

2009

**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

**FAIR TRADING (CONSUMER PRODUCT STANDARDS)
REGULATION 2009**

SL2009 - 19

EXPLANATORY STATEMENT

Circulated by authority of
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Outline

Section 25 of the *Fair Trading (Consumer Affairs) Act 1973* (the Act) provides that regulations may prescribe a consumer product safety standard to be used for a specified kind of good and shall consist of such requirements as are reasonable and necessary to prevent or reduce risk of injury to a person.

Accordingly, the purpose of the Fair Trading (Consumer Product Standards) Regulation 2009 (the Regulation) is to prescribe consumer product safety standards for a number of products. These standards are based on the Australian best practice standards produced by the standard setting organisation Standards Australia, International best practice standards produced by International Organization for Standardization, on Commonwealth standards prescribed under the Trade Practices Regulations, and on New South Wales standards prescribed under the Fair Trading Regulation 2007.

The Regulation prescribes standards in relation to the design, performance, testing, labelling and other specifications, as required, for consumer products sold within the Australian Capital Territory.

The Regulation will bring the ACT into conformity with the States and the Commonwealth, ensuring that dangerous and unsafe products will not be available for sale in the Territory.

The Regulation replaces the Fair Trading (Consumer Product Standards) Regulation 2002 (the old Regulation) to update the Regulation to accord with current ACT drafting practices, to remove redundant references, and to implement new consumer product safety standards for certain products. Each consumer product safety standard contained in the old Regulation has been replicated in the Regulation and revised where appropriate. New consumer product safety standards have been prescribed for hot water bottles, children's portable folding cots, and prams and strollers.

New consumer product safety standards

- **Hot water bottles**

The part of the Regulation which prescribes a consumer product safety standard for hot water bottles gives effect to the Commonwealth *Trade Practices (Consumer Product Safety Standard) (Hot Water Bottles) Regulations 2008*.

This amendment to the Regulation will enable the existing Commonwealth standard to be enforced in the ACT. The Regulation will reduce the risk of death or injury caused by hot water bottles bursting or leaking by establishing minimum specifications for manufacture and labelling requirements to provide consumers relevant information concerning their usage.

- **Children's portable folding cots**

The part of the Regulation which prescribes a consumer product safety standard for children's portable folding cots gives effect to the Commonwealth Consumer Protection Notice No. 4 of 2008 – Consumer Product Safety Standard for Children's Portable Folding Cots.

This amendment to the Regulation will enable the existing Commonwealth standard to be enforced in the ACT. The Regulation will ensure that portable folding cots have key safety features that address the product's known safety hazards and so reduce the associated risk of injury to infants.

- **Prams and strollers**

The part of the Regulation which prescribes a consumer product safety standard for prams and strollers gives effect to the Commonwealth Consumer Protection Notice No. 8 of 2007 – Consumer product Safety Standard for Prams and Strollers.

This amendment to the Regulation will enable the existing Commonwealth standard to be enforced in the ACT. The Regulation will ensure that prams and strollers have key safety features that address the product's known safety hazards and so reduce the associated risk of injury to infants.

NOTES ON CLAUSES

Part 1 Preliminary

Section 1 Name of regulation

This section explains that the name of the regulation is the *Fair Trading (Consumer Product Standards) Regulation 2009*.

Section 2 Commencement

This section states that the regulation will commence on the day after it is notified.

Section 3 Dictionary

This section explains that the dictionary is part of the regulation.

Section 4 Notes

This section explains that a note included in the regulation is explanatory and is not part of the regulation.

Section 5 Compliance with specification

This section explains that goods do not fail to comply with a standard where a provision of a standard is stated to be recommendatory or the words ‘should’ or ‘preferably’ are used to indicate the provision is advisory.

Section 6 Displacement of Legislation Act, s 47(5)

This section explains that section 47(5) of the *Legislation Act 2001* does not apply in relation to an instrument applied, adopted or incorporated as in force at a particular time under this regulation unless the instrument is expressed to be a notifiable instrument.

Part 2 Product safety standards

Section 7 Product safety standards

This section provides that the consumer product safety standards in the regulation (listed in table 7) are prescribed under section 25 of the *Fair Trading (Consumer Affairs) Act 1973*.

Section 8 Application of standards

This section provides for specified circumstances where a consumer product safety standard would not apply to the supply of goods.

Part 3 Product information standard – care labelling of certain goods

Section 9 Meaning of AS/NZS 1957 – pt 3

This section defines *AS/NZS 1957* for part 3.

Section 10 Application – pt 3

This section lists those goods to which part 3 applies and provides a definition of *excluded goods*.

Section 11 Product information standard

This section prescribes the consumer product information standard for goods under part 3.

Section 12 Amendment of AS/NZS 1957

This section makes amendments to the information consumer product information standard prescribed under section 11.

Section 13 Form of information for certain goods

This section prescribes the form and manner in which care instructions for prescribed goods must be provided. The term *prescribed goods* is defined at section 13(2).

Section 14 Care instructions for goods unable to be washed or dry-cleaned

This section prescribes the labelling requirements for goods which are unable to be washed or dry-cleaned.

Part 4 Repeal

Section 15 Legislation repealed

This section repeals the *Fair Trading (Consumer Product Standards) Regulation 2002* which will be redundant when this regulation is made. This section also repeals any legislative instruments existing under the *Fair Trading (Consumer Product Standards) Regulation 2002*.

Schedule 1 Baby bath aids

Section 1.1 Definitions – sch 1

This section defines *baby bath aid* and *TPA standard* for schedule 1.

Section 1.2 Safety standard – baby bath aids

This section prescribes the consumer product safety standard for a baby bath aid.

Schedule 2 Balloon-blowing kits

Section 2.1 Meaning of *balloon-blowing kit* – sch 2

This section defines *balloon-blowing kit* for schedule 2.

Section 2.2 Safety standard – balloon-blowing kits

This section prescribes the consumer product safety standard for a balloon-blowing kit.

Schedule 3 Basketball rings and backboards

Section 3.1 Definitions – sch 3

This section defines *basketball backboard* and *basketball ring* for schedule 3.

Section 3.2 Safety standard – warning and symbol for supplied basketball rings and backboards

This section prescribes the consumer product safety standard for a basketball ring and basketball backboard.

Section 3.3 Safety standard – permanent warning on basketball backboard

This section prescribes the consumer product safety standard for a basketball backboard.

Schedule 4 Beanbags, beanbag covers and packages containing beanbag filling

Section 4.1 Definitions – sch 4

This section defines *beanbag*, *beanbag cover*, *beanbag filling*, *child-resistant slide fastener*, and *package* for schedule 4.

Section 4.2 Meaning of *slide fastener* – sch 4

This section defines *slide fastener* for the purposes of schedule 4.

Section 4.3 Safety standard – beanbags etc

This section prescribes the consumer product safety standard for a beanbag, a beanbag cover and a package containing beanbag filling.

Schedule 5 Bunk beds

Section 5.1 Definitions – sch 5

This section defines *bunk bed* and *TPA standard* for schedule 5.

Section 5.2 Safety standard – bunk beds

This section prescribes the consumer product safety standard for a bunk bed.

Schedule 6 Children’s household cots

Section 6.1 Definitions – sch 6

This section defines *AS/NZS 2172* and *children’s household cot* for schedule 6.

Section 6.2 Safety standard – children’s household cots

This section prescribes the consumer product safety standard for a child’s household cot.

**Schedule 7 Children’s nightwear and paper patterns for
children’s nightwear**

Section 7.1 Definitions – sch 7

This section defines *AS 1182*, *AS/NZS 1249*, *children’s nightwear*, and *ISO 6941* for schedule 7.

Section 7.2 Safety standard – children’s nightwear

This section prescribes the consumer product safety standard for children’s nightwear.

Section 7.3 Safety standard – paper patterns for children’s nightwear

This section prescribes the consumer product safety standard for a paper pattern for children’s nightwear.

Section 7.4 Amendment of AS/NZS 1249

This section makes amendments to the consumer product safety standards prescribed under sections 7.2 and 7.3.

Section 7.5 Amendment of ISO 6941

This section makes amendments to the consumer product safety standard prescribed under schedule 7.

Schedule 8 Children’s portable folding cots

Section 8.1 Definitions – sch 8

This section defines *children’s portable folding cot* and *TPA standard* for schedule 8.

Section 8.2 Safety standard – children’s portable folding cots

This section prescribes the consumer product safety standard for a child’s portable folding cot.

Schedule 9 Children’s toys

Section 9.1 Definitions – sch 9

This section defines *children’s toy* and *TPA standard* for schedule 9.

Section 9.2 Safety standard – children’s toys

This section prescribes the consumer product safety standard for a child’s toy.

Schedule 10 Child restraints in motor vehicles

Section 10.1 Definitions – sch 10

This section defines *AS 1754-1975*, *AS 1754-1991*, *chaise*, *child restraint* and *cushion* for schedule 10.

Section 10.2 Safety standard – child restraints

This section prescribes the consumer product safety standard for a child restraint.

Section 10.3 Amendment of AS 1754-1991

This section makes amendments to the consumer product safety standard prescribed under schedule 10.

Section 10.4 Supply of components for child restraints complying with AS 1754-1975

This section provides that where components are made in accordance with the requirements of AS 1754-1975, they must comply with the relevant provisions of AS 1754-1975.

Schedule 11 Corded internal window coverings

Section 11.1 Definitions – sch 11

This section defines *corded internal window covering* and *NSW standard* for schedule 11.

Section 11.2 Safety standard – corded internal window coverings

This section prescribes the consumer product safety standard for a corded internal window covering.

Schedule 12 Disposable cigarette lighters

Part 12.1 Preliminary

Section 12.1 Definitions – sch 12

This section defines *adjustable lighter*, *American standard*, *customs value*, *disposable lighter*, *ex-works agreement*, *indexed amount*, *lighter*, *non-adjustable lighter*, *novelty lighter*, *refillable lighter*, *safe operation*, *spit or sputter* and *young child* for schedule 12.

Section 12.2 Meaning of *lighter* and types of lighters

This section provides for the meaning of a *lighter* and types of lighters.

Section 12.3 Safety standard – lighters

This section prescribes the consumer product safety standard for a lighter.

Part 12.2 Flame testing, structural safety and labelling

Section 12.4 Application – pt 12.2

This section provides that part 12.2 does not apply to a novelty lighter or a lighter that is not a disposable or refillable lighter.

Section 12.5 Testing procedures

This section provides that where a lighter is tested under Part 12.5, the test must be performed in accordance with the procedures in section 12.16.

Section 12.6 Ignition and adjustment of flame

This section prescribes tests for ignition and adjustment of flame.

Section 12.7 Abnormal burning

This section prescribes tests for abnormal burning.

Section 12.8 Flame height

This section prescribes tests for flame height.

Section 12.9 Flame extinction

This section prescribes tests for flame extinction.

Section 12.10 Structural safety

This section prescribes the tests that a lighter must pass in order to be considered structurally safe.

Section 12.11 Labelling

This section provides for prescribed information to be included on lighters or adhesive labels attached to lighters.

Part 12.3 Child resistance

Section 12.12 Application – pt 12.3

This section provides that part 12.3 only applies to a lighter to which the American standard would apply if the product were imported into the United States of America after 12 July 1994.

Section 12.13 Child resistance

This section prescribes the tests that a lighter must pass in order to be considered child resistant.

Section 12.14 Certification

This section provides that a certificate of compliance, within the meaning of the American standard, must have been issued for the lighter in accordance with that standard.

Part 12.4 Indexation

Section 12.15 Indexed amount

This section provides the formula for determining the indexed amount referred to in section 12.2(3) and (7).

Part 12.5 Test procedures for lighters

Section 12.16 General test procedures

This section provides the general test procedure for lighters.

Section 12.17 Flame height test procedures

This section provides the flame height test procedure for lighters.

Section 12.18 Inversion test procedures

This section provides the inversion test procedure for lighters.

Section 12.19 Drop test procedures

This section provides the drop test procedure for lighters.

Section 12.20 Temperature test procedures

This section provides the temperature test procedure for lighters.

Section 12.21 Pressure test procedures

This section provides the pressure test procedure for lighters.

Schedule 13 Flotation toys and swimming aids

Section 13.1 Definitions – sch 13

This section defines *AS 1499*, *AS 1512*, *AS 1900* and *children's flotation toy and swimming aid* for schedule 13.

Section 13.2 Safety standard – children's flotation toys etc

This section prescribes the consumer product safety standard for a child's flotation toy and swimming aid.

Section 13.3 Amendment of AS 1900

This section makes an amendment to the consumer product safety standard prescribed under schedule 13.

Schedule 14 Hot water bottles

Section 14.1 Definitions – sch 14

This section defines *hot water bottle* and *TPA standard* for schedule 14.

Section 14.2 Safety standard – hot water bottles

This section prescribes the consumer product safety standard for a hot water bottle.

Schedule 15 Laser pointers

Section 15.1 Definitions – sch 15

This section defines *AS/NZS 2211*, *Class 1 laser product*, *Class 2 laser product*, *laser*, *laser pointer*, *laser product* and *laser system* for schedule 15.

Section 15.2 Safety standard – laser pointers

This section prescribes the consumer product safety standard for a laser pointer.

Schedule 16 **Monkey bikes**

Section 16.1 **Definitions – sch 16**

This section defines *applicable vehicle standards* and *monkey bike* for schedule 16.

Section 16.2 **Safety standard – monkey bikes**

This section prescribes the consumer product safety standard for a monkey bike.

Schedule 17 **Pedal bicycles**

Section 17.1 **Definitions – sch 17**

This section defines *AS/NZS 1927* and *pedal bicycle* for schedule 17.

Section 17.2 **Safety standard – pedal bicycles**

This section prescribes the consumer product safety standard for a pedal bicycle.

Section 17.3 **Amendment of AS/NZS 1927**

This section makes amendments to the consumer product safety standard prescribed under schedule 17.

Schedule 18 **Prams and strollers**

Section 18.1 **Definitions – sch 18**

This section defines *prams and strollers* and *TPA standard* for schedule 18.

Section 18.2 **Safety standard – prams and strollers**

This section prescribes the consumer product safety standard for prams and strollers.

Schedule 19 **Projectile toys**

Section 19.1 **Definitions – sch 19**

This section defines *AS/NZS ISO 8124.1:2002* and *projectile toy* for schedule 19.

Section 19.2 **Safety standard – projectile toys**

This section prescribes the consumer product safety standard for a projectile toy.

Section 19.3 **Exceptions – sch 19**

This section excludes certain toys from the operation of this standard.

Schedule 20 **Protective helmets for pedal cyclists**

Section 20.1 **Definitions – sch 20**

This section defines *AS/NZS 2063*, *AS/NZS 2512.1*, *protective helmet* and *Snell standard* for schedule 20.

Section 20.2 **Safety standard – protective helmets**

This section prescribes the consumer product safety standard for a protective helmet.

Section 20.3 **Exceptions – sch 20**

This section excludes certain helmets from the operation of this standard.

Section 20.4 **Amendment of AS/NZS 2063**

This section makes an amendment to the consumer product safety standard prescribed under schedule 20.

Section 20.5 **Amendment of Snell standard**

This section makes amendments to the Snell standard prescribed in schedule 20.

Schedule 21 **Sunglasses and fashion spectacles**

Section 21.1 **Definitions – sch 21**

This section defines *sunglasses and fashion spectacles* and *TPA standard* for schedule 21.

Section 21.2 **Safety standard – sunglasses and fashion spectacles**

This section prescribes the consumer product safety standard for sunglasses and fashion spectacles.

Schedule 22 **Vehicle jacks**

Section 22.1 **Definitions –sch 22**

This section defines *TPA standard* and *vehicle jack* for schedule 22.

Section 22.2 **Safety standard – vehicle jacks**

This section prescribes the consumer product safety standard for a vehicle jack.