

EXPLANATORY STATEMENT

Issued by the Authority of the Assistant Treasurer

Competition and Consumer Act 2010

Safety standard for baby walkers

Overview

This Legislative Instrument provides an updated safety standard for baby walkers – also known as infant walkers. Baby walkers are regulated because of their association with injuries, commonly through providing access to hazards around the home, including stairs, stove tops and heaters. Compliance with industry standards is intended to reduce injury in the context of appropriate supervision and reasonable use. Baby walkers are subject to a safety standard, which refers to portions of the standard published by the American Society for Testing and Materials (ASTM) in 2000. An American standard is used because there is no Australian standard for baby walkers. The ASTM standard has been updated several times since 2002. Misalignment between the industry standard and the mandatory product safety standard can cause confusion in the marketplace and lead to the supply of unsafe products.

Background

Legislative Power

The *Trade Practices Amendment (Australian Consumer Law) Act (No.2) 2010* together with the *Trade Practices Amendment (Australian Consumer Law) Act (No.1) 2010*, amended the *Trade Practices Act 1974* (TPA) to implement a new national consumer law regime known as the Australian Consumer Law (ACL). The TPA was renamed the *Competition and Consumer Act 2010* (CCA) on 1 January 2011. The ACL forms Schedule 2 to the CCA.

Subsection 104(1) of Schedule 2 to the CCA provides that the Commonwealth Minister may, by written notice published on the internet, make a safety standard for consumer goods of a particular kind as are reasonably necessary to prevent or reduce the risk of injury.

Subsection 106(1) provides that a person must not, in trade or commerce, supply consumer goods of a particular kind if a safety standard for consumer goods of that kind is in force and those goods do not comply with the standard.

The safety standard for baby walkers was previously declared by the *Trade Practices (Consumer Product Safety Standard) (Baby Walkers) Regulations 2002*, declared pursuant to section 65C of the TPA. Item 4 of Schedule 7 of the *Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010* provides that a product safety standard made under section 65C of the TPA will continue in force under the ACL as if it had been made section 104 of the ACL.

Sunset Provisions

Under the CCA, a safety standard for baby walkers is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (LIA). This Instrument is subject to sunset under Part 6 of the LIA. Unless action is taken to defer or exempt it from sunset, it is expected to sunset on 1 April 2023. This estimate assumes it is registered on or before 31 March 2013. This Instrument commences on the day after it is registered on the Federal Register of Legislative Instruments.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview

This Legislative Instrument is a safety standard concerning the supply of baby walkers in Australia. It revokes the previous safety standard and creates a new safety standard which refers to the current American standard which specifies performance requirements, safety tests and informative labelling for baby walkers.

Human Rights Implications

The Legislative Instrument engages the right to health and the rights of the child.

The International Covenant on Economic, Social and Cultural Rights recognises the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

The Convention on the Rights of the Child recognises the right of the child to the enjoyment of the highest attainable standard of health.

The Legislative Instrument promotes these rights by requiring a supplier to provide baby walkers which meet current international safety standards.

Conclusion

The Legislative Instrument does not limit human rights and is compatible with human rights because it advances the protection of human rights by requiring a supplier to supply goods which comply with current international standards, thereby preventing harm or injury to people, including children.

Consultation

For the purposes of section 17 of the LIA, consultation has been undertaken concerning the product safety standard.

A draft of the Legislative Instrument and discussion paper was duly circulated for consideration by interested parties, including the manufacturers and suppliers of baby walkers, State and Territory fair trading / consumer affairs agencies, consumer groups and child safety specialists. All parties consulted were either supportive of these changes or did not oppose them.

The Safety Standard

Preamble

The safety standard previously declared by the *Trade Practices (Consumer Product Safety Standard) (Baby Walkers) Regulations 2002* is revoked and a new safety standard is made.

Application of the safety standard: This section provides that until 1 April 2014, a supplier of baby walkers can choose to comply with one of two sets of requirements. One set of requirements is based on the 2000 version of the industry standard, the other set of requirements is based on the 2012 version of the industry standard. Starting on 1 April 2014, suppliers will only have the option of complying with the requirements based on the 2012 version of the industry standard.

Division 1

This Division defines “baby walkers” for the scope of the safety standard.

Division 2

This Division refers to portions of two standards published by the American Society for Testing and Materials (ASTM) and are available from the ASTM’s website (www.astm.org). The standards are ASTM F977-00 and ASTM F977-12, *Standard Consumer Safety Specification for Infant Walkers*, published in July 2000 and May 2012 respectively. The safety standard refers to the portions of ASTM F977-00 and ASTM F977-12 which set specifications for the stability of baby walkers, the mechanism to prevent the baby walker from falling down stairs, and labelling requirements.

Clause in ASTM F977:		Summary:
2000	2012	
6.1	6.1	This clause sets requirements for the stability of baby walkers. Unchanged between 2000 and 2012.
6.4	6.3	This clause sets requirements to prevent baby walkers from falling down stairs. Unchanged between 2000 and 2012.
7.3	7.3	This clause prescribes apparatus and method for testing stability. The 2012 version includes instructions for the situation where the front edge of the test baby walker contacts the test plane and the wheels contacting the aluminium stop begin to lift upward.
7.6	7.6	This clause prescribes apparatus and method for step tests. The 2012 version clarifies the positioning of the baby walker on the testing platform. It provides further detail about correct placement of the test dummy in the baby walker.
9.3	8.2	This clause sets requirements for warning labels. The 2012 version includes a warning label for baby walkers which have a parking break. It also modifies the stair hazard warning label for baby walkers with parking brakes.