

No. 30 of 1975

## AN ORDINANCE

### Relating to Flammable Clothing.

I, THE GOVERNOR-GENERAL of Australia, acting with the advice of the Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1973*.

Dated this Thirtieth day of September, 1975.

JOHN R. KERR  
Governor-General.

By His Excellency's Command,

GORDON M. BRYANT  
Minister of State for the Capital Territory.

### CHILDREN'S FLAMMABLE NIGHTWEAR ORDINANCE 1975

1. This Ordinance may be cited as the *Children's Flammable Nightwear Ordinance 1975*.<sup>\*</sup> Short title.
2. This Ordinance shall come into operation on such date as is fixed by the Minister by notice published in the *Gazette*. Commence-  
ment.
3. (1) In this Ordinance, unless the contrary intention appears— Inter-  
pretation.
  - "children's nightwear" includes pyjamas, overgarments of pyjama style, nightdresses and dressing gowns;
  - "Class 1 garment" means an article of children's nightwear that is made wholly of fabric of low flammability as defined in Australian Standard No. 1248, 1972, being a garment that complies with Rules 6.4.2 to 6.4.5 (inclusive) of Australian Standard No. 1249, 1972;
  - "Class 2 garment" means an article of children's nightwear other than a Class 1 garment, being a garment that complies with Rule 6 of Australian Standard No. 1249, 1972;
  - "Class 3 garment" means an article of children's nightwear, other than a Class 1 garment or a Class 2 garment, the sale of which is not prohibited by this Ordinance;
  - "fabric that melts" means a thermoplastic fabric that, when tested by a method described in Australian Standard No. 1176, Part 1, Part 2 or Part 3, shows a tendency to melt or allow drops of molten material to fall;

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<sup>\*</sup> Notified in the *Australian Government Gazette* on 1 October 1975.

"inspector" means an inspector appointed under this Ordinance;

"sell" means sell by retail, and "expose for sale" has a corresponding meaning;

(2) A reference in paragraph 5 (1)(a) to children's nightwear that exhibits surface burning properties as defined by Australian Standard No. 1176, Part 3, 1972, does not include a reference to nightwear made in a pile fabric as described in Rule 6.3 of Australian Standard No. 1249, 1972, provided that the garment complies with the requirements of Rule 6.2 of that Standard.

(3) A reference in this Ordinance to a garment is, in the case of a garment that consists of more than 1 piece, a reference to each piece of the garment.

**Application.**

4. (1) Nothing in this Ordinance applies to or in relation to second-hand clothing.

(2) This section ceases to have effect at the expiration of 1 year after the date fixed under section 2.

**Sale of certain articles prohibited.**

5. (1) A person shall not sell, or expose for sale, an article of children's nightwear—

(a) subject to sub-section 3 (2), that exhibits, whether before or after the garment has been washed or dry cleaned, surface burning properties as defined by Australian Standard No. 1176, Part 3, 1972; or

(b) that is trimmed with, or has an attachment (including a belt, cord or sash) made of, fabric that cannot be classified as low flammable fabric in accordance with Australian Standard No. 1248, not being a trimming or attachment that complies with Rules 6.4.2 to 6.4.5 (inclusive) of Australian Standard No. 1249, 1972.

Penalty: \$1,000.

(2) A person shall not sell, or expose for sale, an article of children's nightwear that is not marked or labelled in accordance with this Ordinance.

Penalty: \$1,000.

(3) It is a defence to a prosecution for an offence under this section that the defendant reasonably believed that the article of children's nightwear was not an article the sale of which is prohibited by this section.

**Marking of garments.**

6. (1) A Class 1 garment shall be marked with the words "LOW FIRE HAZARD GARMENT".

(2) A Class 2 garment shall be marked with the words "DESIGNED TO REDUCE FIRE HAZARD. KEEP AWAY FROM FIRE".

(3) A Class 3 garment shall be marked with the words "WARNING—FLAMMABLE GARMENT—KEEP AWAY FROM FIRE".

(4) An article of children's nightwear that is made from a fabric that melts shall be marked with the words "WARNING—DO NOT WEAR UNDER ANY FLAMMABLE GARMENT".

(5) A Class 1 garment that is made of or contains a fabric that has been treated by chemical or other means to reduce flammability shall be marked—

- (a) where the effect of the treatment would or might be lessened by the use of soap in washing the garment—with the words "DO NOT USE SOAP—WASH IN SYNTHETIC DETERGENT";
- (b) where the effect of the treatment would or might be lessened by boiling the garment—with the words "DO NOT BOIL"; or
- (c) where the effect of the treatment would or might be lessened by cleaning the garment by the use of any other material or method in ordinary use for cleaning garments—with a warning against cleaning the garment by the use of that other material or method.

7. (1) A marking required by this Ordinance to be on a garment shall be in letters of not less than 10 point measurement and shall be— Manner of marking.

- (a) marked in indelible permanent ink on the garment;
- (b) stitched into the fabric of the garment by means of thread of a colour contrasting with the colour of the garment; or
- (c) marked or stitched, in the manner referred to in paragraph (a) or (b), as the case requires, upon or into a label of durable substance affixed in as permanent a manner as possible to the garment.

(2) Where more than 1 marking is required by this Ordinance in respect of a garment, the markings shall be in close proximity to each other.

(3) A marking required by this Ordinance shall not be combined with or accompanied by any other matter that, by illustration, wording or size of lettering, tends to contradict or obscure the marking.

(4) A marking required by this Ordinance shall be in the English language.

8. The Minister may from time to time appoint such inspectors as are necessary for the purposes of this Ordinance. Appointment of Inspectors.

9. (1) Where a magistrate is satisfied by information on oath that there are reasonable grounds for believing that there are in or on any premises— Power of inspector to enter premises, search and take samples.

- (a) articles of children's nightwear with respect to which an offence against this Ordinance has been committed or with respect to which there are reasonable grounds for believing such an offence to have been committed;
- (b) any books, documents or papers relating to goods referred to in paragraph (a); or

(c) any books, documents or papers likely to afford evidence as to the commission of an offence against this Ordinance, the magistrate may issue a warrant authorizing an inspector named in the warrant to enter and search the premises.

(2) A warrant under sub-section (1) shall be in writing signed by the magistrate issuing it and shall state shortly the matters of the information upon which it is founded.

(3) A warrant under sub-section (1) may be issued on a Sunday as on any other day.

(4) An inspector authorized by a warrant under sub-section (1) to enter and search premises is authorized—

- (a) to enter the premises at all reasonable times;
- (b) to search the premises and inspect any goods, books, documents or papers in or upon the premises;
- (c) to remove any books, documents or papers from the premises; and
- (d) to take samples of any goods in or upon the premises.

(5) An inspector may retain books, documents or papers removed by him from the premises in pursuance of sub-section (4) for so long as is reasonably necessary to enable copies of the books, documents or papers to be made.

Testing of  
samples.

10. (1) The Minister may—

- (a) test a sample taken by an Inspector in pursuance of section 9; and
- (b) issue a certificate as to the result of the test.

(2) A test carried out in pursuance of sub-section (1) shall be carried out in accordance with the procedures specified in Australian Standard No. 1176, Part 3, 1972.

(3) A certificate issued by the Minister in accordance with sub-section (1) is evidence of the contents of the certificate.

(4) In this section and section 11, "Minister" means the Minister of State for Science and Consumer Affairs.

Delegation.

11. (1) The Minister may, by writing under his hand, delegate to the Australian Government Analyst, either generally or otherwise as provided by the instrument of delegation, all or any of his powers and functions under section 10.

(2) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3) A delegation under this section is revocable in writing at will and does not prevent the exercise of a power or the performance of a function by the Minister.