

L.N. 286 of 2006

PRODUCT SAFETY ACT
CAP. 427

Child-Resistant and Novelty Lighters Regulations, 2006

IN exercise of the powers conferred by articles 38 to 40 of the Product Safety Act, the Minister for Competitiveness and Communications, on the advice of the Malta Standards Authority, has made the following regulations:-

1. (1) The title of these regulations is the Child-Resistant and Novelty Lighters Regulations, 2006. Scope, citation and commencement.

(2) These regulations transpose Commission Decision 2006/502/EC¹ of the 11th May, 2006 requiring Member States to take measures to ensure that only lighters which are child-resistant are placed on the market and to prohibit the placing on the market of novelty lighters.

(3) These regulations shall come into force on publication date.

Provided that only lighters which are child-resistant are placed on the market as of the 11th March, 2007:

Provided further that as of the 11th March, 2007, the placing on the market of novelty lighters shall be prohibited:

Provided also that the prohibition referred to in Article 13(3) of Directive 2001/95/EC on general product safety², as transposed by regulation 7(1) of the 'Further Provisions for Product Withdrawal and Recall Regulations, 2004', shall not apply. L.N. 323 of 2004.

2. (1) For the purposes of these regulations, the following definitions shall apply: Definitions.

¹ OJ No. L198, 20-07-2006, p. 41 (This text annulled and replaced the text published in Official Journal L 197 of 19 July 2006, p. 9).

² OJ No. L11, 15-01-2002, p. 4.

“child-resistance test” means a systematic test of child-resistance of a given model of lighter, on a sample of the lighters considered, in particular tests made in accordance with MSA EN 13869:2002, as far as the specifications other than those in paragraphs 3.1, 3.4 and 5.2.3 of the Standard are concerned, or in accordance with the testing requirements of the relevant rules of non-EU countries where child-resistance requirements equivalent to those established by these regulations are in force;

“child-resistant lighter” means a lighter designed and manufactured in such a way that it cannot, under normal or reasonably foreseeable conditions of use, be operated by children younger than 51 months of age because of, for instance, the force needed to operate it or because of its design or the protection of its ignition mechanism, or the complexity or sequence of operations needed for the ignition.

A lighter shall be presumed to be child-resistant if -

(a) it conforms to MSA EN 13869:2002, as far as the specifications other than those in paragraphs 3.1, 3.4 and 5.2.3 of the Standard are concerned;

(b) it conforms to the relevant rules of the non-EU countries where child-resistance requirements equivalent to those established by these regulations are in force;

“distributor” has the meaning as defined in Article 2(f) of Directive 2001/95/EC, as transposed by regulation 2 of the Product Safety Act;

“the Director” means the Director of Consumer Affairs;

“lighter” means a manually operated flame-producing device employing a fuel, normally used for deliberately igniting in particular cigarettes, cigars and pipes, and which may foreseeably be used to ignite materials such as paper, wicks, candles and lanterns, manufactured with an integral supply of fuel, whether intended to be refuelled or not. Without prejudice to the prohibition of the placing on the market of novelty lighters established in regulation 1(3) of these regulations, this definition shall not apply to refillable lighters for which producers provide on request to the competent authorities the necessary documentation substantiating that the lighters are designed, manufactured and placed on the market such as to ensure a continual expected safe use over a

lifetime of at least five years, subject to repair, and which fulfill in particular all of the following requirements:

(a) a written guarantee from the producer of at least two years for each lighter, in accordance with Directive 1999/44/EC³;

(b) the practical possibility to be repaired and safely refilled over the entire lifetime, including in particular a repairable ignition mechanism;

(c) parts that are not consumable, but are likely to wear out or fail in continual use after the guarantee period, are accessible for replacement or repair by an authorised or specialized after-sales service centre based in the European Union;

“model of lighter” means lighters from the same producer that do not differ in design or other characteristics in any manner that may affect child-resistance;

“novelty lighter” means a flame-producing product commonly used by consumers to ignite cigarettes, cigars and pipes, including any holder which can be incorporated later or any attachment which can be fixed later, that resembles by any means to another object commonly recognised as appealing to or intended for use by children younger than 51 months, or has entertaining audio effects or animated effects. A novelty lighter can operate on any fuel, including butane or liquid fuel. This includes, but is not limited to, lighters or holders that are clearly intended to hold lighters, the shape of which resembles cartoon characters, toys, guns, watches, telephones, musical instruments, vehicles, human body or parts of the human body, animals, food or beverages, or that play musical notes, or have flashing lights or moving objects or other entertaining features. This excludes lighters that are printed or decorated with logos, labels, decals, artwork or heat shrinkable sleeves;

“producer” means:

(a) the manufacturer of the product, when he is established in Malta, and any other person presenting himself as the manufacturer by affixing to the product his name, trademark or other distinctive mark, or

³ OJ No. L171, 07-07-1999, p. 12.

(b) the person who reconditions the product; or

(c) the manufacturer's representative, when the manufacturer is not established in Malta or, if there is no representative established in Malta, the importer of the product; or

(d) others in the supply chain, in so far as their activities may affect the safety aspects of a product placed on the market.

Placing on the market and putting into service.

3. (1) As from 11th March, 2007, producers shall, as a condition for placing lighters on the market:

(a) keep and provide on request without delay to the Director a report of a child-resistance test for each model of lighters with samples of the lighters of the tested model, certifying the child-resistance of the model of lighters placed on the market;

(b) attest on request to the Director that all lighters in each of the batches placed on the market conform to the model tested and provide on request to the authorities the documentation on the testing and control programme supporting such an attestation;

(c) continuously monitor conformity of the lighters produced with the technical solutions adopted to ensure child-resistance, using appropriate testing methods and to maintain at the disposal of the Director the production records necessary to show that all lighters produced conform to the model tested;

(d) keep and provide on request without delay to the Director a new report of a child- resistance test if any changes are made to a model of lighter that may adversely affect the ability of the model to meet the requirements of these regulations.

(2) As from 11th March, 2007, distributors shall be required to keep and provide without delay to the Director on request the documentation necessary to identify any person from whom they have been supplied with the lighters they place on the market, in order to ensure traceability of the producer of the lighters throughout the supply chain.

(3) Lighters for which producers and distributors do not provide the documentation mentioned in regulations 3(1) and 3(2) of these regulations within the deadline fixed by the Director, shall be withdrawn from the market.

4. (1) Reports of a child-resistance test referred to in regulation 3 of these regulations shall include in particular: Child-resistance test.

(a) the name, address and principal place of business of the manufacturer wherever he is located, and of the importer if the lighters are imported;

(b) a complete description of the lighter, including size, shape, weight, fuel, fuel capacity, ignition mechanism, and child-resistance devices, design, technical solutions and other features that make the lighter child-resistant in accordance with the definitions and requirements of these regulations. In particular this will include a detailed description of all dimensions, force requirements, or other features that could affect the child-resistance of the lighter, including the manufacturer's tolerances for each such feature;

(c) a detailed description of the tests and of the results obtained, the dates of the tests, the location where the tests have been performed, the identity of the organisation that conducted the tests and details of the qualification and competence of such organisation to conduct the tests concerned;

(d) the identification of the place where the lighters are or have been manufactured;

(e) the location where the documentation required by these regulations is kept;

(f) references of the accreditation or recognition of the testing body.

(2) Reports of a child-resistance test referred to in regulation 3 of these regulations shall be established by either:

(a) testing bodies accredited as fulfilling the requirements established by MSA EN ISO/IEC 17025:2000 'General requirements for the competence of testing and calibration laboratories', by a member of the International Laboratory Accreditation Cooperation (ILAC) for executing child-resistance tests on lighters or otherwise recognised to that end by the Directorate or by the competent authority of the country of export;

(i) Such bodies are subject to the Method for Designating Conformity Assessment Bodies Regulations, L.N. 136 of 2003. 2003.

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(b) testing bodies whose reports of a child-resistance test are accepted by one of the countries where child-resistance requirements equivalent to those established by these regulations are applied.