

## **EXPLANATORY STATEMENT**

Issued by the Authority of the Parliamentary Secretary to the Treasurer

*Competition and Consumer Act 2010*

*Safety standard for child restraint systems for use in motor vehicles*

### **Background**

Prior to 1 January 2011, a consumer product safety standard was declared pursuant to subsection 65E(1) of the *Trade Practices Act 1974* (TPA) in relation to child restraint systems for use in motor vehicles.

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 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 105(1) of Schedule 2 to the CCA provides that the Commonwealth Minister may, by written notice published on the internet, declare that, in respect of consumer goods of a kind specified in the instrument, a particular standard, or a particular part of a standard, prepared or approved by Standards Australia International Limited, with additions or variations specified in the notice, is a safety standard for the purposes of section 106 of Schedule 2 to the CCA.

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.

This instrument declares the 2000, 2004 and 2010 versions of the Australian / New Zealand standard for child restraint systems for use in motor vehicles AS/NZS 1754, as varied, to be safety standards for the purposes of section 106. The purpose of these safety standards is to ensure that child restraints supplied on the Australian market have key safety features that reduce the associated risks of injury to/death of a child while travelling in a motor vehicle. These Australian / New Zealand standards specify minimum design, construction and performance requirements for child restraints in order to promote the provision of a high level of protection for children placed in them. Requirements of AS/NZS 1754 which are mandated in the safety standard relate to:

- Materials;
- Design and construction;
- Performance;
- Testing;
- Informative labelling, instructions, marking and packaging; and

- Appendices which relate to clothing for test dummies; spacers for attachment to test dummies; instructions to be supplied for installation of the upper anchorage fittings; recommended dummy types and an explanation of the new shoulder designation system for choosing an appropriate child restraint.

AS/NZS 1754 has been varied to simplify the language used in the scope of the mandatory safety standard, as well as removal of clauses which are not fundamental to the safety of child restraints and, as such, are not within the scope of a mandatory safety standard. The variations to each revision of AS/NZS are described by Table 1 below.

**Table 1: Summary of variations and deletions**

Clause in AS/NZS 1754:			Effect of variation:
2010	2004	2000	
1.1	1.1	1.1	Replaces wording to simplify the scope of mandatory safety standard.
1.1	1.1	1.1	Deletes a sentence to simplify the scope of mandatory safety standard.
2.3; 2.4 and 2.5	2.4; 2.5 and 2.6	2.4; 2.5 and 2.6	Deletion of clauses pertaining to flammability; toxicity and plastics stabilization, respectively, as these have been assessed as not being critical safety issues with regards to safe retention of a child occupant in the event of a motor vehicle accident.
3.12; 5.2.2(b) and 6.3(h)	3.12; 5.2.2(b) and 6.3(h)	3.12; 5.2.2(b) and 6.3(h)	Deletion of clauses pertaining to child restraints designed for children with disabilities, as these are not within the scope of the mandatory safety standard.

The safety standards were previously declared by Consumer Protection Notice No. 12 of 2007 following the completion of a comprehensive Regulation Impact Statement (RIS) process in May 2007 that identified the product safety issues and considered the various options for addressing the issues. A draft of the RIS was duly circulated for consideration by interested parties including manufacturers/suppliers of child restraints, State and Territory fair trading/consumer affairs agencies, consumer groups and child safety specialists. All parties strongly supported the Commonwealth's proposal to continue to regulate the supply of this product based on revision/update of the (then) current mandatory standard.

Under the CCA, a safety standard for child restraint systems for use in motor vehicles is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (LIA). For the purposes of section 17 of the LIA, consultation has been undertaken both at the time the consumer product safety standard was made under subsection 65E(1) of the TPA and also in March and April 2011.

This instrument is subject to sunseting under Part 6 of the LIA. Unless action is taken to defer or exempt it from sunseting, it is expected to sunset on 1 October 2021. This estimate assumes it is registered on or before 30 September 2011. The declaration commences on the day after it is registered on the Federal Register of Legislative Instruments.