

# AUSTRALIAN CAPITAL TERRITORY

No. 2 of 1979

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An Ordinance to amend the *Children's Flammable Nightwear Ordinance* 1975

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

Dated this ninth day of February 1979.

ZELMAN COWEN  
Governor-General

By His Excellency's Command,

R. ELLICOTT  
Minister of State for the Capital Territory

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## CHILDREN'S FLAMMABLE NIGHTWEAR (AMENDMENT) ORDINANCE 1979

1. This Ordinance may be cited as the *Children's Flammable Nightwear (Amendment) Ordinance* 1979.<sup>1</sup> Short title
2. In this Ordinance, "Principal Ordinance" means the *Children's Flammable Nightwear Ordinance* 1975.<sup>2</sup> Principal Ordinance
3. Sections 3, 4 and 5 of the Principal Ordinance are repealed and the following sections substituted:
  - "3. (1) In this Ordinance, unless the contrary intention appears— Interpretation
    - 'analyst' means a person holding office by virtue of an appointment under section 6;
    - 'Australian Standard' means a standard published by, or on behalf of, the association incorporated by Royal Charter under the name Standards Association of Australia;
    - 'Category 1 garment' means an article of children's nightwear that complies with the requirements of each Australian Standard for the time being prescribed for the purpose of this definition;
    - 'Category 2 garment' means an article of children's nightwear that complies with the requirements of each Australian Standard for the time being prescribed for the purpose of this definition;

'Category 3 garment' means an article of children's nightwear that complies with the requirements of each Australian Standard for the time being prescribed for the purpose of this definition;

'child' means a person who has attained the age of one year but has not attained the age of 14 years, and 'children' has a corresponding meaning;

'children's nightwear' means nightwear that is of a size, ascertained in accordance with Australian Standard 1182, expressed as "O" or as a number not greater than 14;

'inspector' means a person holding office by virtue of an appointment under section 8;

'nightwear' includes pyjamas, overgarments of pyjama style, nightdresses, dressing gowns and infants' sleep bags;

'sell' means sell by wholesale or by retail, and 'expose for sale' has a corresponding meaning.

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

"(3) A reference in this Ordinance consisting of the words 'Australian Standard' followed by a number is a reference to the Australian Standard published under that number.

"(4) A reference in sub-section (1) to an Australian Standard, other than a reference in the definition of 'Australian Standard', includes a reference to part of an Australian Standard.

"4. (1) In this section, 'classified garment' means an article of children's nightwear that is a Category 1 garment, a Category 2 garment or a Category 3 garment.

"(2) A person shall not sell or expose for sale an article of children's nightwear that is not a classified garment.

Penalty: \$1,000.

"(3) A person shall not sell or expose for sale a classified garment that is not labelled in accordance with the requirements of the regulations in relation to the labelling of classified garments.

Penalty: \$1,000.

"(4) It is a defence to a prosecution for an offence against sub-section (2) that the defendant had reasonable grounds for believing that the article of children's nightwear in respect of which the offence is alleged to have been committed was a classified garment."

4. Sections 6 and 7 of the Principal Ordinance are repealed and the following section is substituted:

“6. The Minister may, by instrument in writing, appoint a person to be an analyst for the purposes of this Ordinance.” Appointment of analysts

5. Section 8 of the Principal Ordinance is amended by adding at the end thereof the following sub-section: Appointment of inspectors

“(2) Where a person is appointed an inspector for the purposes of this Ordinance, the Minister shall issue to that person a certificate signed by the Minister and certifying that that person is an inspector for the purposes of this Ordinance.”

6. After section 8 of the Principal Ordinance the following section is inserted:

“8A. (1) Subject to this Ordinance, where an inspector has reasonable grounds for believing that premises are used for the sale of children's nightwear or goods which include children's nightwear, he may, at any time at which the premises are open for the sale of goods, enter the premises. Powers of inspectors

“(2) An inspector who enters premises in pursuance of sub-section (1) may require any person apparently concerned in, or employed in connection with, the conduct of the business at the premises to produce to the inspector any articles of children's nightwear that are held on the premises for the purpose of sale, and the inspector may inspect any articles produced in accordance with the requirement.

“(3) A person shall not, without reasonable excuse, refuse or fail to comply with a requirement made of him in accordance with sub-section (2).

Penalty: \$500.

“(4) An inspector who enters premises in pursuance of sub-section (1) is not entitled to remain on the premises if, on request by the occupier of the premises or a person acting on behalf of the occupier, he does not produce a certificate issued to him for the purpose of sub-section 8 (2).”

7. Section 10 of the Principal Ordinance is amended—

(a) by omitting sub-section (2) and substituting the following sub-section: Testing of samples

“(2) A test carried out for the purpose of sub-section (1) shall be carried out according to the method prescribed for the purpose of this sub-section.”; and

(b) by omitting from sub-section (4) “Minister of State for Science and Consumer Affairs” and substituting “Minister of State for Business and Consumer Affairs”.

## Delegation

8. Section 11 of the Principal Ordinance is amended by omitting from sub-section (1) "the Australian Government Analyst" and substituting "an analyst".

9. The Principal Ordinance is amended by adding at the end thereof the following section:

## Regulations

"12. (1) The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out, or giving effect to, this Ordinance.

"(2) Without limiting the generality of sub-section (1), the regulations may make provision for or in relation to a matter by applying, adopting or incorporating, with or without modification, any provision of an Australian Standard or an Australian Standard as amended from time to time."

## Application

10. The amendments effected by this Ordinance do not apply to, or in relation to, the sale of an article of second-hand clothing during the period of 12 months that commences on the date of commencement of this Ordinance.

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**NOTES**

1. Notified in the *Commonwealth of Australia Gazette* on 15 February 1979.
2. Ordinance No. 30, 1975.