

Trade Practices (Consumer Product Safety Standard) (Bicycle Helmets) Regulations 2001 2001 No. 279

EXPLANATORY STATEMENT

STATUTORY RULES 2001 No. 279

Issued by the Authority of the Minister for Financial Services and Regulation

Trade Practices Act 1974

Trade Practices (Consumer Product Safety Standard) (Bicycle Helmets) Regulations 2001

Authority

Section 172 of the *Trade Practices Act 1974* (the Act) provides that the Governor-General may make regulations for the purposes of the Act.

Subsection 65C(1) of the Act provides that a corporation shall not, in trade or commerce, supply goods that are intended to be used, or are of a kind likely to be used, by a consumer, if the goods are of a kind in respect of which there is a prescribed consumer product safety standard and which do not comply with that standard.

Subsection 65C(2) of the Act provides that a regulation may, in respect of goods of a particular kind, prescribe a consumer product safety standard as is reasonably necessary to prevent or reduce risk of injury to any person.

Purpose

The purpose of these Regulations is to set minimum safety requirements relating, to the testing and performance of protective helmets for pedal cyclists. This is in line with the principles established by the Council of Australian Governments (COAG).

The new Regulations prescribe a consumer product safety standard (the Standard) which sets the minimum performance requirements necessary for meeting the safety needs of the cyclist. The consumer product safety standard adopts the Australian/New Zealand Standard AS/NZS 2063:1996 'Pedal cycle helmets' and the *1995 Standard for Protective Headgear for Use with Bicycles*, including the *Child Helmet Addendum to Standards for Protective Headgear* published by the United States of America Snell Memorial Foundation "Snell B95".

Context

There has been a consumer product safety standard for Protective Helmets for Pedal Cyclists in place under the Act since 1988. The Standard ensures that cyclist's helmets have the ability to absorb impact, and to distribute impact from the localised area, as well as providing suitable ventilation and cautionary labelling. The Department of the Treasury completed a review of the Standard in June 1999.

The review considered the costs and benefits of various options such as no regulation, retaining the existing standard and a new consumer product safety standard based on the latest update of the referenced Australian/New Zealand Standard.

The review concluded that continuing regulation in the form of an updated consumer product safety standard was required, although there was insufficient evidence to demonstrate the need for the Load Distribution Test (LDT) requirement to be mandated in the referenced Australian

Standard. The review also found that the "Snell B95" Standard in the US would provide an equivalent level of head protection for Australian cyclists.

On 31 October 1999 new regulations prescribed the Standard as referencing both the "Snell B95" Standard and the relevant Australian/New Zealand Standards made by the Standard Association of Australia. Subsequent consultation with stakeholders confirmed the need for a LDT requirement in the referenced Australian/New Zealand Standard.

The Regulations include a LDT requirement in the latest referenced Australian/New Zealand Standard, remove all references to earlier Australian / New Zealand Standards and continue to reference the "Snell B95" Standard.

Further details on the Regulations are Attachment A.

A Regulation Impact Statement is attached.

Attachment A

DETAILS OF THE REGULATIONS

Details of the Regulations are as follows:

Regulation 1 determines the name of the Regulations to be the Trade Practices (Consumer Product Safety Standard) (Bicycle Helmets) Regulations 2001.

Regulation 2 determines the commencement date of the Regulations as the date of gazettal.

Regulation 3 repeals the previous consumer product safety standard for protective helmets *Trade Practices (Consumer, Product Safety Standard) (Bicycle Helmets) Regulations 1999*.

Regulation 4 provides that the purpose of these Regulations is to set out the consumer product safety standard for bicycle helmets.

Regulation 5 provides that these Regulations apply to protective helmets for pedal cyclists, but the consumer product safety standard does not apply to helmets, which are for reason of their size, design or intended use are inappropriate to be used as protective helmets.

Regulation 6 provides that for the period from gazettal until the end of 31 August 2006, the standard for protective helmets shall only be either the Australian/New Zealand Standard AS/NZS 2063: 1996 'Pedal cycle helmets' or the Snell B95 Standard.

Schedule 1 Part 1 contains the reference to Australian/New Zealand Standard AS/NZS 2063:1996 *Pedal cycle helmets*.

Schedule 1 Part 2 varies AS/NZS 2063:1996 by omitting Clause 1 and Paragraph 8.1 (e). These provisions are omitted as Clause 1 and Paragraph 8.1 (e) are dealt with in the Regulations describing the details of the particulars of the relevant goods.

Schedule 1 Part 2 inserts a provision that BMX Helmets need not comply with provisions regarding ventilation openings or type testing.

Schedule 2 Part 1 contains the reference to the *1995 Standard for Protective Headgear for Use with Bicycles*, including the *Child Helmet Addendum to Standards for Protective Headgear*, published by the Snell Memorial Foundation of the United States of America.

Schedule 2 Part 2 includes a provision that a person is not required to comply with a provision in the Snell Standard that requires third party certification.