

Fair Trading (General) Regulation 2002

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New South Wales

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Fair Trading (General) Regulation 2002



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Fair Trading (General) Regulation 2002*.

2 Commencement

This Regulation commences on 1 September 2002.

3 Definition

In this Regulation:

the Act means the *Fair Trading Act 1987*.

4 Notes

Notes in the text of this Regulation do not form part of this Regulation.

5 Compliance with specification

For the purposes of this Regulation, goods do not fail to comply with a standard referred to in a Division relating to those goods merely because they do not comply with a provision of the standard:

- (a) that is expressed to be a recommendation, or
- (b) in relation to which the word “should” or “preferably” is used to indicate that the provision is of an advisory nature only.

Part 2 Product safety standards

Division 1 Preliminary

6 Product safety standards

The standards set out in the other Divisions to this Part are prescribed under section 26 of the Act as product safety standards for the goods to which those Divisions apply.

Note—

The consequences of failing to comply with a product safety standard are set out in section 27 of the Act.

7 Exceptions

The product safety standards prescribed by this Regulation do not apply to the supply of goods in the following circumstances:

- (a) if the goods are supplied as scrap, that is, for the value of the materials of which the goods are composed and not for use as finished articles,
- (b) in the case of goods supplied under a credit sale contract (within the meaning of the *Credit Act 1984*) or a credit contract (within the meaning of the *Consumer Credit (New South Wales) Code*) or under any agreement for the purchase of goods by instalments (such as a hire-purchase agreement), if the supplier has at no time had possession of the goods and only became the owner of the goods at or after the time of entering into the agreement,
- (c) in the case of goods that are damaged, if the goods are supplied to a person who carries on a business of buying damaged goods and repairing or reconditioning them for resale, or to a person by whom the goods were insured against damage,
- (d) in the case of goods that are let on hire, or that are supplied to another person for the purpose of being let on hire by the other person, if the letting is incidental to the letting of premises or if the letting was lawful at the time when it began.

Division 2 Swimming pools: outlets

8 Definitions

In this Division:

AS 1926.3 means the Australian Standard entitled AS 1926.3—1993, *Swimming pool safety, Part 3: Water recirculation and filtration systems*, as published by Standards Australia on 26 July 1993.

outlet means an opening in a swimming pool wall or floor through which water leaves the pool.

potty skimmer means an outlet attached to or set in a pool wall at water level:

- (a) that is used as the main suction point for the filter pump and is intended to draw water from the pool surface to remove and collect debris, and
- (b) that resembles a child's chamber-pot and is commonly known as a potty skimmer.

swimming pool means any excavation or structure containing water to a depth greater than 300 millimetres and used primarily for swimming, wading, paddling or the like, and

includes a bathing or wading pool, but does not include a spa.

9 Safety standard

The product safety standard prescribed for swimming pools having outlets in the form of potty skimmers is that each such outlet must comply with Clause 4.2 of AS 1926.3.

Division 3 Spas: outlets

10 Definitions

In this Division:

ANSI A112 means the American National Standard entitled *Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, Hot Tubs, and Whirlpool Bathtub Appliances and numbered ASME/ANSI A112.19.8M—1987*, of the American Society of Mechanical Engineers, as published on 31 December 1987.

AS 1926.3 means the Australian Standard entitled AS 1926.3—1993, *Swimming pool safety, Part 3: Water recirculation and filtration systems*, as published by Standards Australia on 26 July 1993.

outlet means an opening in a spa wall or floor through which the water leaves the spa.

potty skimmer means a surface mounted outlet in a spa that resembles a child's chamber-pot and is commonly known as a potty skimmer.

spa means a water-retaining structure with a capacity of at least 680 litres with which is associated the facility for heating the water contained in it and injecting air bubbles or jets of turbulent water.

surface mounted outlet means an outlet mounted at or near the water surface level of the spa for the purpose of surface skimming.

11 Safety standard

The product safety standard prescribed for spas having outlets in the form of potty skimmers is that the spas are constructed so that:

- (a) each pump is connected to at least 2 outlets from the spa by means of a common line, and
- (b) the pipes of all outlets connected to the common line have the same diameter, and
- (c) at least 2 outlets on the common line function at the same time (except when the spa is being cleaned), and
- (d) each outlet connected to the common line is at least 600 millimetres distant from every other outlet connected to that line, and

- (e) each potty skimmer:
 - (i) is fitted with a lid complying with clause 12, and
 - (ii) passes the single blockage and total blockage tests set out in clauses 14 and 15, and
- (f) each outlet other than a potty skimmer:
 - (i) is fitted with a protective cover that can be removed only with the use of a tool, and
 - (ii) complies with clause 13.

12 Requirements for lids for potty skimmers

- (1) A lid for a potty skimmer must carry the following warning:

WARNING: LID IS NOT TO BE REMOVED WHILE SPA IS OPERATING
- (2) The warning:
 - (a) must be visible on the upper surface of the lid, and
 - (b) must be moulded or engraved in (or otherwise permanently attached to) the lid in such a way that it will remain legible despite normal use and handling of the lid, and
 - (c) must show the word “WARNING” in upper case letters at least 5 millimetres high, and
 - (d) must show the remaining words in upper case letters at least 2.5 millimetres high.

13 Requirements for outlets other than potty skimmers

An outlet other than a potty skimmer (whether surface mounted or not):

- (a) must pass the Hair Entrapment Test set out in Clauses 5.1–5.3 of ANSI A112 (in which an outlet is referred to as a “suction fitting”), or
- (b) must comply with Clause 5.1 (a) of AS 1926.3.

14 Single blockage test for potty skimmers

- (1) The single blockage test for a potty skimmer is to be conducted as follows:
 - (a) the potty skimmer lid, and any other safety features of the potty skimmer that can be removed without the use of a tool or excessive force, is to be removed,
 - (b) the spa is to be operating with other normal safety features (such as cut-out switches, if supplied, and protective covers on outlets other than potty skimmers)

functioning or in place,

(c) after the spa has been operating for at least one minute, the potty skimmer is to be blocked.

(2) Suction in the blocked potty skimmer is to be measured for at least 15 seconds after the blockage.

(3) The suction must not exceed 12 kilopascals.

15 Total blockage test for potty skimmers

(1) The total blockage test for a potty skimmer is to be conducted as follows:

(a) the potty skimmer lid, and any other safety features of the potty skimmer that can be removed without the use of a tool or excessive force, is to be removed,

(b) the spa is to be operating with other normal safety features (such as cut-out switches, if supplied, and protective covers on outlets other than potty skimmers) functioning or in place,

(c) after the spa has been operating for at least one minute, all outlets are to be blocked simultaneously, with outlets other than surface mounted outlets being sealed.

(2) Suction in the blocked potty skimmer is to be measured for at least 15 seconds, beginning one second after blockage.

(3) The suction must not exceed 1 kilopascal.

Division 4 Sunglasses and fashion spectacles

16 Definitions

In this Division:

AS 1067.1 means the Australian Standard entitled AS 1067.1—1990, *Sunglasses and fashion spectacles, Part 1: Safety requirements* published by Standards Australia on 17 September 1990, as amended by Amendment No 1 of 10 December 1990 and Amendment No 2 of 12 July 1993.

sunglasses and **fashion spectacles** mean sunglasses and fashion spectacles having lenses of nominally zero refractive power and include sunglasses and fashion spectacles of the one-piece or visor type and clip-on sunglasses, but do not include:

(a) glasses for special use (such as glasses for use while target shooting) that do not primarily provide protection against sunglare or radiation from natural sunlight in the circumstances set out in Clause 1.3.7.2 or 1.3.7.3 of AS 1067.1, or

- (b) goggles that are held in position by means of a strap passing around the back of the head, or
- (c) glasses that, in industrial environments, provide protection from radiation other than solar radiation or protection from physical impact, or
- (d) glasses for use as toys that are clearly and legibly labelled as toys.

17 Safety standard

The product safety standard prescribed for sunglasses and fashion spectacles is that they must comply with AS 1067.1.

18 Variation of AS 1067.1

For the purposes of this Division, AS 1067.1 is taken to have been amended as follows:

- (a) by omitting Clause 1.1,
- (b) by inserting in Clause 2.2.1 (b) after the words “this point” the following words:

except for children’s sunglasses.

Children’s sunglasses with frames too small for measurement from 32 millimetres from the centreline of the frame are to be measured at 6 selected points within a circle of 30 millimetres diameter around the datum centre of each lens.

- (c) by inserting in Clause 2.2.1 (c) after the words “these points” the following words:

except for children’s sunglasses.

Children’s sunglasses with frames too small for measurement from 32 millimetres from the centreline of the sunglass are to be measured from a point 25% of the width of the lens measured on either side of the centreline that lies in the horizontal plane that would bisect the eyes when the visor is worn and at 6 selected points within a circle of 30 millimetres diameter centred on these points.

- (d) by omitting the words “classification of the eyewear and other relevant” from the second sentence in Clause 4.2.1,
- (e) by omitting the box around the marking set out in Clause 4.2.2,
- (f) by omitting the words “The marking for general-purpose sunglasses shall be as follows:” and the box and the words contained in the box from Clause 4.2.3,
- (g) by omitting the box around the markings specified for Type (a) and Type (b) specific purpose sunglasses in Clause 4.2.4.

Division 5 Pedal bicycles

19 Definitions

In this Division:

AS/NZS 1927 means the Australian/New Zealand Standard entitled AS/NZS 1927:1998, *Pedal bicycles—Safety requirements*, as published jointly by Standards Australia and Standards New Zealand on 5 September 1998.

pedal bicycle means a two-wheeled pedal vehicle that is designed to be solely human-powered, and includes a fully assembled or partially assembled bicycle, but does not include any such vehicle:

- (a) that has a wheelbase of less than 640 millimetres, or
- (b) that is designed, promoted and supplied primarily for use in cycling competitions, or
- (c) that is a one-of-a-kind bicycle, being a bicycle that is uniquely constructed to the specifications of an individual consumer, or
- (d) that is designed to be hinged or folded, or to be taken apart beyond removal of the front wheel, for ease of storage or portability, or
- (e) that is a tandem bicycle, or
- (f) that is a second-hand bicycle.

20 Safety standard

The product safety standard prescribed for pedal bicycles is that they must comply with AS/NZS 1927.

21 Variation of AS/NZS 1927

For the purposes of this Division, AS/NZS 1927 is taken to have been amended as follows:

- (a) by omitting Clause 1.2,
- (b) by omitting from Clause 1.3 the words “New Zealand Traffic Regulations 1976”,
- (c) by omitting from Clause 1.5 (a) the words “or New Zealand”,
- (d) by omitting Clause 2.15.1,
- (e) by omitting from Clause 2.16 the words “NOTE: There is no regulatory requirement in New Zealand for a warning device to be fitted to a bicycle.”,
- (f) by omitting Clause 2.17.1.

Division 6 Protective helmets for pedal cyclists

22 Definitions

In this Division:

AS/NZS 2063 means the Australian/New Zealand Standard entitled AS/NZS 2063:1996, *Pedal cycle helmets* published jointly by Standards Australia and Standards New Zealand on 5 May 1996, as amended by Amendment No 1 of 5 November 1996.

AS/NZ 2512.1 means the Australian/New Zealand Standard entitled AS 2512.1:1998, *Methods of testing protective helmets, Method 1: Definitions and headforms*, as published jointly by Standards Australia and Standards New Zealand on 5 September 1998.

protective helmet means a helmet designed to mitigate the adverse effects of a blow to the head.

Snell standard means the standard entitled *1995 Standard for Protective Headgear for Use in Bicycling* including the Child Helmet Addendum to Standards for Protective Headgear published by the Snell Memorial Foundation of the United States of America.

Note—

This standard is available on the Internet as the document www.smf.org/standards/b95std.html.

23 Safety standard

The product safety standard prescribed for protective helmets for pedal cyclists is that they must comply with:

- (a) AS/NZS 2063, or
- (b) the Snell standard.

24 Exceptions

- (1) This Division does not apply to the following helmets:
 - (a) helmets that are of a size too small to be fitted to Headform A (as specified in Table 2 in AS/NZS 2512.1),
 - (b) helmets that are designed and constructed principally for use by cyclists engaged in competitive racing and that are marked in accordance with subclause (2),
 - (c) helmets that are designed and constructed principally for use as toys and that are marked in accordance with subclause (3), or that are not so marked but are unlikely to be mistaken for helmets providing significant protection against impact.
- (2) In the case of a helmet of the kind referred to in subclause (1) (b), the words “WARNING: racing headgear only—inadequate impact protection for normal road use” must be marked clearly and legibly in a conspicuous position:

- (a) on the helmet or on a label attached to the helmet, and
 - (b) on a principal outer display face of any packaging in which the helmet is supplied, with the word “WARNING” in capital letters at least 5 millimetres high and the remaining words in letters at least 2.5 millimetres high.
- (3) In the case of a helmet of the kind referred to in subclause (1) (c), the words “WARNING: toy helmet only—do not use as safety headgear” must be marked clearly and legibly in a conspicuous position:
- (a) on the helmet or on a label attached to the helmet, and
 - (b) on a principal outer display face of any packaging in which the helmet is supplied, with the word “WARNING” in capital letters at least 5 millimetres high and the remaining words in letters at least 2.5 millimetres high.

25 Variation of AS/NZS 2063

For the purposes of this Division, AS/NZS 2063 is taken to have been amended follows:

- (a) by omitting Clause 1,
- (b) by inserting after Clause 5.6 the following:

5.7 BMX helmets

Helmets designed and constructed principally for use by cyclists engaged in BMX competition racing need not comply with provisions regarding ventilation openings or type testing.

- (c) by omitting Clause 8.1 (e).

26 Variation of Snell standard

A person is not required to comply with a provision of the Snell standard that requires the person to obtain third party certification of a helmet.

Division 7 Protective helmets for motor cyclists

27 Definitions

In this Division:

AS 1698 means the Australian Standard entitled AS 1698—1988, *Protective helmets for vehicle users*, as published by Standards Australia on 9 May 1988.

protective helmet means a helmet designed to mitigate the adverse effects of a blow to

the head.

28 Safety standard

The product safety standard prescribed for protective helmets for use by motor cyclists is that they must comply with AS 1698.

29 Variation of AS 1698

For the purposes of this Division, AS 1698 is taken to have been amended as follows:

- (a) by omitting from Clause 4.4 the matter “AS 1609” and by inserting instead the matter “AS 1609—1981”,
- (b) by omitting Clause 8 (g).

Division 8 Children’s toys

30 Definitions

In this Division:

AS 1647.2 means the Australian Standard entitled AS 1647.2—1992, *Children’s toys (safety requirements), Part 2: Constructional requirements* published by Standards Australia on 14 September 1992, as amended by Amendment No 1 of 5 March 1995.

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.

children’s toys means toys for children under 3 years of age, being objects or groups of objects manufactured, designed, labelled or marketed as playthings for a child or children of an age less than 3 years, including but not limited to:

- (a) rattles, toy dummies, teethers and squeeze toys, and
- (b) toys to be affixed to a crib, stroller, playpen or baby carriage, and
- (c) pull and push toys, pounding toys, blocks and stacking toys, and
- (d) toys for use in bath-tubs, and
- (e) rocking, spring and stick horses and other figures, and
- (f) musical chime toys and jacks-in-the-box, and
- (g) stuffed, plush and flock animals and other figures, and
- (g1) toys with pompoms, and

- (h) games, puzzles and dolls, and
 - (i) toy cars, trucks and other vehicles,
- but not including:
- (j) balloons, marbles, tapes and compact discs, or
 - (k) books, or
 - (l) writing materials, including crayons, chalk, pencils and pens, or
 - (m) paints (including finger paints and water paints), paint brushes and other painting implements, or
 - (n) modelling materials, including clay, plasticine and play-dough, or
 - (o) flotation aid toys, or
 - (o1) pacifiers, or
 - (p) bicycles having a wheelbase of at least 640 millimetres, or
 - (q) toys that are made wholly from highly porous fabric material such as cheesecloth, except toys with pompoms, or
 - (r) playground equipment for parks, schools and domestic use (including swings, see-saws, slides, agility apparatus, climbing, swinging, rotating and rocking apparatus, cubby houses, sand pits, apparatus for use in sand, sliding poles and ladders), or
 - (s) goods supplied in a wholly or partially unassembled state for assembly by an adult after supply, provided that, when assembled in accordance with the instructions supplied in writing with the goods, the goods comply with the requirements of this Division, or
 - (t) toys made from closed cell polyethylene, ethylene vinyl acetate or like material with the word “WARNING” in red upper case letters at least 5 millimetres high on a white background adjacent to the words “NOT SUITABLE FOR CHILDREN UNDER 3 YEARS AS FOAM PIECES MAY BREAK OFF AND CAUSE A CHOKING HAZARD” in red upper case letters at least 2.5 millimetres high on a white background marked legibly in a conspicuous position:
 - (i) on the toys, or
 - (ii) if the toys are displayed in packaging for retail sale—on a principal outer display face of the packaging in which the toys are displayed.

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).

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).

32 Variation of AS 1647. 2

For the purposes of this Division, AS 1647.2 is taken to have been amended as follows:

- (a) by omitting Clause 7.2 and by inserting instead the following Clause:

7.2 Stuffed toys

Stuffed toys must not produce an ingestion or inhalation hazard if tested in accordance with Appendix O.

- (b) by omitting from Clauses 10.2.1, 10.3.1-10.3.7, 10.3.10 and 10.3.13 the words "a hazardous sharp edge, a hazardous sharp point or, if applicable," wherever occurring,
- (c) by omitting from Clause 10.3.9 the words "fracture or break" and by inserting instead the words "produce an ingestion or inhalation hazard",
- (d) by omitting from Clause 10.3.11 the words "a hazardous sharp edge, a hazardous sharp point or",
- (e) by inserting in Clause 10.3.14 the words "and that produce an ingestion or inhalation hazard" after the word "toy" where secondly occurring,
- (f) by omitting from Clause 10.3.15 the words "shall not—" and paragraphs (a) and (b) and by inserting instead the words "shall not produce an ingestion or inhalation hazard.",
- (g) by omitting the word "If" from Clause D5 and by inserting instead the words "Subject

to Clause 9.4, if”,

- (h) by omitting from Clauses F5 (d), G6 (i), H5 (f), I5 (g), J5 (e), K5 (h), L5 (f), M5 (h), N6 (i), Q5 (g) and R5 (h) all words after the word “with” wherever occurring and by inserting instead the matter “Appendix D”,
- (i) by omitting Clauses F6 (d) (i), F6 (d) (ii), G7 (c) (i), G7 (c) (ii), H6 (c) (i), H6 (c) (ii), I6 (d) (i), I6 (d) (ii), J6 (b) (i), J6 (b) (ii), K6 (a), K6 (b), L6 (b) (i), L6 (b) (ii), M6 (d) (i), M6 (d) (ii), N7 (d) (i), N7 (d) (ii), Q6 (a) (i), Q6 (a) (ii), R6 (d) (i) and R6 (d) (ii),
- (j) by omitting from Clauses L5 (b) and L5 (g) the words “a hazardous sharp edge, hazardous sharp point or” wherever occurring,
- (k) by omitting from Clause N2 the words “neither developed a hazardous sharp edge nor a hazardous sharp point, nor, if applicable, produced” and by inserting instead the words “did not produce”,
- (l) by inserting in Clause U6 (b) the words “and whether these objects produced an ingestion or inhalation hazard” after the word “outlet”,
- (m) by omitting from Clause V6 (a) the words “fractured through the entire thickness or matter visible to the naked eye has become detached from any portion of the test specimen” and by inserting instead the words “produced an ingestion or inhalation hazard”.

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”,
- (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,
- (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.

Division 9 Flotation toys and swimming aids

33 Definitions

In this Division:

AS 1499 means the Australian Standard entitled AS 1499—1996, *Personal flotation devices—Type 2*, as published by Standards Australia on 5 January 1996.

AS 1512 means the Australian Standard entitled AS 1512—1996, *Personal flotation devices—Type 1*, as published by Standards Australia on 5 January 1996.

AS 1900 means the Australian Standard entitled AS 1900—1991, *Flotation toys and swimming aids for children* published by Standards Australia on 16 September 1991, as amended by Amendment No 1 of 16 August 1993.

children's flotation toys and swimming aids means flotation toys and swimming aids likely to be used by children of any age less than 15 years in recreational activities or to assist in swimming tuition, including but not limited to:

- (a) rings, partial rings, arm bands, and kick boards, that are inflatable, hollow moulded or made substantially from expanded foam, and
- (b) inflatable toy boats having fewer than 3 separate chambers, or having a length and width the sum of which is less than 3 metres, and
- (c) swimming vests and flotation bubbles,

but not including:

- (d) goods for therapeutic use by disabled persons, or
- (e) goods for use as life jackets that comply, or that comply substantially, with AS 1512, or
- (f) goods for use as buoyancy vests that comply, or that comply substantially, with AS 1499, or
- (g) goods for use primarily as a means of flotation for persons in water and in need of rescue, including goods carried in or on ships or boats for such a purpose.

34 Safety standard

The product safety standard prescribed for children's flotation toys and swimming aids is that they must comply with AS 1900.

35 Variation of AS 1900

For the purposes of this Division, AS 1900 is taken to have been amended by omitting Clause 1.1.

Division 10 Children's nightwear and paper patterns for children's nightwear

36 Definitions

In this Division:

AS 1182 means the Australian Standard entitled AS 1182—1997, *Size coding scheme for infants' and children's clothing—Underwear and outerwear*, as published by Standards Australia on 5 March 1997.

AS/NZS 1249 means the Australian/New Zealand Standard entitled AS/NZS 1249:1999, *Children's nightwear and limited daywear having reduced fire hazard*, as published jointly by Standards Australia and Standards New Zealand on 5 April 1999.

children's nightwear includes children's dressing-gowns, pyjamas, pyjama-style overgarments, nightdresses, nightshirts, bathrobes and infant sleepbags, and garments such as all-in-ones and boxer shorts that may be suitable for daywear or nightwear, of any of the sizes 00-14 (as specified in AS 1182), but not does not include t-shirts and any article of headwear, leggings (either with or without feet), footwear or handwear.

ISO 6941 means the International Standard entitled *Textile fabrics—Burning behaviour—Measurement of flame spread properties of vertically oriented specimens and numbered* ISO 6941:1984, published by the International Organization for Standardization on 15 August 1984, as amended by Amendment No 1 of 15 October 1992.

37 Safety standard for children's nightwear

The product safety standard prescribed for children's nightwear is that it must comply with AS/NZS 1249.

38 Safety standard for paper patterns for children's nightwear

- (1) The product safety standard prescribed for paper patterns for children's nightwear is that they must comply with Clauses 0.2 and 5.6 of AS/NZS 1249.
- (2) The definitions in Clause 0.5.2, 0.5.3, 0.5.6, 0.5.10 of AS/NZS 1249 apply for the purposes of this clause.

39 Variation of AS/NZS 1249

- (1) For the purposes of clause 37, AS/NZS 1249 is taken to have been amended as follows:
 - (a) by omitting the second sentence from Clause 0.1,
 - (b) by inserting in Clause 1.2 (a), after the first paragraph, the following paragraphs:

If there is insufficient fabric for three lengthwise and three widthwise test specimens, as cited in Clause 8.7 of ISO 6941, the flame spread time is to be determined on three lengthwise test specimens only.

If the textile material or garments are constructed with one fabric overlaying another (for example quilted fabrics), specimens must be cut and tested as a combination, that is to say as if the overlay were applied to the under fabric.
 - (c) by omitting from the third paragraph of Clause 1.2 (a) the words "four or more of six specimens" wherever occurring and by inserting instead the words "three or more specimens",
 - (d) by omitting from the note after the third paragraph of Clause 1.2. (a) the words "another set of three specimens are" and by inserting instead the words "another

specimen is”,

(e) by inserting after “use of trims.” in Clause 1.3 the following words:

The outer fabric of a composite or applied area must be considered the fabric face and must be tested so that the flame impinges on that surface.

(f) by omitting Clause 5.6.

(2) For the purposes of clause 38, AS/NZS 1249 is taken to have been amended as follows:

(a) by omitting the notes from Clause 0.5.3,

(b) by omitting the words “(See Note 1 to Clause 0.1)” from Clause 0.5.10,

(c) by inserting the words “clearly visible” between the words “shall bear a” and “warning paragraph” in Clause 5.6.

40 Variation of ISO 6941

ISO 6941 is taken to have been amended as follows:

(a) by omitting the words “test another set of three specimens for that direction or face” from Clause 8.8 wherever occurring and by inserting instead “test another specimen for that direction or face”,

(b) by omitting Clause 10 k) 4) and by inserting instead the following:

if only four specimens are tested, determine the mean from all the results that burn to the respective marker threads. Report the number of specimens that failed to burn to the marker.

Division 11 Child restraints

41 Definitions

In this Division:

AS 1754—1975 means the Australian Standard entitled AS 1754—1975, *Child Restraints for Passenger Cars and Derivatives*, as amended by Amendment No 1 of February 1976, Amendment No 2 of March 1978, Amendment No 3 of July 1979, the Corrigendum of October 1979 and Amendment No 4 of July 1985.

AS 1754—1991 means the Australian Standard entitled AS 1754—1991, *Child restraint systems for use in motor vehicles* published on 24 December 1991, as amended by Amendment No 1 of 12 October 1992 and Amendment No 2 of 15 February 1993.

chaise means a device used for raising a child's position in a motor vehicle or adapting an adult seat belt to make it suitable for a child, being a device having a back above the seating plane.

child restraint means a device designed to reduce the risk of bodily injury to a child passenger in a motor vehicle in the event of a motor vehicle impact and includes:

- (a) components designed to restrain the child in the device, and
- (b) components to anchor the device to the motor vehicle, and
- (c) (if supplied) components to restrain a motor vehicle seat, and
- (d) chaises, and
- (e) cushions,

but does not include a child restraint that is an integrated feature of a motor vehicle.

cushion means a device used for raising a child's position in a motor vehicle or adapting an adult seat belt to make it suitable for a child, being a device having no back above the seating plane.

42 Safety standard for child restraints

The product safety standard prescribed for child restraints is that they must comply with AS 1754—1991.

43 Variation of AS 1754—1991

For the purposes of this Division, AS 1754—1991 is taken to be amended as follows:

- (a) by omitting from Clause 1.1 the words “passenger cars and their derivatives,” and by inserting instead the words “motor vehicles”,
- (b) by omitting the second sentence from Clause 1.1,
- (c) by omitting Clause 2.4.

44 Supply of components for child restraints complying with AS 1754—1975

For the purposes of this Division, components for child restraints that are made to the requirements of AS 1754—1975 must comply with the relevant requirements of AS 1754—1975.

Division 12 Bean bags

45 Definitions

- (1) In this Division:

bean bag means a cushion or similar item that consists of a bag or cover surrounding bean bag filling, and includes a bean bag for use in a swimming pool.

bean bag cover means a bag or cover capable of being filled with bean bag filling and that, if filled with bean bag filling, would constitute a bean bag and includes a bag or cover intended as a separate inner lining.

bean bag filling means pellets, or small particles of polystyrene or other similar synthetic material capable of being used as filling for a cushion, but does not include any such pellets or particles when they are mixed with material that is not capable of being so used.

child resistant slide-fastener means a slide-fastener having a sliding piece of a kind referred to in the definition of **slide-fastener** that:

- (a) does not have attached to it any tag, handle or other object that would facilitate the movement of the sliding piece, and
- (b) incorporates a locking mechanism that prevents the sliding piece opening the slide-fastener unless a wholly separate device is used to disengage the locking mechanism and act as a handle in the moving of the sliding piece between the teeth of the slide-fastener.

package means bag, box or other similar container, but does not include a bean bag cover.

slide-fastener means a device comprising two sets of teeth, each set of teeth being located on adjacent edges of the device, and having an attached sliding piece that, when moved between the two sets of teeth, causes one set of teeth to interlock or cease to interlock with the other set of teeth.

- (2) If a slide-fastener has more than one sliding piece of a kind referred to in the definition of **slide-fastener** in subclause (1), a reference in the definition of **child resistant slide-fastener** in that subclause to a sliding piece includes, in relation to that slide-fastener, a reference to each of those sliding pieces.

46 Safety standard

- (1) The product safety standard prescribed for a bean bag or a bean bag cover is that:
 - (a) it must bear a label that:
 - (i) is secured to the bag or cover in such a manner that the label will, despite normal handling, remain fixed to the bag or cover, and
 - (ii) contains the following warning:

WARNING. Small Light-weight Beads Present A Severe Danger To Children If

Swallowed Or Inhaled.

- (b) it must be constructed so that any opening through which bean bag filling may be inserted or removed is fitted with a child resistant slide-fastener.
- (2) The product safety standard prescribed for a package containing bean bag filling is that it must bear a label that:
- (a) is secured to the package in such a manner that the label will, despite normal handling, remain fixed to the package, and
 - (b) contains the warning referred to in subclause (1) (a) (ii).
- (3) The warning referred to in subclause (1) (a) (ii):
- (a) must be printed in red letters at least 5 millimetres high on a white background, and
 - (b) must have the word “WARNING” printed in capital letters and the remaining words printed in upper and lower case letters.

Division 13 Elastic luggage straps

47 Definition

In this Division:

elastic luggage strap means an elastic strap or cord or 2 or more elastic straps or cords permanently joined and:

- (a) having a hook, buckle or other fastening device at each extremity, and
- (b) designed to be used for the purpose of securing luggage or other objects.

48 Safety standard

- (1) The product safety standard prescribed for elastic luggage straps is that they must have a label permanently affixed to them bearing the following warning:

WARNING. Avoid eye injury. DO NOT overstretch. ALWAYS keep face and body out of recoil path. DO NOT use when strap has visible signs of wear or damage.

- (2) A label referred to in subclause (1):

- (a) must bear the word “WARNING” in upper case black letters of at least 4 millimetres in height on a yellow background, and
- (b) must bear the words “do not” and “always” in upper case black letters at least 2 millimetres in height on a yellow background, and
- (c) must bear the remaining words in lower case black letters at least 2 millimetres in

height on a yellow background, and

(d) must be clearly displayed.

Division 14 Projectile toys

49 Definitions

In this Division:

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.

discharge mechanism has the same meaning as in AS/NZS ISO 8124.

improvised projectile means a pen, pencil, marker, pen or marker cap, paper clip, pen or biro refill, battery, marble, pebble, stone, coin or nail.

projectile has the same meaning as in AS/NZS ISO 8124.

projectile toy with stored energy has the same meaning as in AS/NZS ISO 8124.

projectile toy without stored energy has the same meaning as in AS/NZS ISO 8124.

50 Safety standard

- (1) The product safety standard prescribed for projectile toys with stored energy is that they must comply with the requirements of clause 4.18.2 of AS/NZS ISO 8124.
- (2) The product safety standard prescribed for projectile toys without stored energy is that they must comply with the requirements of clause 4.18.3 of AS/NZS ISO 8124.

50A Variation of AS/NZS ISO 8124

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

(a) by omitting Clause 4.18.2 (a) (3),

(b) by omitting Clause 4.18.2 (b),

(c) by omitting Clause 4.18.2 (c) and inserting instead:

- (c) The discharge mechanism of the toy must not, without modification by the user, be able to discharge an improvised projectile so that it propels the projectile in free flight for a horizontal distance that exceeds 300mm when discharged at a vertical height of 300mm.

(d) by omitting Clause 4.18.3 (e).

Division 15 Baby walkers

51 Definition

In this Division:

baby walker means a device that consists of a frame on wheels designed to support, inside the frame and with the child's feet touching the ground, a child who has not learned to walk, being a device that is propelled by the movement of the child.

F 977-00 means the United States standard entitled *Standard Consumer Safety Specification for Infant Walkers* approved on 10 April 2000 and published in July 2000 by ASTM (the American Society for Testing and Materials).

52 Safety standard

The product safety standard prescribed for baby walkers is that they must comply with Sections 6.1, 6.4 and 9.3 of F 977-00.

Division 16 Disposable cigarette lighters

Subdivision 1 Preliminary

53 Definitions

In this Division:

adjustable lighter means a lighter with provision for flame height adjustment.

American Standard means the *Consumer Product Safety Standard for Cigarette Lighters* (16 CFR 1210):

- (a) set out in Part 1210, Title 16 of the *Code of Federal Regulations*, and
- (b) published in the Federal Register of the United States of America, Volume 58, No 131, on 12 July 1993 and revised as of 1 January 2001.

customs value for a device means the customs value determined for the device under section 159 of the *Customs Act 1901* of the Commonwealth.

disposable lighter—see clause 54 (4).

ex works agreement means an agreement for the supply of goods under which the supplier's obligation to deliver the goods is fulfilled when the supplier makes the goods available to the buyer at the supplier's premises.

indexed amount—see clause 68.

lighter—see clause 54.

non adjustable lighter means a lighter with no provision for flame height adjustment.

novelty lighter—see clause 54 (5).

refillable lighter—see clause 54 (6).

safe operation means the operation of a lighter so that it:

- (a) does not spit or sputter, and
- (b) does not produce an abnormal or unsafe flame, and
- (c) cannot be operated easily by a young child.

spit or sputter for a flame produced by a lighter means the escape of liquid fuel from the lighter producing burning liquid droplets that separate from the flame.

the Table means the Table to this Division.

young child means an individual who is under 5 years of age.

54 Meaning of “lighter” and types of lighters

(1) A **lighter** is a flame producing device that:

- (a) is designed to light cigarettes, cigars and pipes, and
- (b) is an eligible device.

(2) For the purposes of subclause (1), a flame producing device is an **eligible device** if:

- (a) it is designed to be discarded when its fuel supply is exhausted, or
- (b) it is designed to incorporate a separate container of fuel that is designed to be discarded when empty, or
- (c) it is designed to have an entertaining audio or visual effect (other than production of a flame), or

Note—

An example of paragraph (c) is a device that plays musical notes or displays flashing lights.

- (d) it is designed to depict or resemble, in physical form or function, an article commonly recognised as appealing to, or intended for use by, a young child.

Note—

Examples of paragraph (d) include a beverage, cartoon character, food, gun, musical instrument, toy, toy animal, watch or vehicle.

(3) For the purposes of subclause (1), a flame producing device is also an **eligible**

device if:

- (a) it is designed to be refilled with fuel, and
- (b) its value is not more than the relevant amount.

(4) A **disposable lighter** is a lighter that is an eligible device mentioned in subclause (2) (a) or (b).

(5) A **novelty lighter** is a lighter that is an eligible device mentioned in subclause (2) (c) or (d).

(6) A **refillable lighter** is a lighter that is an eligible device mentioned in subclause (3).

(7) For the purposes of subclause (3):

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.

value for a device means:

- (a) for a device imported into Australia—its customs value, or
- (b) for another device—its supply price.

55 Safety standard

The product safety standard prescribed for lighters is that they must comply with the requirements of this Division.

Subdivision 2 Flame testing, structural safety and labelling

56 Application of this Subdivision

This Subdivision does not apply to a lighter that:

- (a) is a novelty lighter, and
- (b) is not a disposable lighter or a refillable lighter.

57 Testing procedures

When a lighter is tested in accordance with the procedures described in Part 2, 3, 4, 5 or 6 of the Table, the test must be performed in accordance with the procedures described in Part 1 of the Table.

58 Ignition and adjustment of flame

- (1) A lighter must be designed so that deliberate action is necessary to ignite and sustain a flame.
- (2) An adjustable lighter must be designed so that deliberate action is necessary to adjust the height of the flame.

59 Abnormal burning

A lighter, after being tested in accordance with Parts 4, 5 and 6 of the Table, must not, when tested in accordance with Parts 2 and 3 of the Table, spit or sputter or produce an abnormal or unsafe flame.

60 Flame height

- (1) A lighter must comply with subclause (2) when tested in accordance with Part 2 of the Table:
 - (a) after being tested in accordance with Part 4 or 5 of the Table, or
 - (b) after being tested in accordance with Parts 4 and 5 of the Table.
- (2) For the purposes of subclause (1), the height of the flame produced by a lighter must not exceed:
 - (a) in the case of a non-adjustable lighter, 50 millimetres, and
 - (b) in the case of an adjustable lighter:
 - (i) where the lighter is adjusted to produce the maximum flame height, 150 millimetres, and
 - (ii) where the lighter is adjusted to produce the minimum flame height, 100 millimetres.
- (3) If the flame height of an adjustable lighter has not been adjusted after being supplied in trade or commerce, the lighter must not, when first used after being supplied, produce a flame exceeding 125 millimetres in height.

61 Flame extinction

- (1) A lighter must comply with subclause (2) after being tested in accordance with the procedures described in Parts 3, 4 and 5 of the Table.
- (2) For the purposes of subclause (1), where:
 - (a) a non-adjustable lighter produces a flame for 10 seconds, or
 - (b) an adjustable lighter:

- (i) produces a flame for 5 seconds at the maximum flame height adjustment, or
 - (ii) produces a flame for 10 seconds at the minimum flame height adjustment,
- the flame produced must extinguish after cessation of the action sustaining the flame within two seconds if the lighter has no flameguard or four seconds if it has a flameguard.

62 Structural safety

- (1) A lighter must have no sharp external edges.
- (2) A lighter, when tested in accordance with Part 3, 4 or 5 of the Table, must not be damaged so as to affect its safe operation.
- (3) A lighter, when tested in accordance with Part 4 of the Table, must not spontaneously ignite.
- (4) The internal pressure of the fuel reservoir of a lighter when tested in accordance with Part 6 of the Table must not suddenly decrease.

63 Labelling

- (1) A lighter must incorporate (as a permanent part of the lighter) in a legible form:
 - (a) the name or other identification of the manufacturer or distributor of the lighter, and
 - (b) where the lighter is an adjustable lighter, symbols indicating the direction in which force is to be applied to increase or decrease the flame height and the effect of the application of force in that direction.
- (2) In addition to subclause (1), either:
 - (a) the following information that is enclosed by inverted commas must be displayed in a legible form on a lighter, or on an adhesive label that is affixed to the lighter:
 - (i) "WARNING" in capital letters and adjacent to the words that must be displayed under subparagraphs (ii)-(ix),
 - (ii) "KEEP AWAY FROM CHILDREN" or "KEEP OUT OF REACH OF CHILDREN" in capital letters,
 - (iii) "Ignite lighter away from face and clothing",
 - (iv) "Never expose to heat above 50°C or to prolonged sunlight",
 - (v) "Never puncture or put in fire",
 - (vi) for a lighter that contains flammable gas under pressure—"Contains

flammable gas under pressure”,

(vii) for a lighter that contains flammable liquid—“Contains flammable liquid”,

(viii) for a self-extinguishing lighter—“Be sure flame is out after use”,

(ix) for a non-self-extinguishing lighter—“This lighter does not extinguish itself—close the cover to put out”, or

(b) if a lighter is contained in a package when it is sold at retail—the information in paragraph (a) must be displayed in a legible form on the package.

Subdivision 3 Child resistance

64 Application of this Subdivision

This Subdivision applies only to a lighter to which the American Standard would apply if the lighter were imported into the United States of America after 12 July 1994.

65 Child resistance

(1) A lighter must be of a kind that has been:

(a) tested in the manner set out in section 1210.4 of the American Standard, and

(b) shown to be resistant to successful operation by at least 85 per cent of the child-test panel when tested in that manner.

(2) The mechanism or system of a lighter that is designed or intended to make the lighter resistant to successful operation by at least 85 per cent of the child-test panel must:

(a) reset itself automatically after each operation of the ignition mechanism of the lighter, and

(b) not impair safe operation of the lighter when used in a normal and convenient manner, and

(c) be effective for the functional life of the lighter, and

(d) not be easily overridden or deactivated.

66 Certification

A certificate of compliance, within the meaning of the American Standard, must have been issued for the lighter in accordance with that Standard.

Subdivision 4 Indexation

67 Definitions

In this Division:

CPI number means the All Groups Consumer Price Index number (that is the weighted average of the 8 capital cities) published by the Statistician.

latest CPI number means the CPI number for the most recent quarter.

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.

68 Indexed amount

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

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

(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.

Table Test procedures for lighters

Part 1 General test procedures

- (1) The lighter must be maintained at a temperature of 23 ± 2 degrees Celsius for at least 10 hours immediately preceding testing in accordance with Parts 2, 3 and 4 of this Table.
- (2) The area in which tests are carried out must be maintained at a temperature of 23 ± 2 degrees Celsius during testing in accordance with Parts 2, 4 and 5 of this Table.
- (3) The lighter to be tested must be new, free of mechanical damage and must not (except where required by this Division) have been previously tested.

Part 2 Flame height test procedures

- (1) The test must be carried out inside a draught-free chamber constructed from suitable non-flammable material. The flame height must be measured to the nearest 10 millimetres.
- (2) Adjustable lighters must be tested with the lighter adjusted to produce the maximum flame height and then with the lighter adjusted to produce the minimum flame height.
- (3) The lighter must produce a flame for a continuous 5 second period and the flame height must be determined by measuring from the tip of the flame to the top of the flameguard or to the base of the flame (in the case of a lighter that does not have a flameguard) by means of a board positioned at least 25 millimetres behind the lighter and marked with 10 millimetre increments.

Part 3 Inversion test procedures

The lighter (adjustable lighters adjusted to produce a 50 millimetre flame) must be operated to produce a flame, for a continuous 10 second period in a draught-free chamber, while being held at 45 degrees below the horizontal.

Part 4 Drop test procedures

- (1) The lighter must be allowed to fall three times onto a concrete surface from a point 1.5 metres above it, from the following positions:
 - (a) firstly, an upright position,
 - (b) secondly, an inverted position,
 - (c) thirdly, a horizontal position.
- (2) The lighter must be inspected after every fall and any spontaneous ignition or damage must be recorded.

Part 5 Temperature test procedures

- (1) An oven capable of withstanding the explosion of a lighter when being tested and of maintaining a temperature of 54 ± 2 degrees Celsius must be used in the test.
- (2) The lighter must be placed in the oven for four hours during which time the oven temperature must be maintained at 54 ± 2 degrees Celsius.
- (3) The lighter when removed from the oven must, when cool, be tested in

accordance with Part 3 of this Table.

Part 6 Pressure test procedure

- (1) The test apparatus must consist of a device capable of producing gauge pressure of 2 (MPa).
- (2) The lighter must be emptied of fuel.
- (3) The fuel reservoir of the lighter must be subjected to an internal pressure equal to twice the vapour pressure at 54 degrees Celsius of the fuel normally used in the lighter. The pressure rise must not exceed a rate of 69 kPa per second.

Division 17 Children's household cots

69 Definitions

In this Division:

AS/NZS 2172 means the Australian/New Zealand Standard entitled AS/NZS 2172:1995, *Cots for household use—Safety requirements*, as published jointly by Standards Australia and Standards New Zealand on 5 April 1995.

household cot means a cot designed for use in household situations, but does not include:

- (a) a folding portable cot, or
- (b) a carry cot, or
- (c) a cradle.

70 Safety standard

- (1) The product safety standard prescribed for children's household cots is that they must comply with Clauses 5, 6, 8, 9, 11 and 12 of AS/NZS 2172.
- (2) The definitions in Clause 3 of AS/NZS 2172 apply for the purposes of this clause.
- (3) Subclause (1) does not apply in respect of a household cot that is an antique or collectable cot, but only if the antique or collectable cot:
 - (a) is accompanied by a certificate from the supplier to the consumer stating that it is not safe to place a child in the cot, and
 - (b) has two clearly visible warning statements (one external, one internal) permanently attached to the cot in the form of a metal plaque glued or affixed by nails or screws to the upper half of the side or end of the cot and containing the

following warning in the form required by subclause (4):

WARNING: this cot does not meet the mandatory safety standard. For display purposes only. It is dangerous to place a child in this cot.

- (4) The warning referred to in subclause (3) (b) must:
- (a) contain the upper case and underlining shown in that paragraph, and
 - (b) have upper case lettering at least 5 mm high and lower case letters at least 2.5 mm high, and
 - (c) have lettering that is in sharp contrast to its background.

Division 18 Laser pointers

71 Definitions

In this Division:

AS/NZS 2211 means the Australian/New Zealand Standard entitled AS/NZS 2211.1:1997, *Laser safety, Part 1: Equipment classification, requirements and user's guide*, as published jointly by Standards Australia and Standards New Zealand on 5 March 1997.

Class 1 laser product has the same meaning as it has in Clause 3.15 of AS/NZS 2211.

Class 2 laser product has the same meaning as it has in Clause 3.16 of AS/NZS 2211.

laser means any device that can be made to produce or amplify electromagnetic radiation in the wavelength range from 100 nanometres to 1 millimetre primarily by the process of controlled stimulation emission.

laser pointer means a hand-held laser product that is battery-operated and produces a beam of electromagnetic radiation, but does not include any such product that is a therapeutic good (as defined in the *Therapeutic Goods Act 1989* of the Commonwealth) listed or registered in the Australian Register of Therapeutic Goods maintained under that Act.

laser product means any product or assembly of components that constitutes, incorporates or is intended to incorporate a laser or laser system, and that is not intended for sale to another manufacturer for use as a component (or replacement for a component) of an electronic product.

laser system means a laser in combination with an appropriate laser energy source with or without additional incorporated components.

72 Safety standard

The product safety standard prescribed for laser pointers is that they must be a Class 1

laser product or a Class 2 laser product.

73 Testing of laser pointers

A person who, in trade or commerce, supplies a laser pointer must hold a test report issued by a laboratory indicating:

- (a) that the laser pointer has been tested, or is part of a batch from which samples have been tested, by the laboratory, and
- (b) the method used to carry out the test and the results of the test, and
- (c) that the results of the test show that each laser pointer tested is a Class 1 laser product or Class 2 laser product.

74 Production of reports

A person who, in trade or commerce, supplies laser pointers must, on request, make available for inspection by an investigator any report required under clause 73.

Maximum penalty: 10 penalty units.

Division 19 Corded internal window coverings

74A Definitions

ANSI A100 means the American National Standard entitled *American National Standard for Safety of Corded Window Covering Products* and numbered ANSI/WCMA A100.1-1996, as approved by the American National Standards Institute on 27 November 1996.

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)*, published on 16 May 2002.

corded internal window covering means any interior drapery hardware or window covering product (for example, a curtain, shade, blind, or traverse rod or track) that incorporates any of the following in its operation (other than solely as a tie-back for the covering):

- (a) a **looped bead chain** (being a series of small beads, equally spaced on a cord or connected by metal shafts, which is curved or doubled, or the ends of which are joined by a device, so as to form a closed loop),
- (b) a **looped cord** (being a form of rope, strap, or string which is curved or doubled, or the ends of which are joined by a device, so as to form a closed loop),
- (c) any other type of flexible looped device.

74B Safety standard

- (1) The product safety standard prescribed for a corded internal window covering is that:
 - (a) it must be designed so that any exposed looped cord, looped bead chain or other flexible looped device does not extend to within 1600mm above the base of the covering when the covering is in its lowered position, and
 - (b) it must carry the label and tags required by clause 74C, and
 - (c) it must be accompanied by written information that:
 - (i) explains how to install the covering, and
 - (ii) explains how to install any safety device the covering has and how the device is designed to function, and
 - (iii) repeats the warning referred to in clause 74C (1) (b).
- (2) Subclause (1) (a) does not apply in relation to an exposed looped cord, looped bead chain or other flexible looped device:
 - (a) that is incapable of forming a loop with a circumference of greater than 300mm (for example, because the covering includes an effective means by which the exposed looped cord, looped bead chain or other flexible looped device can be secured or retracted), or
 - (b) that has a cord release device:
 - (i) that passes the release test for such devices set out in Appendix A of ANSI A100, and
 - (ii) that, in the case of a device that is intended to entirely detach from the covering when it releases its loop, does not, when tested in accordance with clause 5.2 (Small parts test) of AS/NZS ISO 8124, fit entirely into the small parts cylinder referred to in that clause (whatever the device's orientation), or
 - (c) that has a tension device that complies with the requirements of clause 6.5.4 of ANSI A100.
- (3) Subclause 1 (c) does not apply to a corded internal window covering that is custom made for installation by a person in the business of installing internal window coverings.

74C Labels and tags

- (1) The required label and tags referred to in clause 74B (1) (b) are as follows:
 - (a) a warning label that complies with the requirements of clause 5.1.1 of ANSI A100, or that complies with those requirements (including that for a pictogram) except

that it substitutes the words of warning in that clause with the following:

WARNING Looped cords, looped bead chains or other flexible looped devices may cause a strangulation hazard for children under 5 years. KEEP CORDS AND CHAINS OUT OF REACH OF CHILDREN,

- (b) a warning tag that complies with the requirements of clause 5.1.2 of ANSI A100, but which refers to “cots” instead of “cribs”,
 - (c) if the covering includes any safety device, an operational tag that explains how the device is designed to function.
- (2) A tag used for the purposes of subclause (1) (b) or (c) must be attached to an internal window covering separately from the warning label referred to in subclause (1) (a).
- (3) The same tag may be used for the purposes of both subclause (1) (b) and (c) if:
- (a) the warning (including pictogram) contained on the tag in compliance with subclause (1) (b) and any explanation contained on the tag in compliance with subclause (1) (c) are kept distinct from each other, and
 - (b) the warning and any such explanation are clear and legible.

Part 3 Product information standards

Division 1 Preliminary

75 Information standards

The standards set out in the other Divisions to this Part are prescribed under section 38 of the Act as product information standards for the goods to which those Divisions apply.

Note—

The consequences of failing to comply with a product information standard are set out in section 39 of the Act.

Division 2 Fibre content labelling of textile products

76 Definitions

In this Division:

AS/NZS 2392 means the Australian/New Zealand Standard entitled AS/NZS 2392:1999, *Textiles—Labelling of clothing, household textiles and furnishings*, as published jointly by Standards Australia and Standards New Zealand on 5 July 1999.

AS/NZS 2450 means the Australian/New Zealand Standard entitled AS/NZS 2450:1994, *Textiles—Natural and man-made fibres—Generic names*, as published jointly by Standards Australia and Standards New Zealand on 17 October 1994.

AS/NZS 2622 means the Australian/New Zealand Standard entitled AS/NZS 2622:1996,

Textile products—Fibre content labelling, as published jointly by Standards Australia and Standards New Zealand on 5 September 1996.

textile product has the same meaning as it has in Clause 5.3 of AS/NZS 2622.

77 Product information standard

The product information standard for textile products is that they must comply with AS/NZS 2622.

78 Form of information

The label in which any statement required for a textile product by AS/NZS 2622 is contained must comply with AS/NZS 2392 and AS/NZS 2450.

Division 3 Care labelling of certain goods

79 Definitions

In this Division:

AS/NZS 1957 means the Australian/New Zealand Standard entitled AS/NZS 1957:1998, *Textiles—Care labelling*, as published jointly by Standards Australia and Standards New Zealand on 5 January 1998.

80 Application of Division

(1) This Division applies to any of the following goods that are made from textiles, plastics, plastic coated fabrics, suede, skins, hides, grain leathers or furs, and that are not excluded goods:

- (a) clothing,
- (b) household textiles,
- (c) apparel,
- (d) furnishings or upholstered furniture,
- (e) bedding, mattresses or bed bases,
- (f) piece goods or yarns.

(2) In this clause:

excluded goods means:

- (a) second-hand goods,
- (b) the following kinds of clothing (namely, unsupported coats (including overcoats, jackets and the like) of PVC film, handkerchiefs, braces, garter suspenders, arm

- bands, belts and headwear),
- (c) all footwear (including textile materials used in the manufacture of footwear but excluding all types of hosiery),
 - (d) the following kinds of drapery (namely, floor cloths, dish cloths, dusters, cleaning cloths and pressing cloths),
 - (e) the following kinds of haberdashery (namely, ornaments, artificial flowers, sewing and embroidery threads and all other small items of haberdashery used in the making of clothing and textile products where instructions are not needed to ensure that the clothing or textile product is not damaged during cleaning and maintenance),
 - (f) the following kinds of furnishings (namely, oil baize, window blinds, shade blinds, sun blinds, awnings, floor coverings, light fittings, lampshades, tapestries, wall hangings, ornaments, handicraft items, draught excluders, non-upholstered furniture and cushions and cushion covers manufactured from remnants and labelled by the manufacturer with the following disclaimer “cushion cover manufactured from remnants, care treatment unknown”),
 - (g) all jute products,
 - (h) all medical and surgical goods (namely, bandages, dressings, sanitary pads and materials forming part of manufactured medical and surgical goods),
 - (i) the following kinds of canvas goods (namely, beach and garden umbrella coverings),
 - (j) the following kinds of miscellaneous goods (namely, cords, twines, lashings, garden hose, toys, umbrellas and parasols, shoelaces, woven labels, flex coverings, goods manufactured for sporting purposes (including sporting gloves but excluding all other apparel), articles intended for one-time use only, mops, basket hangers, shoe holders, remnants, industrial gloves, polypropylene webbing furniture and all bags and cases (including handbags, purses, wallets, travel bags, school bags, sports bags, briefcases and wash bags)).

81 Product information standard

The product information standard for goods to which this Division applies is that the goods must comply with AS/NZS 1957.

82 Variation of product information standards

For the purposes of this Division, AS/NZS 1957 is taken to have been amended as follows:

- (a) by omitting Clauses 1.1, 1.2, 1.3, 1.4, 2.1.3 and 2.2 (b),

(b) by omitting Clause 2.2 (c) and by inserting instead:

(c) The wording of the label shall be in English and be clearly legible.

(c) by omitting Note 1 to Clause 2.2,

(d) by inserting "This includes individual pieces of household textile products sold as sets (eg napkin and tablecloth sets)." at the end of Note 5 to Clause 2.2,

(e) by inserting after Clause 2.3:

2.4 Alternative care instructions

Where in this standard there is a requirement for care instructions from categories in Tables 1, 2 or 3 to be provided on or with articles, words that have a similar meaning to the care instructions listed in Tables 1, 2 or 3 may be used.

(f) by omitting "each of" from Clause 3.4,

(g) by omitting "each of" from Clause 3.5,

(h) by omitting "each category" from Clause 3.6 and inserting "the categories" instead,

(i) by omitting "For upholstered furniture, bedding and other furnishings in Table 2, instructions shall be given from each category and a prohibitive instruction given if a cleaning method is unsuitable." from Clause 3.6,

(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.

83 Form of information for prescribed goods

(1) The care instructions for goods to which this Division applies that are prescribed goods may be given:

(a) on a removable ticket or label attached to the goods, or

(b) on a pamphlet accompanying the goods, or

(c) as printed instructions on the wrapper or other matter in which the goods are packaged.

(2) In this clause:

prescribed goods means:

(a) the following kinds of adult's, children's and baby clothing (namely, collars, neckwear, bow ties, gloves, mittens, all types of hosiery, incontinence garments,

reversible garments, fur garments, bibs, washable nappies, squares of flannelette, terry towelling or muslin and baby pilchers),

- (b) the following kinds of drapery (namely, face washers, serviettes, doilies, table cloths, tray cloths, centres, runners, duchess sets, mosquito netting and covers made from mosquito netting, butter muslin and gauze, tea towels, place mats, pot holders, finger tips, appliance covers for teapots, toasters and the like and hot water bottle covers),
- (c) the following kinds of haberdashery (namely, elastic, elastic threads, ribbons, zips, iron-on binding patches or trim, velcro-type fasteners, curtain making kits and all other small items of haberdashery used in the making of clothing and textile products where instructions are needed to ensure that the clothing or textile product is not damaged during cleaning and maintenance),
- (d) all shower curtains,
- (e) all gardening gloves,
- (f) cushions that are an integral part of a furniture suite.

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

Where goods are unable to be washed or dry-cleaned, the permanent label must include appropriate instructions in words that:

- (a) warn that the goods are unable to be washed or dry-cleaned, and
- (b) adequately describe the care treatment for the goods.

Division 4 Petrol price signs

85 Definitions

In this Division:

consent authority, **development application** and **development consent** have the same meanings as they have in the [Environmental Planning and Assessment Act 1979](#).

petrol station means a building or place used for the fuelling of motor vehicles involving the sale by retail of petrol, whether or not any other fuel or other product is sold there and whether or not the building or place is used for any other purpose, but does not include a place where the primary business is the hiring, leasing or sale of motor vehicles.

86 Product information standard

The product information standard for regular unleaded petrol supplied at a petrol station is that the price at which that petrol is supplied to retail customers at the petrol station must be disclosed by being displayed at the petrol station on one or more signs (**petrol price**

signs) that comply with the following requirements:

- (a) a petrol price sign must be so positioned and lit that any price and other matter that it displays will be readily seen by motorists approaching the petrol station at any time that the petrol station is open for business for the supply of petrol,
- (b) a price displayed on a petrol price sign must be a price per litre of petrol.

87 Planning restriction not affected

The product information standard specified in clause 86 does not apply to the extent of any inconsistency with:

- (a) a requirement or prohibition imposed by or under the *Environmental Planning and Assessment Act 1979* or the *Local Government Act 1993* (other than a requirement that development consent be obtained), or
- (b) a requirement under the *Environmental Planning and Assessment Act 1979* that development consent be obtained, but only if that development consent has been applied for and refused.

Part 3A Employment placement services

87A Information standard for employment placement services

- (1) For the purposes of section 60R of the Act, the requirements of this clause are prescribed as an information standard for employment placement services.
- (2) A person who provides employment placement services must, before providing those services to a person seeking employment (**a job seeker**), give the job seeker a written notice that sets out the following statements:
 - (a) A person who provides employment placement services must not charge a job seeker a fee for the purpose of finding the job seeker employment.
 - (b) A person who provides employment placement services must not engage in misleading or deceptive conduct (such as advertising a position as being available when the person knows no such position exists or knowingly giving misleading information to a job seeker about the nature of a position).
 - (c) If a job seeker believes that a person has acted inappropriately in the course of providing employment placement services, the job seeker may contact the Department of Fair Trading for information on possible action that may be taken.

Part 4 Penalty notice offences

88 Penalty notice offences: section 64

For the purposes of section 64 of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 1 is a prescribed offence, and
- (b) the prescribed penalty for such an offence is the amount specified in Column 2 of Schedule 1.

Part 4A Direct commerce provisions

88A Notice of cancellation of direct commerce contract

For the purposes of section 40E (2) (d) of the Act, a notice of cancellation by a consumer of a direct commerce contract may be given by sending the notice by electronic communication to the supplier's email address as provided by the supplier or dealer.

Note—

Under section 40E (1) (b) of the Act, the 5-day cooling-off period for a direct commerce contract made over the telephone is triggered by the supplier giving the consumer the cooling-off information (as required under section 40D) in writing. If the information is posted to the consumer, section 76 of the *Interpretation Act 1987* provides that service of the letter is taken to have been effected on the fourth working day after it was posted.

88B Exclusion of certain contracts from direct commerce provisions

- (1) The following kinds of contracts are, in accordance with section 40B (2) of the Act, excluded from the operation of Division 3 of Part 4 of the Act:
 - (a) a customer supply contract (within the meaning of the *Electricity Supply Act 1995*) entered into with a person who is a small retail customer for the purposes of that Act,
 - (b) a customer supply contract (within the meaning of the *Gas Supply (Natural Gas Retail Competition) Regulation 2001*) entered into with a person who is a small retail customer for the purposes of the *Gas Supply Act 1996*,
 - (c) a contract arising out of the conduct of a fundraising appeal within the meaning of the *Charitable Fundraising Act 1991*,
 - (d) a contract for the supply of a financial product, or a managed investment scheme, within the meaning of the *Corporations Act 2001* of the Commonwealth,

Note—

The hawking of certain financial products and managed investment products is prohibited under the *Corporations Act 2001*—see sections 992A and 992AA of that Act.

- (e) if a contract for the supply of goods or services exists between a consumer and a supplier—a contract between the consumer and the supplier for the supply of goods or services that are of the same kind as those supplied under the existing contract.

Note—

An example of such an excluded contract is where the consumer has joined a scheme (such as a wine

society or club) and agrees to allow the supplier to subsequently offer to the consumer products or services in connection with the scheme. In such a case, the subsequent offering by a dealer or supplier to the consumer of those products or services would not trigger the direct commerce provisions.

However, the exemption under this paragraph does not apply if the supplier subsequently offers different kinds of goods or services to those supplied under the existing contract. For example, if the supplier of telecommunications services, who has an existing contract with a consumer for the supply of a landline phone service, contacts the consumer for the purpose of negotiating a contract for the supply of a mobile phone or an Internet service, the contract for the supply of those other services would not be an excluded contract.

(2) To avoid any doubt, if:

- (a) a contract for the supply of goods or services exists between a consumer and a supplier, and
- (b) the supplier subsequently makes contact with the consumer for the purposes of maintaining the goods or services provided under the existing contract (such as the rectification of a fault) or for the purposes of making a minor change to the terms of the existing contract,

any contract for those purposes between the consumer and the supplier that results from that subsequent contact is not a direct commerce contract.

Note—

One of the elements of the definition of a **direct commerce contract** in section 40B of the Act is that it is made in the course of direct commerce (ie the practice in which a person goes from place to place, or makes telephone calls, seeking out persons who may be prepared to enter, as consumers, into contracts for the supply of goods or services). Another element of the definition is that the contact with the consumer, or the telephone call, is unsolicited.

A direct commerce contract essentially involves the practice of “cold calling” of potential customers. In the case of an existing contract, this practice would not generally be applicable (unless the customer is subsequently contacted for the purpose of negotiating a contract for the supply of different kinds of goods or services to those supplied under the existing contract—see the note following subclause (1) (e)).

88C Partial exclusion of certain contracts from direct commerce provisions

In accordance with section 40B (2A) of the Act:

- (a) sections 40C–40G and 40K of the Act do not apply to or in respect of a credit contract within the meaning of the *Consumer Credit (New South Wales) Code*, and
- (b) section 40H of the Act does not apply to or in respect of any direct commerce contract for services that are supplied to the consumer on a continuing basis.

Note—

An example of such a contract is a loyalty club membership scheme that is accepted by the consumer by the use of a membership card or discount vouchers and where the services accessed by the card or vouchers are supplied over a certain period. It does not include a contract for the supply of services (eg the carrying out of repairs) that are supplied entirely on a one-off basis or are capable of being wholly supplied during the 5-day cooling-off period.

88D Special provisions relating to contracts for classified advertising

In accordance with section 40B (2A) of the Act:

- (a) section 40D (3) (b) of the Act does not apply to or in respect of a contract for the supply of classified advertising (unless the contract is for the supply of a series of advertisements over a period of time), and
- (b) section 40E of the Act does not apply to or in respect of a contract for the supply of classified advertising once the publication deadline in relation to the advertisement has passed, and
- (c) section 40H of the Act does not apply to or in respect of a contract for the supply of classified advertising.

88E Requirement to refund fees collected during cooling-off period for unused services

- (1) This clause applies to the following kinds of direct commerce contracts:
 - (a) a contract that is for the supply of services on a continuing basis,
 - (b) a contract that is for the supply of classified advertising (but only if a cooling-off period is applicable to the contract).
- (2) If, in relation to a direct commerce contract to which this clause applies, the supplier or dealer collects any fees from the consumer during the cooling-off period for services provided during that period, the supplier or dealer must, if the consumer cancels the contract during the cooling-off period in accordance with section 40E of the Act, refund within 7 days of the cancellation of the contract any amount paid by the consumer for services that have not been used by the consumer.

Maximum penalty: 10 penalty units.

Part 5 Miscellaneous

89 Repeal and savings

- (1) The following Regulations are repealed:
 - (a) the *Fair Trading (Penalty Notices) Regulation 1998*,
 - (b) the *Fair Trading (Product Safety Standards) Regulation 2000*,
 - (c) the *Fair Trading (Savings and Transitional) Regulation 1997*.
- (2) Any act, matter or thing that, immediately before the repeal of:
 - (a) a Regulation referred to in subclause (1), or
 - (b) the *Fair Trading (Product Information Standards) Regulation 1997*,

had effect under (or was done for the purposes of) any of those Regulations continues to have effect under (or is taken to have been done for the purposes of) this Regulation.

Note—

This provision operates to preserve (among other things) the effect of clause 4 of the *Fair Trading (Savings and Transitional) Regulation 1997*, which provides that a person appointed by the Property Services Council under section 83 of the *Property, Stock and Business Agents Act 1941* (as in force immediately before 1 August 1997) to examine the trusts and other accounts kept by a licensee (within the meaning of that Act) in connection with the licensee's business is taken to have been appointed under section 64S of that Act by the Director-General of the Department of Fair Trading to examine the accounts kept by that licensee (or former licensee) in connection with the licensee's business.

Schedule 1 Penalty notice offences

(Clause 88)

Column 1

Column 2

Offences under the *Fair Trading Act 1987*

Section 27 (1)	\$550
Section 32 (1)	\$550
Section 32 (2)	\$550
Section 34 (9)	\$550
Section 34 (10)	\$550
Section 39 (1)	\$550
Section 40 (1)	\$550
Section 60Q (1)	\$550
Section 60R (3)	\$550