

# **REPLACEMENT EXPLANATORY STATEMENT**

Issued by the Authority of the Minister for Small Business, the Hon. Bruce Billson MP

*Competition and Consumer Act 2010*

*Consumer Protection Notice No. 3 of 2014*

*Safety standard: Child Restraint Systems for use in motor vehicles.*

## **1. Overview:**

This Regulatory Instrument provides an updated safety standard for child restraints for use in motor vehicles.

The safety standard ensures that child restraints supplied in the Australian market have key safety features considered appropriate to reduce the risk of injury to a child involved in a motor vehicle accident. The safety standard adopts requirements in the standard approved by Standards Australia, AS/NZS 1754 *Child restraint systems for use in motor vehicles* which was last revised in 2013.

## **2. 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 105(1) of the ACL provides that the Commonwealth Minister may, by written notice published on the internet, declare that a standard prepared by, or approved by, Standards Australia, with variations specified in the notice, is a safety standard for consumer goods of a kind specified in the instrument.

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.

Safety requirements for the supply of child restraints are currently contained in *Competition and Consumer Act 2010* - **Consumer Protection Notice No. 21 of 2011 - Safety standard: Child restraint systems for use in motor vehicles**. The safety standard is a legislative instrument and is registered on the Federal Register of Legislative Instruments (FRLI)

### *Disallowance*

This legislative instrument is not subject to disallowance due to section 44 of the *Legislation Act 2003*.

## *Sunsetting*

This legislative instrument is not subject to sunseting due to section 54 of the *Legislation Act 2003*.

As a matter of good regulatory practice, the ACCC regularly reviews product safety standards to ensure they remain effective, efficient and appropriate and remain the best available solution, in the public interest, to an identified safety hazard.

### **3. Stakeholder consultation:**

Following initial discussion with industry and advocacy groups, a Consultation Paper was released in November 2013 outlining proposed amendments to the standard, and was circulated to interested parties, including manufacturers, suppliers, State and Territory regulators, and consumer groups. Eighteen submissions were received, including from suppliers, manufacturers, laboratories, state and territory road authorities, industry associations, safety researchers, and child safety advocates.

On the basis of the comments received and further discussion and research by the ACCC, another Consultation Paper seeking stakeholder views and further information was released in June 2014. This consultation concerned a specific proposal to change the mechanism by which the voluntary standard, AS/NZS 1754, is supported. The proposal was to move from use of a specific safety standard to use of the general provisions of the ACL. Nineteen submissions were received by the end of July 2014. Submissions from stakeholders were overwhelmingly in favour of retention of the safety standard.

Taken together, consultation with interested parties including manufacturers/suppliers of child restraints, State and Territory road authorities, State and Territory fair trading/consumer affairs agencies, consumer groups and child safety specialists strongly supports the continuing regulation of the supply of this product based on revision/update of the existing mandatory standard.

### **4. The requirements of the safety standard:**

This instrument declares the 2004, 2010 and 2013 versions of the Australian / New Zealand standard for child restraint systems for use in motor vehicles AS/NZS 1754, as varied, to be alternatives for complying with the safety standard for the purposes of section 106. The purpose of the safety standard is to ensure that child restraints supplied on the Australian market have key safety features that reduce the associated risks of injury to a child involved in a motor vehicle accident. All versions of the Australian / New Zealand standard specifies minimum design, construction and performance requirements for child restraints in order to ensure a high level of protection for children placed in them. The declaration of the three most recent versions of AS/NZS 1754 as alternative standards is to ensure that hire services and second hand suppliers do not face an unreasonable burden of compliance.

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 to remove 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:
2013	2010	2004	
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.
3.13; 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.
1.6, Appendix F			Deletes clauses relating to requirements for regular testing and demonstration so as to give suppliers flexibility as to how they demonstrate compliance.
3.14;4.6;5.8;6.3(r);6.4.3(oo); 6.6(n)(E) and 6.6(x). References to aircraft in Table 5.1. Figures 3.17 and 6.5			Deletes clauses and references to aircraft as these are not in the scope of the mandatory safety standard.

Clause in AS/NZS 1754:			Effect of variation:
2013	2010	2004	
2 <sup>nd</sup> paragraph of 5.1			Deletes clause relating to use of a rebound sled so as not to limit accreditation of laboratories.