

# Fair Trading Regulation 2007

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New South Wales

## Status Information

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
*Fair Trading Amendment (Treadmills) Regulation 2008 (597)* (GG No 158 of 19.12.2008, p 12329) (not commenced — to commence on 1.6.2009)

### Authorisation

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File last modified 13 March 2009

# Fair Trading Regulation 2007



New South Wales

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# Fair Trading Regulation 2007



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Fair Trading Regulation 2007*.

**Note—**

This Regulation replaces the *Fair Trading (General) Regulation 2002* which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 2 Commencement

This Regulation commences on 1 September 2007.

### 3 Definition

(1) In this Regulation:

**the Act** means the *Fair Trading Act 1987*.

(2) Notes included in this Regulation do not form part of this Regulation.

### 4 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

#### 5 Product safety standards

The standards set out in the other Divisions of 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.

## 6 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 contract or 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

### 7 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.

## 8 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

### 9 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 issued 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.

### 10 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 11, and

(ii) passes the single blockage and total blockage tests set out in clauses 13 and 14, 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 12.

### **11 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.

### **12 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.

### **13 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, are 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.

#### **14 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, are 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**

#### **15 Definitions**

In this Division:

**AS/NZS 1067:2003** means the Australian/New Zealand Standard entitled AS/NZS 1067:2003, *Sunglasses and fashion spectacles* jointly published by Standards Australia and Standards New Zealand on 10 April 2003.

**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, 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.

## **16 Safety standard**

The product safety standard prescribed for sunglasses and fashion spectacles is that they must comply with AS/NZS 1067:2003.

## **17 Variation of AS/NZS 1067:2003**

For the purposes of this Division, AS/NZS 1067:2003 is taken to have been amended as follows:

- (a) by omitting Clauses 1.1 and 1.2,
- (b) by inserting at the end of Clause 2.6:

Only lenses with transparent labels, decorations or markings (other than those intended to be removed before use) within the area of the two ellipses defined in Clause 3.2.1 must meet the requirements of this Clause when tested in accordance with Appendix G. (See also Clause 3.2.2.)

- (c) by omitting Clauses 2.7 and 2.8,
- (d) by inserting at the end of Clause 3.2.2:

NOTE: Lenses with holograms or other transparent images applied to the outer (non-eye) side of the lens would generally pass the requirements of Clause 3.2.2 provided that the other requirements of the standard are met, in particular Clauses 2.2.2 (Transmittance matching for pairs of sunglass lenses of all types), 2.2.3 (Uniformity of colour for pairs of sunglass lenses of all types) and 2.6 (Scattered light).

- (e) by omitting Clauses 3.3 and 3.6,
- (f) by omitting Clause 4.1.1 (c),
- (g) by inserting "or" after "sunglass frame," in Clause 4.2.1,
- (h) by omitting Clause 4.2.2.

## Division 5 Pedal bicycles

### 18 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.

### 19 Safety standard

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

### 20 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

### 21 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/NZS 2512.1** means the Australian/New Zealand Standard entitled AS/NZS 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 website of the Snell Memorial Foundation at [www.smf.org](http://www.smf.org).

### 22 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.

### 23 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 upper case 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 first 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 upper case letters at least 5 millimetres high and the remaining words in letters at least 2.5 millimetres high.

## **24 Variation of AS/NZS 2063**

For the purposes of this Division, AS/NZS 2063 is taken to have been amended as 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).

## **25 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**

### **26 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.

## 27 Safety standard

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

## 28 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 7A Monkey bikes

### 28A Definitions

In this Division:

**applicable vehicle standards** means the standards prescribed by regulations made under the [Road Transport \(Vehicle Registration\) Act 1997](#) with which a vehicle must comply to be eligible to be registered without conditions under those regulations.

**monkey bike** means a scaled down cruising or sports motor cycle that:

- (a) is commonly known as a monkey bike, mini bike or pocket bike, and
- (b) is powered by an internal combustion engine, and
- (c) does not comply with the applicable vehicle standards that would apply to the motor cycle if it were to be driven on a road or road related area (within the meaning of the [Road Transport \(Vehicle Registration\) Act 1997](#)).

### 28B Safety standard

The product safety standard prescribed for a monkey bike is that:

- (a) the monkey bike must have a self-closing, hand operated throttle that:
  - (i) returns in a clockwise direction to allow the monkey bike’s motor to idle when a person riding the monkey bike releases the person’s grip on the throttle, and
  - (ii) is mounted on the right handlebar of the monkey bike, and
- (b) the monkey bike must have a braking system that:
  - (i) is capable of acting on the front and rear wheels of the monkey bike, and

- (ii) automatically distributes the braking effort applied by a person riding the monkey bike to the braking system's control lever equally onto each brake lining without the need for an adjuster at the brake calliper, and
  - (iii) unless the monkey bike is fitted with a drum-type braking system—incorporates a floating or sliding type brake calliper that compensates for any increased movement of its components arising from wear, and
- (c) the monkey bike must have 2 foot pegs, each capable of holding a static load of:
- (i) the maximum carrying capacity recommended by the manufacturer of the monkey bike, or
  - (ii) if a maximum carrying capacity is not recommended by the manufacturer—70 kilograms, and
- (d) the steering head system for the monkey bike:
- (i) must not exhibit free play, and
  - (ii) must move freely under its own weight from right lock to left lock when the front wheel of the monkey bike is raised off the ground, and
- (e) the monkey bike must have a functioning, thumb operated device on the right or left handlebar that is:
- (i) capable of stopping the motor, and
  - (ii) clearly visible to a person riding the monkey bike.

## Division 8 Children's toys

### 29 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.

**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, teethingers 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
- (h) toys with pompoms, and
- (i) games, puzzles and dolls, and
- (j) toy cars, trucks and other vehicles,

but not including:

- (k) balloons, marbles, tapes and compact discs, or
- (l) books, or
- (m) writing materials, including crayons, chalk, pencils and pens, or
- (n) paints (including finger paints and water paints), paint brushes and other painting implements, or
- (o) modelling materials, including clay, plasticine and play-dough, or
- (p) flotation aid toys, or
- (q) pacifiers, or
- (r) bicycles having a wheelbase of at least 640 millimetres, or
- (s) toys that are made wholly from highly porous fabric material such as cheesecloth, except toys with pompoms, or
- (t) 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
- (u) 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
- (v) 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: Relating Children's Ages To Toy Characteristics and Play Behavior*. 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](http://www.cpsc.gov)).

### **30 Safety standard**

The product safety standard prescribed for children's toys is that they must comply with AS/NZS ISO 8124.

### **31 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 clause 4.4.2,
- (f) by omitting from clause 4.5.1 the word "intended" where firstly occurring,
- (g) by omitting from paragraph (a) of clause 4.5.2 the word "intended",
- (h) by omitting paragraph (b) of clause 4.5.2,
- (i) by omitting from clause 4.5.3 the word "intended",
- (j) by omitting from clause 4.5.4 the word "intended",
- (k) by omitting from clause 4.5.5 the word "intended",
- (l) by omitting the note to clause 4.5.5,
- (m) by omitting clauses 4.5.6–4.24, 4.25 (d), 4.26 and 4.27,
- (n) by omitting from clause 5.1 the matter "36 months and" and by inserting instead the

matter “36 months.”,

(o) by omitting from clause 5.1 the following matter:

- from 37 months up to and including 96 months of age.

(p) 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”,

(q) 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.”,

(r) 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”,

(s) by omitting from clause 5.2 the words “any orientation” and by inserting instead the words “all possible orientations”,

(t) by omitting clauses 5.7–5.19, 5.21 and 5.22,

(u) by omitting from clause 5.23 the word “intended”,

(v) by omitting note 1 to clause 5.23,

(w) 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.”,

(x) by omitting from Table 4 to clause 5.24.2 the matter “96” and by inserting instead the matter “36”,

(y) by omitting clause 5.24.4,

(z) 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)”,

(aa) by omitting clause 5.24.6.4,

(ab) by omitting from clause 5.24.7 the words “according to the age group for which the toy is intended”,

(ac) 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,

(ad) by omitting from clause 5.24.7 the words “required force” and by inserting instead

the words “force in Table 5”,

- (ae) by omitting clause 5.24.8,
- (af) by omitting Annex A.1, A.2.1 and A.2.2,
- (ag) 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).”,
- (ah) by omitting Annex A.2.4–A.2.10,
- (ai) 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: Relating Children’s Ages To Toy Characteristics and Play Behavior*”,
- (aj) 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.”,
- (ak) by omitting Annexes B.4.4, C and D,
- (al) by omitting Annex F, the Bibliography and Appendix ZZ.

## **Division 9 Flotation toys and swimming aids**

### **32 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.

### **33 Safety standard**

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

### **34 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**

### **35 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 1249:1999** 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.

**AS/NZS 1249:2003** means the Australian/New Zealand Standard entitled AS/NZS 1249:2003, *Children's nightwear and limited daywear having reduced fire hazard*, as published jointly by Standards Australia and Standards New Zealand on 29 December 2003.

**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 1 of 15 October 1992.

### **36 Safety standard for children’s nightwear**

- (1) Up to and including 29 February 2008, the product safety standard prescribed for children’s nightwear is that it must comply with AS/NZS 1249:1999 or AS/NZS 1249:2003.
- (2) From 1 March 2008, the product safety standard prescribed for children’s nightwear is that it must comply with AS/NZS 1249:2003.

### **37 Safety standard for paper patterns for children’s nightwear**

- (1) Up to and including 29 February 2008, the product safety standard prescribed for paper patterns for children’s nightwear is that they must comply with:
  - (a) Clauses 0.2 and 5.6 of AS/NZS 1249:1999, or
  - (b) Clauses 0.2 and 5.6 of AS/NZS 1249:2003.
- (2) From 1 March 2008, 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 1249:2003.
- (3) The definitions in Clause 0.5.2, 0.5.3, 0.5.6 and 0.5.10 of AS/NZS 1249:1999 and AS/NZS 1249:2003 apply for the purposes of this clause.

### **38 Variation of AS/NZS 1249:1999 and AS/NZS 1249:2003**

- (1) For the purposes of clause 36, AS/NZS 1249:1999 is taken to have been amended as follows:
  - (a) by omitting the second sentence from Clause 0.1,
  - (b) by omitting Clause 1.2 (a) and the Note to that paragraph and by inserting instead the following paragraph and Note:
    - (a) *Flame spread time* When tested in accordance with ISO 6941 the flame spread time must be 12 s or greater in the lengthwise direction and the widthwise direction, and no one determination of the time to burn a test specimen must be less than 10 s in either the lengthwise direction or the

widthwise direction. These requirements must be met before and after washing in accordance with Appendix D.

Where 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 must be determined on three lengthwise specimens only.

Where the textile materials 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.

Where there is insufficient length of sample to cut test specimens in one piece, not more than two pieces per specimen, cut in the same direction, may be butt-jointed but not overlapped. The butt-joint must be secured with five light weight staples spaced evenly across the test specimen. The joint must not be below the centre of the specimen when attached to the vertical test frame specified in ISO 6941.

If, after a repeat test, as required by the relevant clause of ISO 6941, three or more specimens fail to burn to the third marker thread in the lengthwise direction, and three or more specimens fail to burn to the third marker thread in the widthwise direction, the material must be deemed to have passed the flame spread time test.

**Note—**

If in any one set of three specimens, one result exceeds the lowest result by 50 percent for no apparent reason, or, if one or two specimens fail to reach one of the marker threads, another specimen is required to be tested for that direction or face.

- (c) by omitting the words “Other trims shall meet the following requirements:” from Clause 1.3 and by inserting instead 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. Other trims must meet the following requirements:

- (d) by omitting Clause 5.6.

- (2) For the purposes of clause 36, AS/NZS 1249:2003 is taken to have been amended as follows:

- (a) by omitting the second sentence from Clause 0.1,

- (b) by omitting Clause 1.2 (a) and the Note to that paragraph and by inserting instead the following paragraph and Note:

- (a) *Flame spread time* When tested in accordance with ISO 6941 the flame spread time must be 12 s or greater in the lengthwise direction and the widthwise direction, and no one determination of the time to burn a test specimen must be less than 10 s in either the lengthwise direction or the widthwise direction. These requirements must be met before and after washing in accordance with Appendix D.

Where there is insufficient length of sample to cut test specimens in one piece, not more than two pieces per specimen, cut in the same direction, may be butt-jointed but not overlapped. The butt-joint shall be secured with five light weight staples spaced evenly across the test specimen. The joint shall not be below the centre of the specimen when attached to the vertical test frame specified in ISO 6941.

If, after a repeat test, as required by the relevant clause of ISO 6941, three or more specimens fail to burn to the third marker thread in the lengthwise direction, and three or more specimens fail to burn to the third marker thread in the widthwise direction, the material must be deemed to have passed the flame spread time test.

**Note—**

If in any one set of three specimens, one result exceeds the lowest result by 50 percent for no apparent reason, or, if one or two specimens fail to reach one of the marker threads, another specimen is required to be tested for that direction or face.

- (c) by omitting the words “Other trims shall meet the following requirements:” from Clause 1.3 and by inserting instead 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. Other trims must meet the following requirements:

- (d) by omitting the words “Grey Scale 4” from clause 5.4 (b) (iii) and by inserting instead the words “Grey Scale 3”,
- (e) by omitting the words “not less than 4” from clause 5.5 (g) and by inserting instead the words “not less than 3”,
- (f) by omitting Clause 5.6.
- (3) For the purposes of clause 37, AS/NZS 1249:1999 is taken to have been amended as follows:
- (a) by omitting the Notes to Clause 0.5.3,

- (b) by omitting the words “(See Note 1 to Clause 0.1)” from Clause 0.5.10,
  - (c) by omitting the words “shall bear a warning paragraph” from Clause 5.6 and by inserting instead the words “must bear a clearly legible warning paragraph”.
- (4) For the purposes of clause 37, AS/NZS 1249:2003 is taken to have been amended as follows:
- (a) by omitting the Notes to Clause 0.5.3,
  - (b) by omitting the words “(See Note 1 to Clause 0.1)” from Clause 0.5.10,
  - (c) by omitting the words “shall bear a warning paragraph” from Clause 5.6 and by inserting instead the words “must bear a clearly legible warning paragraph”.

### 39 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:
  - 4) 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

### 40 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 published on 1 November 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.

#### **41 Safety standard for child restraints**

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

#### **42 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 and 2.5.

#### **43 Supply of components for child restraints complying with AS 1754—1975**

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

### **Division 12 Bean bags**

#### **44 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 a 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.

#### 45 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 upper case letters and the remaining words printed in upper and lower case letters.

## Division 13 Elastic luggage straps

### 46 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,

but does not include:

- (c) elasticised cargo nets, or
- (d) elasticised straps specifically made for the purpose of securing a vehicle jack or toolkit within a vehicle.

### 47 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 at least 4 millimetres high on a yellow background, and
  - (b) must bear the words "DO NOT" and "ALWAYS" in upper case black letters at least 2 millimetres high on a yellow background, and

(c) must bear the remaining words in lower case black letters at least 2 millimetres high on a yellow background, and

(d) must be clearly displayed.

## **Division 14 Projectile toys**

### **48 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.

### **49 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.

### **50 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 by 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 15A Prams and strollers

### 52A Definitions

In this Division:

**AS/NZS 2088** means the Australian/New Zealand Standard entitled AS/NZS 2088:2000, *Prams and Strollers—Safety requirements* published jointly by Standards Australia and Standards New Zealand on 15 December 2000.

**pram** means a wheeled vehicle with a body of box-like or boat-like shape designed to transport a baby or child weighing up to and including 9 kilograms primarily in a fully reclined position.

**stroller** means a wheeled vehicle designed to transport a child in a seated position, and which may also be adjusted to a semi-reclined position or fully reclined position.

### 52B Safety standard

The product safety standard prescribed for a pram or stroller is that they must comply with AS/NZS 2088.

### 52C Variation of AS/NZS 2088

For the purposes of this Division, AS/NZS 2088 is taken to have been amended as follows:

(a) by omitting from clause 1 "This standard specifies materials, construction, performance and labelling requirements for prams and strollers, and includes a dimensional requirement for the depth of a pram." and by inserting instead "This

Standard specifies safety requirements for prams and strollers.”,

- (b) by omitting clauses 2, 3, 5, 6, 7.1–7.5, 7.7, 7.8.1.1 (b)–(d), 7.8.1.2, 7.9, 8.1–8.4, 8.6.1, 8.8–8.10, 9 and 10,
- (c) by omitting from clause 7.6 “(See Note to clause 7.5.)”,
- (d) by inserting at the end of clause 7.6 the following:

The colour of the parking device actuator shall be red. The surrounding frame work and mouldings shall be a contrasting colour.

- (e) by omitting from clause 7.8.1.1 (a) “, comprising shoulder, waist and crotch straps. An example is shown in Figure 3.” and by inserting instead “that includes waist and crotch straps.”,
- (f) by omitting from clause 7.8.1.1 (e) “Items (a) and (b)” and by inserting instead “Item (a)”,
- (g) by omitting Figure 3 from clause 7.8.1.1,
- (h) by omitting from clause 7.8.1.3 “at a point where the seat cannot be pulled away from the frame of the stroller by pulling the restraint straps”,
- (i) by inserting before clause 8:

### **7.10 Tether strap**

Vehicles shall be provided with a suitable strap to allow the vehicle to be tethered to the vehicle operator while it is in use.

The tether strap shall be designed to reduce the possibility of it being a strangulation hazard for infants inside or outside the vehicle.

The length of the strap is to be as short as practical and any loop in the strap shall have a perimeter of less than 360 mm.

- (j) by omitting from clause 8.6.2 (a) “(See also Note to Clause 7.9.)”,
- (k) by inserting at the end of clause 8.6.2 (a) the following:

When tested in accordance with the following procedures, the test ball shall not fall out of the seat unit:

Recline the backrest of the seat unit to the most reclined position. Attach, according to the manufacturer’s instructions, the textile parts intended to retain the child (including the rear part of the hood and aprons).

Fix the vehicle to a plane inclined at 45° with respect to the horizontal and 15° with respect to the perpendicular direction of the longitudinal axis considered when inclining the plane to 45°. The vehicle shall be placed along the longitudinal axis of the plane.

Place a test ball comprising of a sphere with a hard smooth surface of diameter 120 mm ( $\pm 2$  mm) and 5 kg ( $\pm 0.1$  kg) weight on the centre of the junction of the seat and backrest of the vehicle and let the ball roll freely. Record whether the test ball falls out of the seat unit.

Repeat the procedure but with the inclination of the plane of 15° to the opposite side of the longitudinal axis.

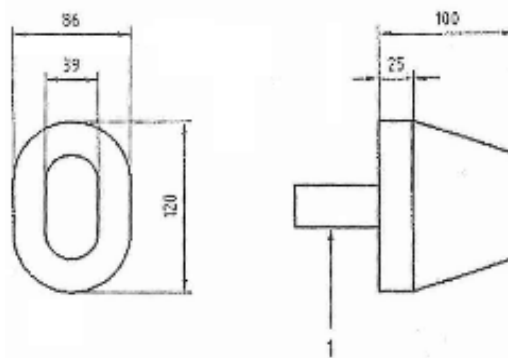
Repeat the procedure without inclining the plane at 15° but simply reclined at 45°.

(l) by inserting after clause 8.6.2 (b) (ii) the following:

(iii) When tested in accordance with the following procedures, if the small torso probe passes through the gap between the handle and the body of the pram or stroller, the large head probe shall also pass through.

The probes used in this test are made of hard smooth material fitted with suitable handgrips, comprising the following:

(a) a small torso probe with dimensions as shown in Figure A below:



**Notes to Figure A:** Dimensions are in mm; 1 is the hand grip

(b) a large head probe in the shape of a cylinder of diameter 223 mm and length 100 mm, with a handgrip fitted to an end of the cylinder (these probes have dimensional tolerances of 2 mm).

Check whether the small torso probe can pass through the gap between the handle and the end of the pram/stroller body applying force of 90 N.

Check if the large head probe passes through the opening when pushed along the axis of the handgrip, with a force not exceeding 5 N.

(m) by inserting after clause 11.1 (e) the following:

(f) A notice placed on the tether strap, as follows:

**WARNING: USE THIS STRAP TO STOP THE PRAM/STROLLER\* ROLLING AWAY.**

(n) by omitting clause 11.2 and by inserting instead the following:

### **11.2 Legibility of marking**

The wording shall be clearly legible and the marking specified in clauses 11.1 (c), (d), (e) and (f) shall be characters not less than 2.5 mm high.

(o) by omitting Appendices B—H, K and O—Q.

## **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** of 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 referred to in subclause (2) (a) or (b).

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

(6) A **refillable lighter** is a lighter that is an eligible device referred to 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** of 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 4–6 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 3–5 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 upper case 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 upper case 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:

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

(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.

## Table Test procedures for lighters

### Part 1 General test procedures

- (1) The lighter must be maintained at a temperature of  $23 \pm 2$  degrees Celsius for at least 10 hours immediately preceding testing in accordance with Parts 2-4 of this Table.
- (2) The area in which tests are carried out must be maintained at a temperature of  $23 \pm 2$  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  $54\pm 2$  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  $54\pm 2$  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 16A Babies' dummies**

### **68A Definitions**

In this Division:

**AS 2432** means the Australian Standard entitled AS 2432—1991, *Babies' dummies* published by Standards Australia on 15 November 1991.

**baby's dummy** means an article used to pacify a baby, that includes a teat which the baby sucks but from which the baby does not obtain fluid.

### **68B Safety standard**

The product safety standard prescribed for a baby's dummy is that it must comply with AS 2432.

### **68C Variation of AS 2432**

For the purposes of this Division, AS 2432 is taken to have been amended as follows:

- (a) by omitting clauses 3 and 5,
- (b) by omitting "Clauses 6.2 and 6.3" from clause 6.1 and inserting instead "Clause 6.2",
- (c) by omitting clause 6.3,
- (d) by omitting clause 6.4.2 (a),
- (e) by omitting "25 mm" from clause 6.4.2 (c) (iii) and inserting instead "15 mm",
- (f) by omitting "25 mm" from the note following clause 6.4.2 (d) (ii), wherever occurring, and inserting instead "15 mm",
- (g) by omitting the notes to clause 6.4.3,

- (h) by omitting clauses 7.2–7.4,
- (i) by omitting clause 9.1 and inserting instead:

### **9.1 General**

The pack shall be legibly labelled with the name and address of the Australian manufacturer or Australian distributor.

- (j) by omitting clause 9.3 and inserting instead:

### **9.3 Warning notice**

The pack shall bear a clear and legible warning notice which shall include the following word or words that have the same meaning:

WARNING

DO NOT TIE DUMMY AROUND BABY'S NECK AS IT PRESENTS A STRANGULATION  
HAZARD

In the warning notice the word "PACIFIER" or "SOOTHER" may be substituted for the word "DUMMY".

- (k) by omitting Appendix A,
- (l) by omitting clause C2 from Appendix C and inserting instead:

### **C2 PRINCIPLE**

A dummy is placed centrally on the test template with its major and minor axes aligned with the major and minor axes of the template and the teat protruding down through the opening. A specified tensile force is applied to the teat in an attempt to force the dummy through the opening in the template. If the dummy is not forced through the opening in the template, the dummy is inverted and the procedure repeated.

- (m) by omitting "**AND REAGENT**" from clause C3 of Appendix C,
- (n) by omitting "and reagent are" from clause C3 of Appendix C and inserting instead "is",
- (o) by omitting clause C3 (b) from Appendix C,
- (p) by omitting the second paragraph from clause C3 (c) of Appendix C and inserting instead: "The test template shall have inscribed on it the major axis (l) and the minor

axis (II)",

(q) by omitting "shall be representative of the batch and" from clause C4 of Appendix C,

(r) by omitting clause C6 (c) from Appendix C,

(s) by omitting clause C6 (d) from Appendix C and inserting instead:

(d) Place the dummy, teat down, in the opening of the template as shown in Figure C2, so that the major axis of the shield aligns with the major axis I-I of the template and the minor axis of the shield aligns with the minor axis II-II of the template.

(t) by omitting clause C6 (h), (i) and (j) from Appendix C and inserting instead:

(j) Place the dummy, teat up, in the opening of the template as shown in Figure C3, so that the major axis of the shield aligns with the major axis I-I of the template and the minor axis of the shield aligns with the minor axis II-II of the template.

(u) by omitting clause C6 (m) from Appendix C,

(v) by omitting Appendix D,

(w) by omitting "immersed in a wetting solution and then" from clause E2 of Appendix E,

(x) by omitting "**AND REAGENT**" from clause E3 of Appendix E,

(y) by omitting "and reagent are" from clause E3 of Appendix E and inserting instead "is",

(z) by omitting clause E3 (c) of Appendix E,

(aa) by omitting "shall be representative of the batch and" from clause E4 of Appendix E,

(ab) by omitting clause E6 (b) of Appendix E,

(ac) by omitting "While the dummy is wet, clamp" from clause E6 (c) of Appendix E and inserting instead "Clamp",

(ad) by omitting Appendix F, Appendix G and Appendix H,

(ae) by omitting "shall be representative of the batch and" from clause I4 of Appendix I.

## **Division 17 Children's household cots**

### **69 Definitions**

In this Division:

**AS/NZS 2172** means the Australian/New Zealand Standard entitled AS/NZS 2172:2003, *Cots for household use—Safety requirements*, as published jointly by Standards Australia and Standards New Zealand on 17 November 2003.

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

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

## **70 Safety standard**

- (1) The product safety standard prescribed for:
  - (a) new children's household cots is that they must comply with Clauses 5, 6, 9, 11 and 12 of AS/NZS 2172, and
  - (b) second-hand children's household cots is that they must comply with Clauses 5, 6, and 9 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 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 lettering 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.

## 71 Variation of AS/NZS 2172

(1) For the purposes of clause 70 (1) (a), AS/NZS 2172 is taken to be amended as follows:

(a) by omitting Clauses 6.1 (f) and 9.2 (c),

(b) by omitting Clause 6.1 (g) and by inserting instead:

(g) With the dropside in the closed position and the mattress base in the lower position, when tested in accordance with Appendix A with a force of 50 N it must not be possible for a 30 mm probe to pass through any aperture between the mattress base and the sides and between the mattress base and the ends.

(c) by inserting the following Paragraph at the end of Clause 6.3 before the Note:

For a mechanism designed for a lift and push dropside release, either action (lift or push) must comply with Item (d).

(d) by omitting Note 1 to Clause 6.7,

(e) by omitting Paragraphs A5 (h)–(j) in Appendix A and by inserting instead the following Paragraphs:

(h) For each gap recorded in Step (g) between the mattress base in the lower position and the sides and ends with the dropside in the closed position, insert the 30 mm diameter probe and apply a force of 50 N.

(i) For each gap recorded in Step (g), except for any gap tested in Step (h), insert the 30 mm diameter probe and apply a force of 100 N.

(j) Record each gap that allowed the passage of the 30 mm diameter probe when tested in accordance with Steps (h) and (i) except for the following:

(i) gaps formed between:

(A) fixed sides and the mattress base in the upper position, and

(B) fixed ends and the mattress base in the upper position,

(ii) gaps formed between the dropside in both open and closed positions and the mattress base in the upper position,

(iii) gaps formed between the dropside in the open position and the mattress base in the lower position.

(f) by omitting the words “but not the 50 mm diameter probe as noted in Paragraphs



A5 (i) and A5 (g) respectively” from Paragraph A6 (b) in Appendix A and by inserting instead the words “as recorded in Step (j) of Paragraph A5”.

- (2) For the purposes of clause 70 (1) (b), AS/NZS 2172 is taken to be amended as follows:
- (a) by omitting the words “specified on the information leaflet, see Clause 11.1(c)” from Clause 6.1 (d) and by inserting instead the words “marked on the mattress base”,
  - (b) by omitting Clauses 6.1 (f) and (g), 6.8 (c)–(e), 9.2 (b) and (c) and 9.3–9.8,
  - (c) by omitting Note 3 to Clause 6.1 (d),
  - (d) by omitting the words “(see also Clause 9.6)” from the heading to Clause 6.3,
  - (e) by omitting the matter “5 mm” from Clause 6.7 and by inserting instead the matter “8 mm”,
  - (f) by omitting Note 1 to Clause 6.7,
  - (g) by omitting Clause 9.1 and by inserting instead:

### **9.1 General**

The test referred to in clause 9.2 (a) is the entrapment hazard test for second-hand children’s household cots.

- (h) by omitting Note 2 to Clause 9.2.

## **Division 17A Children’s portable folding cots**

### **71A Definition**

In this Division:

**AS/NZS 2195** means the Australian/New Zealand Standard entitled AS/NZS 2195:1999, *Folding cots—Safety requirements* published jointly by Standards Australia and Standards New Zealand on 15 November 1999.

### **71B Safety standard**

The product safety standard prescribed for children’s portable folding cots is that they must comply with AS/NZS 2195.

### **71C Variation of AS/NZS 2195**

For the purposes of this Division, AS/NZS 2195 is taken to have been amended as follows:

- (a) by omitting the second paragraph from the Foreword,

- (b) by omitting from clause 1 all matter after the first sentence,
- (c) by omitting clauses 2, 3, 5 and 6,
- (d) by omitting clause 7 and by inserting instead:

## **7 Construction and assembly**

The cot mattress and components within the cot must not be of inflatable construction.

- (e) by omitting the note to clause 8.1 (b),
- (f) by omitting from clause 8.1 (d) the words “on warning labels specified in Clauses 12.1(i), 12.2 and 13.2(b) (measured horizontally)”,
- (g) by omitting note 2 to clause 8.1,
- (h) by omitting the note to clause 8.3 (a),
- (i) by omitting clause 8.3 (b),
- (j) by omitting the note to clause 8.3 (c),
- (k) by omitting “distinct locking position” from clause 8.4.1 and by inserting instead “clearly distinct locked position”,
- (l) by omitting clause 8.4.2 and Figure 1,
- (m) by omitting “before and after being tested in accordance with Appendix G” from clause 8.4.3 (e),
- (n) by omitting the note to clause 8.4.3,
- (o) by omitting clauses 8.5–8.7,
- (p) by omitting clause 9,
- (q) by omitting clause 10.1 and by inserting instead:

## **10.1 General**

The applicable tests specified in Clauses 10.2, 10.5, 10.13 and 10.14 must be performed on the same folding cot assembled in accordance with the manufacturer’s instructions and without any accessories fitted.

- (r) by omitting clause 10.2, including Figure 2, and by inserting instead:

## **10.2 Entrapment hazard test**

The folding cot must be tested in accordance with Appendix A using the 95 mm probe. All gaps accessible within the folding cot must not allow the 95 mm probe to pass through.

- (s) by omitting clauses 10.3, 10.4, 10.6–10.12, 10.15 and 10.16,
- (t) by omitting “500 mm” from clause 10.13 (c) and by inserting instead “400 mm”,
- (u) by omitting clauses 11 and 12,
- (v) by omitting clauses 13.1 and 13.2 and by inserting instead:

## **13.2 Safety marking**

The folding cot must be permanently, prominently and legibly marked on the inside with at least the following:

- (a) instructions for assembly and locking procedures,
  - (b) a warning to check before each use that the cot is correctly assembled and locking devices are engaged,
  - (c) either a warning to use a mattress of specified dimensions or a warning to use the mattress supplied by the manufacturer,
  - (d) a warning not to add an extra mattress as this may cause suffocation.
- (w) by omitting clauses 13.3 and 13.4,
  - (x) by omitting “finger, limb and” from clause A1 of Appendix A,
  - (y) by omitting “A series of probes are” from clause A2 of Appendix A and by inserting instead “A probe is”,
  - (z) by omitting “the probes” from clause A2 of Appendix and by inserting instead “the probe”,
  - (aa) by omitting notes 1 and 2 to clause A2 of Appendix A,
  - (ab) by omitting clause A3 of Appendix A and by inserting instead:

## **A3 Apparatus**

The following apparatus is required:

- (a) a spherical probe made of a suitable rigid material having a diameter of 95

$\pm 0.5$  mm. The probe may be mounted on a rod of a diameter not greater than 15 mm for the purpose of applying the specified force,

(b) a means of applying a force of  $50 \pm 5$  N.

(ac) by omitting clause A4 (e)-(o) of Appendix A,

(ad) by omitting clause A5 (b)-(d) of Appendix A,

(ae) by omitting Appendices B, D-J, M and N.

## Division 18 Laser pointers

### 72 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.

### 73 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.

#### 74 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.

#### 75 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 74.

Maximum penalty: 10 penalty units.

### Division 19 Corded internal window coverings

#### 76 Definitions

In this Division:

**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.

## **77 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 78, 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 78 (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.

## **78 Label and tags**

- (1) The required label and tags referred to in clause 77 (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.

## Division 20 Moveable soccer goals

### 79 Definition

In this Division:

***moveable soccer goal*** means a freestanding structure consisting of at least two upright posts, a crossbar and support bars that is designed:

- (a) to be used by adults or children for the purposes of a soccer goal, and
- (b) to be used without any other form of support or restraint (other than pegs, stakes or other forms of temporary anchoring device), and
- (c) to be able to be moved to different locations.

**Note—**

A soccer goal that is supported by a sleeve set in the ground is not a moveable soccer goal.

### 80 Safety standard

- (1) The product safety standard prescribed for moveable soccer goals is that they must comply with the requirements of subclause (2).
- (2) A moveable soccer goal, when set up in accordance with the manufacturer’s instructions on a flat level surface without pegs, stakes or other forms of temporary

anchoring device:

- (a) must not fall over, or fail to return to an upright position, when subjected to a horizontal pull force of 2,000 newtons to the centre of the crossbar for no less than 60 and no more than 70 seconds, and
- (b) must have all exposed corners and edges rounded with a radius of no less than 3 millimetres, and
- (c) must have permanently marked clearly and legibly in a conspicuous position on the crossbar or an upright post:
  - (i) the name or trademark of the manufacturer, retailer or importer of the moveable soccer goal, and
  - (ii) the words “WARNING—ALWAYS ANCHOR GOAL—NEVER CLIMB OR HANG ON CROSSBAR. Unanchored goals can tip over causing serious injury or death.” with upper case letters at least 25 millimetres high and lower case letters at least 12.5 millimetres high, and
- (d) if part of the structure of the moveable soccer goal joins the base of an upright post and runs along the ground (a **ground frame**), the moveable soccer goal must not have any gap greater than 5 millimetres at the point where the ground frame joins the upright post, and no part of the ground frame must extend past the front or sides of the upright post.

## **81 Exceptions**

This Division (other than clause 82 (d)) does not apply to a moveable soccer goal:

- (a) that weighs less than  $28 \pm 0.25$  kilograms, when weighed with all attachments (other than pegs, stakes or other forms of temporary anchoring device) using a commercially available scale, or
- (b) that is designed for indoor use only.

## **82 Testing of moveable soccer goals**

A person who, in trade or commerce, supplies a moveable soccer goal:

- (a) must hold a test report issued no more than 12 months before the supply, indicating:
  - (i) that the particular moveable soccer goal has been tested, and
  - (ii) the method used to carry out the test and the results of the test, and
  - (iii) that the results of the test show that the moveable soccer goal complies with the product safety standard prescribed for moveable soccer goals, and
- (b) must supply a copy of the test report with the moveable soccer goal, and



- (c) must, on request, make available for inspection by an investigator any such test report held by the person, and

**Note—**

Section 18 of the Act provides for the appointment of investigators.

- (d) must, if supplying a moveable soccer goal to which this Division does not apply, supply with the moveable soccer goal a certificate setting out the reasons why this Division does not apply to the moveable soccer goal.

Maximum penalty: 10 penalty units.

## **Division 21 Basketball rings and basketball backboards**

### **83 Definitions**

In this Division:

***basketball backboard*** means a raised vertical board with a basketball ring attached, used to play or practise basketball.

***basketball ring*** means a raised circular band of metal or other material (with or without a basket attached) used to play or practise basketball or netball.

### **84 Warning and symbol to accompany supply of basketball rings and basketball backboards**

- (1) The product safety standard prescribed for basketball rings and basketball backboards is that they must be accompanied by:
- (a) a warning, and
  - (b) a warning symbol.
- (2) The warning referred to in subclause (1) (a) must comply with the following requirements:
- (a) it must contain the words “WARNING: IMPROPER INSTALLATION OR SWINGING ON THE RING MAY CAUSE SERIOUS INJURY OR DEATH”,
  - (b) it must be clearly legible, in upper case, in red letters on a white background,
  - (c) the word “WARNING” must be in characters not less than 15 millimetres high,
  - (d) the words other than the word “WARNING” must be in characters not less than 10 millimetres high.
- (3) The warning symbol referred to in subclause (1) (b) must comply with the following requirements:

(a) it must be in the form of the following graphic:



(b) the circle that forms part of the graphic must have a diameter of not less than 120 millimetres from outer edge to outer edge,

(c) the circle and the diagonal line that form part of the graphic must be in red, and drawn with a line not less than 5 millimetres in width,

(d) the basketball player figure that forms part of the graphic must be entirely black,

(e) the ring and backboard that form part of the graphic must be outlined in black.

(4) If a basketball ring or basketball backboard is supplied in a package, the warning and warning symbol referred to in subclause (1) must accompany the ring or backboard by being marked:

(a) in a conspicuous position on the package, or

(b) on a label affixed in a conspicuous position on the package.

(5) If a basketball ring or basketball backboard is not supplied in a package, the warning

and warning symbol referred to in subclause (1) must accompany the ring or backboard by being marked:

- (a) in a conspicuous position on the ring or backboard, or
- (b) on a label affixed in a conspicuous position on the ring or backboard, or
- (c) on a tag attached in a conspicuous position to the ring or backboard.

#### **85 Permanent warning on basketball backboard**

- (1) The product safety standard prescribed for basketball backboards is that they must also have a warning permanently marked on them.
- (2) That warning:
  - (a) must contain the words “WARNING: SWINGING ON THE RING MAY CAUSE SERIOUS INJURY OR DEATH”, and
  - (b) must be clearly legible, in characters not less than 10 millimetres high, and
  - (c) must be marked on the backboard in a conspicuous position:
    - (i) in permanent writing, or
    - (ii) on a label that is permanently affixed on the backboard.

### **Division 22 Rubber hot water bottles**

#### **86 Definitions**

In this Division:

**BS 1970:2001** means the British Standard entitled BS 1970:2001, *Hot water bottles manufactured from rubber and PVC—Specification* (incorporating Amendment No 13675 of 23 July 2002, Amendment No 14355 of 23 April 2003 and Amendment No 14909 of 2 March 2004).

**rubber hot water bottle** means a container made from rubber that is designed to be wholly or partially filled with hot water and sealed with a stopper and used to warm parts of the body or a bed.

#### **87 Safety standard**

The product safety standard prescribed for rubber hot water bottles is that they must comply with the following provisions of BS 1970:2001:

**Physical properties**

- (a) Clause 4.2 (Thickness),
- (b) Clause 4.3 (Filling characteristics),

### **Closures**

- (c) Clause 5.1 (General), modified as follows:
  - (i) by omitting the words “**C.1** and **C.2**” and by inserting instead the words “Annex C - C.3 Test 1 and Annex C - C.4 Test 2”,
  - (ii) by omitting all of the words in the second paragraph,
- (d) Clause 5.2 (Test for separation of screwed closures),
- (e) Clause 5.3 (Rubber components),

### **Performance**

- (f) Clause 6.1 (Leakage),
- (g) Clause 6.2 (Strength of bonded (or welded) seams),
- (h) Clause 6.3 (Pressure test),
- (i) Clause 6.4.2 (Tensile tests for rubber hot water bottles),
- (j) Clause 6.5.1 (Tension set for rubber hot water bottles),

### **Informative labelling**

- (k) Clause 8.1 (General), modified by omitting the words “the identification of the European manufacturer, or the UK distributor for bottles manufactured outside the European Union, and”.

## **Part 3 Product information standards**

### **Division 1 Preliminary**

#### **88 Information standards**

The standards set out in the other Divisions of 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**

#### **89 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.

## **90 Product information standard**

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

## **91 Form of information**

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

## **Division 3 Care labelling of certain goods**

### **92 Definition**

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.

### **93 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 the following:

- (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 (including, 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)).

#### **94 Product information standard**

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

## **95 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 must 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 by inserting "the categories" instead,
- (i) by omitting "For upholstered furniture, bedding and other furnishings in Table 2, instructions must 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 (before the second Note).

## **96 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 the following:

- (a) the following kinds of adults', children's and babies' 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.

#### **97 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**

#### **98 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.



## 99 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.

## 100 Planning restriction not affected

The product information standard specified in clause 99 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 4 Other information standards

## Division 1 Employment placement services

### 101 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 Office

of Fair Trading for information on possible action that may be taken.

## **Division 2 Funeral goods and services**

### **101A Information standard for funeral goods and services**

For the purposes of section 60Z of the Act, the requirements of this Division are prescribed as an information standard for funeral goods and services.

### **101B Application of Division**

This Division applies to the supply of funeral goods and services for the arrangement and conduct of a funeral service, including:

- (a) the supply of goods to a consumer in connection with the burial or cremation of a body, and
- (b) the care, transport and preparation of the body prior to burial or cremation.

### **101C Definitions**

In this Division:

**basic funeral** means a funeral comprising only the following funeral goods and services:

- (a) the arrangement and conduct of a funeral service, at either the premises of the supplier or at the place of burial or cremation of a body, to take place between the hours of 8 am and 5 pm on a weekday,
- (b) the transport of the body to any of the following places as required where no individual journey is further than 30 kilometres:
  - (i) the premises of a supplier of funeral goods and services,
  - (ii) a mortuary,
  - (iii) the place at which the body is to be buried or cremated,
- (c) the storage of the body at a mortuary or holding room,
- (d) the preparation at a mortuary for burial or cremation of the body, not including preparation for the viewing or embalming of the body,
- (e) the supply of the least expensive coffin that the supplier of funeral goods or services has available,
- (f) the collection of certificates or permits provided by a medical practitioner in relation to the body,
- (g) the burial or cremation of the body.

**basic funeral notice** means a written statement listing the following:

- (a) each of the funeral goods and services that comprise the basic funeral and the cost of each,
- (b) each of the necessary disbursements and a reasonable estimate of the amount of each.

**body** means the body of a dead person.

**mortuary** means premises that are used, or intended to be used, for the preparation or storage of bodies as part of the arrangements for their burial or cremation, but does not include any premises (such as a hospital) in which bodies may be temporarily stored pending their transfer to a mortuary.

**necessary disbursements** means disbursements in relation to:

- (a) any fees charged by a medical practitioner in respect of certificates or permits provided by the practitioner, and
- (b) any fees charged by a cemetery or crematorium,

in relation to a burial or cremation.

**prospective consumer** means a person who indicates to a supplier of funeral goods and services that he or she is, or might be, interested in purchasing funeral goods and services from the supplier.

#### **101D Information to prospective consumers**

- (1) Before entering into an agreement for the supply of funeral goods and services, a supplier of funeral goods and services that ordinarily offers a basic funeral to consumers must give a basic funeral notice to each prospective consumer and to any other person that requests a copy of the notice.
- (2) Before entering into an agreement for the supply of funeral goods and services to a consumer (other than an agreement for the provision of a basic funeral) the supplier of the funeral goods and services must give to the consumer a written statement listing the following:
  - (a) each of the funeral goods and services that are to be supplied to the consumer under the agreement and the cost of each,
  - (b) each of the necessary disbursements and a reasonable estimate of the amount of each,
  - (c) any other disbursements that are likely to be made by the supplier and a reasonable estimate of the amount of each.

### **101E Information on final account**

Before accepting final payment under an agreement for the supply of funeral goods and services to a consumer, the supplier of the funeral goods and services must give to the consumer a written statement listing the following:

- (a) each of the funeral goods and services supplied to the consumer under the agreement and the cost of each,
- (b) each of the necessary disbursements and the amount of each,
- (c) any other disbursements made by the supplier and the amount of each,
- (d) the total amount payable for the supply of the funeral goods and services under the agreement.

### **101F Transitional provision**

Clause 101E applies only in relation to contracts entered into after the commencement of this Division.

## **Part 5 Penalty notice offences**

### **102 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 6 Direct commerce provisions**

### **103 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.

### **104 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 business contract,
- (e) 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.

- (f) 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 to subclause (1) (f)).

- (3) For the purposes of subclause (1) (d), **business contract** means a contract for the supply of goods or services other than of a kind ordinarily acquired for personal, domestic or household use or consumption.

### **105 Partial exclusion of certain contracts from direct commerce provisions**

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

- (a) sections 40C–40H and 40K of the Act do not apply to or in respect of a credit contract, 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.

- (2) In this clause:

**Consumer Credit Code** means:

- (a) the provisions of the Code by that name set out in the Appendix to the *Queensland Consumer Credit (Queensland) Act 1994*, as applied and in force in any Australian jurisdiction, or
- (b) the provisions of an Act of an Australian jurisdiction that are in the same, or substantially the same, terms as that Code.

**credit contract** has the same meaning as in the Consumer Credit Code, but does not include a consumer lease within the meaning of that Code.

### **106 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.

**107 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 7 Industry code for motor vehicle insurers and repairers**

**108 Declaration of industry code of conduct in relation to motor vehicle insurers and repairers**

- (1) For the purpose of section 60X (1) of the Act, the code published in Gazette No 127 on 27 October 2006 at pages 9139–9168 (referred to in this Part as the **published code**) is declared to be an applicable industry code of conduct.
- (2) For the purpose of section 60X (2) (a) of the Act, the following classes of motor vehicles are excluded from the application of the provisions of the applicable industry code of conduct relating to the repair of any such motor vehicles that are or may be damaged:
  - (a) motor vehicles owned or used by the repairer,
  - (b) motor vehicles not registered in New South Wales, except when repaired in New South Wales.
- (3) For the purpose of section 60X (2) (b) of the Act, any provisions of the published code

in so far as they relate to:

- (a) the code or its application being voluntary, or
- (b) the signatories to the code and the process by which the signatories are bound, or
- (c) any other incidental matters,

are excluded and the declaration under subclause (1) does not apply to those provisions.

### **109 Savings and transitional provisions**

- (1) The applicable industry code of conduct applies to a dispute between an insurer and repairer with respect to a motor vehicle insurance policy, even if the policy was entered into before the relevant provisions of the code took effect.
- (2) The applicable industry code of conduct applies to damage to a motor vehicle covered by a motor vehicle insurance policy, even if the policy was entered into before the relevant provisions of the code took effect.

## **Part 8 Miscellaneous**

### **110 Delegation by Director-General**

For the purposes of section 8 (1) (i) of the Act, section 83A of the *Gas Supply Act 1996* is a prescribed provision of a prescribed Act.

### **111 Savings**

Any act, matter or thing that, immediately before the repeal of the *Fair Trading (General) Regulation 2002*, had effect under that Regulation continues to have effect under this Regulation.

## **Schedule 1 Penalty notice offences**

(Clause 102)

<b>Column 1</b>	<b>Column 2</b>
<b>Offences under the <i>Fair Trading Act 1987</i></b>	
Section 27 (1)	\$550
Section 32 (1)	\$550
Section 32 (2)	\$550
Section 36D	\$550
Section 36E	\$550
Section 39 (1)	\$550



Section 40 (1)	\$550
Section 60Q (1)	\$550
Section 60R (3)	\$550
Section 60ZA (1)	\$550