expire.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom as consumer safety aspects of goods are a reserved/excepted matter.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- **What is being done and why**

7.1 Following the development of harmonised standards which negate the risks from magnets in toys it is not appropriate to continue to require warnings on toys containing magnets or magnetic toys.

- **Consolidation**

7.2 Not Applicable.

8. Consultation outcome

8.1 The strategy for promoting the safety of toys with magnets has been clear to industry and stakeholders since the Commission Decision was published on 21 April 2008 and since the Regulations came into force on 21st July 2008. Industry and stakeholders have been informed of the process whereby the new standards would replace any measures that Member States had in place to comply with the Commission's Decision. The new draft standards have been in the public domain since early 2009, having been publicised by the the British Toy and Hobby Manufacturers Association and various test houses. The standards were referenced in the Official Journal on 30 April 2009, and published by BSI on 4 May 2009. Under the Toy Directive, which is a "New Approach" Directive, standards are developed on a continuing basis and would normally simply enter into force once published. The revocation of the 2008 Regulations is necessary as the provisions set out in the Decision and enforced through our Regulations will no longer be required. As stakeholders and industry have been engaged with the process, and because the policy is settled, there has been no formal consultation. We will be publishing an Information exercise on the BERR website and on Business Link. Guidance is to be issued and published on the BERR website.

9. Guidance

9.1 Not applicable. The Statutory Instrument is self-explanatory.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation applies to small business.

12. Monitoring & review

12.1 The effects of this Directive will be monitored as part of the monitoring of the Toys Directive 88/378/EEC.

13. Contact

Tony Eden-Brown at the Consumer and Competition Policy Directorate, Department for Business, Enterprise & Regulatory Reform, tel: 020 7215 0360 or e-mail: tony.edenbrown@berr.gsi.gov.uk can answer any queries regarding the instrument.

DEPARTMENT FOR BUSINESS, ENTERPRISE & REGULATORY REFORM
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