

## REPLACEMENT EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Small Business and Assistant Treasurer

*Competition and Consumer Act 2010*

*Consumer Protection Notice No. 5 of 2016*

*Extension of the ban period of the interim ban on hoverboards that do not meet specific safety requirements*

### Background

Section 109(1)(a) of the Australian Consumer Law (the ACL), which is Schedule 2 to the *Competition and Consumer Act 2010* (CCA), provides that a responsible Minister (including the Commonwealth Minister) may impose an interim ban on consumer goods of a particular kind if it appears to the responsible Minister that consumer goods of that kind, or a reasonably foreseeable use (including a misuse) of consumer goods of that kind, will or may cause injury to any person.

Section 111(1) of the ACL provides that an interim ban on consumer goods remains in force for a period of 60 days. Section 111(2) of the ACL provides that, before the ban period for the interim ban ends, the responsible Minister may, by written notice published on the internet, extend the ban period for the ban for a period of up to 30 days.

The Minister for Small Business and Assistant Treasurer imposed an interim ban on hoverboards that do not meet certain specific safety requirements on 18 March 2016. The interim ban came into force the day after registration on the Federal Register of Legislation (FRL), on 19 March 2016.

The interim ban was imposed via Consumer Protection Notice No. 3 of 2016 and is available on the FRL website - <https://www.legislation.gov.au/Details/F2016L00357>.

The interim ban applies to the supply of hoverboards that do not meet either:

- the requirements of the International Electrotechnical Commission (IEC) standard *IEC 62133 Edition 2.0 2012-12* and sections 11 and 19 (as amended by Annex B) of the IEC standard *IEC 60335-1 Edition 5.1 2013-12* (or sections 11 and 19 (as amended by Annex B) of *AS/NZS 60335.1:2011 (incorporating amendment Nos 1, 2 and 3)* which adopt IEC 60335); or
- certain specified sections of *UL 2272 – Outline of Investigation for Electrical Systems for Self-balancing Scooters*).

The interim ban was imposed to address the risk of death or serious injury from fires associated with hoverboards. The safety requirements specified in the interim ban will reduce the risk of fire in rechargeable lithium-ion batteries in the hoverboard, and thereby reduce the risk of injury to consumers.

### Extension of the interim ban on hoverboards that do not meet specific safety requirements

The interim ban on hoverboards that do not meet specified safety requirements ends on 17 May 2016. The ACCC is still considering what, if any, longer term options for the regulation of hoverboards are appropriate to minimise the risk of injury to consumers. The Minister for Small Business and Assistant Treasurer has therefore extended the interim ban for a period of 30 days.

## **Consultation**

Section 131E of the CCA provides that an interim ban made under section 109 of the ACL is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (LIA). Section 17 of the LIA requires that the rule maker should consult prior to making a legislative instrument.

However, section 18 of the LIA outlines the circumstances where consultation may be unnecessary or inappropriate. An instrument which is of a minor or machinery nature and that does not substantially alter existing arrangements is an example where consultation is unnecessary or inappropriate (section 18(2)(a)).

The legislative instrument extending the interim ban for a period of 30 days is of a minor nature and does not significantly alter existing arrangements. Accordingly, consultation has not been undertaken. It is noted however, that the ACCC conducted brief consultation with suppliers before the interim ban was imposed, and has subsequently held a conference in relation to the interim ban at the request of suppliers pursuant to section 132C of the CCA.

## **Commencement**

This instrument commences on the day specified in the instrument.

## **Disallowance**

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

## **Sunsetting**

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

## **Period of Effect**

This extension to the interim ban on hoverboards that do not meet specific safety requirements is effective for a period of 30 days from 18 May 2016, unless revoked.