



New South Wales

Fair Trading (General) Amendment (Product Standards) Regulation 2004

under the

Fair Trading Act 1987

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Fair Trading Act 1987*.

REBA PAIGE MEAGHER, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to amend the *Fair Trading (General) Regulation 2002* so that provisions relating to certain product standards for children's toys, disposable cigarette lighters and care labelling of certain goods are complementary with the corresponding Commonwealth provisions:

This Regulation:

- (a) prescribes certain provisions of the Australian/New Zealand Standard entitled AS/NZS ISO 8124.1:2002, *Safety of toys, Part 1: Safety aspects related to mechanical and physical properties* (ISO 8124-1:2000, MOD) (**AS/NZS ISO 8124**) (with certain modifications) as the only product safety standard for children's toys for the purposes of the *Fair Trading Act 1987* from 1 July 2005, and
- (b) prescribes a transitional arrangement whereby the product safety standard for children's toys for the purposes of that Act up to and including 30 June 2005 is the current applicable standard, the outdated Australian Standard entitled AS 1647.2—1992, *Children's toys (safety requirements), Part 2: Constructional requirements* (with certain modifications) or AS/NZS ISO 8124 (with certain modifications), and
- (c) amends the definition of children's toys and inserts a note relating to age grades, and
- (d) increases the value up to which a disposable cigarette lighter will be required to comply with the prescribed product safety standard, and
- (e) amends the variation of the product information standard for care labelling of certain goods, and
- (f) provides for cushions that are an integral part of a furniture suite to be exempted from the requirement to have a permanent label, and

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(g) makes other minor amendments.

This Regulation is made under the *Fair Trading Act 1987*, including sections 26 and 92 (the general regulation-making power).

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under the

Fair Trading Act 1987

1 Name of Regulation

This Regulation is the *Fair Trading (General) Amendment (Product Standards) Regulation 2004*.

2 Amendment of Fair Trading (General) Regulation 2002

The *Fair Trading (General) Regulation 2002* is amended as set out in Schedule 1.

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Schedule 1 Amendments

Schedule 1 Amendments

(Clause 2)

[1] Clause 30 Definitions

Insert in alphabetical order:

AS/NZS ISO 8124 means the Australian/New Zealand Standard entitled AS/NZS ISO 8124.1:2002, *Safety of toys, Part 1: Safety aspects related to mechanical and physical properties (ISO 8124-1:2000, MOD)* as published jointly by Standards Australia and Standards New Zealand on 16 May 2002.

[2] Clause 30, definition of “children’s toys”

Omit “dummies,” from paragraph (a).

[3] Clause 30, definition of “children’s toys”

Insert after paragraph (g):

(g1) toys with pompoms, and

[4] Clause 30, definition of “children’s toys”

Omit “and gramophone records” from paragraph (j).

Insert instead “, tapes and compact discs”.

[5] Clause 30, definition of “children’s toys”

Insert after paragraph (o):

(o1) pacifiers, or

[6] Clause 30, definition of “children’s toys”

Insert “except toys with pompoms,” after “cheesecloth,” in paragraph (q).

[7] Clause 30

Insert at the end of the clause:

Note. Guidance for establishing age grades within the scope of the consumer product safety standards prescribed in this Division can be found in Annex B of AS/NZS ISO 8124. Guidance is also available in the publication issued by the United States Consumer Product Safety Commission (CPSC) *Age Determination Guidelines*. The most recent edition of this publication is available from the CPSC site on the Internet and can be downloaded free of charge (www.cpsc.gov).

[8] Clause 31

Omit the clause. Insert instead:

31 Safety standard

- (1) Up to and including 30 June 2005, the product safety standard prescribed for children's toys is that they must comply with:
 - (a) Clauses 7.1, 7.2, 7.10 (d), 7.15.6 (a) (iv), 9.4 and 10 and Appendix A, Appendices D to S inclusive and Appendices U and V of AS 1647.2, or
 - (b) AS/NZS ISO 8124.
- (2) From 1 July 2005, the product safety standard prescribed for children's toys is that they must comply with AS/NZS ISO 8124.
- (3) The definitions in Clause 4.2, 4.3, 4.4, 4.5, 4.9, 4.10, 4.11, 4.12, 4.16, 4.20, 4.21, 4.22, 4.23, 4.24, 4.25 and 4.26 of AS 1647.2 apply for the purposes of subclause (1) (a).

[9] Clause 32A

Insert after clause 32:

32A Variation of AS/NZS ISO 8124

For the purposes of this Division, AS/NZS ISO 8124 is taken to have been amended as follows:

- (a) by omitting clauses 1 and 2,
- (b) by omitting from clause 3.21 the words "or damage to property or the environment",
- (c) by omitting clauses 3.52 and 4.3,
- (d) by omitting from clause 4.4.1 the word "intended" where firstly occurring,
- (e) by omitting the third paragraph of clause 4.4.1,
- (f) by omitting clause 4.4.2,
- (g) by omitting from clause 4.5.1 the word "intended" where firstly occurring,
- (h) by omitting from paragraph (a) of clause 4.5.2 the word "intended",
- (i) by omitting paragraph (b) of clause 4.5.2,
- (j) by omitting from clause 4.5.3 the word "intended",
- (k) by omitting from clause 4.5.4 the word "intended",

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- (l) by omitting from clause 4.5.5 the word “intended”,
- (m) by omitting the note to clause 4.5.5,
- (n) by omitting clauses 4.5.6–4.24, 4.25 (d), 4.26 and 4.27,
- (o) by omitting from clause 5.1 the matter “36 months and” and by inserting instead the matter “36 months.”,
- (p) by omitting from clause 5.1 the following matter:
 - from 37 months up to and including 96 months of age.
- (q) by omitting from clause 5.1 the words “intended or appropriate for children up to and including 96 months” and by inserting instead the words “appropriate for children up to and including 36 months”,
- (r) by omitting from clause 5.1 the words “Toys reasonably intended to be assembled by an adult and not intended to be taken apart by a child shall be tested only in the assembled state if the packaging and the assembly instructions prominently indicate that the article is to be assembled only by an adult.”,
- (s) by omitting from the heading to clause 5.2 the matter “4.3.2, 4.4, 4.18.2” and by inserting instead the matter “4.4”,
- (t) by omitting from clause 5.2 the words “any orientation” and by inserting instead the words “all possible orientations”,
- (u) by omitting clauses 5.7–5.19, 5.21 and 5.22,
- (v) by omitting from clause 5.23 the word “intended”,
- (w) by omitting note 1 to clause 5.23,
- (x) by omitting from clause 5.24.1 the words “Unless otherwise stated, these tests are only applicable for toys intended for children up to and including 96 months.”,
- (y) by omitting from Table 4 to clause 5.24.2 the matter “96” and by inserting instead the matter “36”,
- (z) by omitting clause 5.24.4,
- (aa) by omitting from clause 5.24.6.2 the word “beanbags” and by inserting instead the words “beanbag-type toys (ie a toy that contains plastic pellets, beads, polystyrene balls or similar materials)”,
- (ab) by omitting clause 5.24.6.4,

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- (ac) by omitting from clause 5.24.7 the words “according to the age group for which the toy is intended”,
 - (ad) by omitting from Table 5 to clause 5.24.7 the row applying to the age category of 37 months up to and including 96 months,
 - (ae) by omitting from clause 5.24.7 the words “required force” and by inserting instead the words “force in Table 5”,
 - (af) by omitting clause 5.24.8,
 - (ag) by omitting Annex A.1, A.2.1 and A.2.2,
 - (ah) by omitting from Annex A.2.3 the words “The batteries shall not be accessible when tested according to 5.7 (accessibility of a part or component).”,
 - (ai) by omitting Annex A.2.4–A.2.10,
 - (aj) by omitting from Annex B.1 the matter “[12]” and by inserting instead the words “the publication issued by the United States Consumer Product Safety Commission (CPSC) *Age Determination Guidelines*”,
 - (ak) by omitting from Annex B.4.1 the words “Age grades are indicators of average development, which does not necessarily reflect suitability for the exceptional child. A parent remains the best judge of whether the child is at the appropriate development stage for safe play with a particular toy.”,
 - (al) by omitting Annexes B.4.4, C and D,
 - (am) by omitting Annex F–Appendix ZZ.

[10] Clause 54 Meaning of “lighter” and types of lighters

Omit “less than the relevant” from clause 54 (3) (b).

Insert instead “not more than the relevant”.

[11] Clause 54 (7)

Omit the definition of *relevant amount*. Insert instead:

relevant amount means:

- (a) for a device imported into Australia, or supplied under an ex works agreement, before 1 August 2003—\$5, or
- (b) for a device imported into Australia, or supplied under an ex works agreement, on or after 1 August 2003—the indexed amount.

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[12] Clause 67 Definitions

Omit “Australian” from the definition of *CPI number*.

[13] Clause 67, definitions of “earlier CPI number” and “July quarter”

Omit the definitions.

[14] Clause 67, definition of “latest CPI number”

Omit “July quarter in 2002”. Insert instead “most recent quarter”.

[15] Clause 67

Insert in alphabetical order:

March 2003 CPI number means the CPI number for the quarter beginning on 1 January 2003.

quarter means the period of 3 months beginning on 1 January, 1 April, 1 July or 1 October in a year.

Statistician has the meaning given by section 3 of the *Australian Bureau of Statistics Act 1975* of the Commonwealth.

[16] Clause 68

Omit the clause. Insert instead:

68 Indexed amount

- (1) The indexed amount is the amount worked out in accordance with the formula:

$$\frac{\$5 \times \text{latest CPI number}}{\text{March 2003 CPI number}}$$

- (2) If, apart from this subclause, the amount under this clause would be an amount in dollars and cents the amount is to be rounded to the nearest 25 cents and, if the amount to be rounded is 12.5 cents, rounded up.

[17] Clause 82 Variation of product information standards

Insert “1.1,” after “Clauses” in paragraph (a).

[18] Clause 82 (j)

Insert after clause 82 (i):

- (j) by inserting the words “The symbol denoting ‘do not dry clean’, that is the circle with the cross through it, is optional.” at the end of clause 3.6.

[19] Clause 83 Form of information for prescribed goods

Insert after clause 83 (2) (e):

- (f) cushions that are an integral part of a furniture suite.