**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. 6 of 2016*

*Extension of the extended ban period for 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.

The Minister for Small Business and Assistant Treasurer imposed an interim ban on hoverboards that do not meet specific safety requirements on 18 March 2016 via Consumer Protection Notice No. 3 of 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 notice is available on the FRL website - [www.legislation.gov.au/Details/F2016L00357](http://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 the Australian/New Zealand Standard *AS/NZS 60335.1:2011 (incorporating amendment Nos 1, 2 and 3)* which adopts IEC 60335-1); or
* specified sections of *UL 2272 – Outline of Investigation for Electrical Systems for Self-balancing Scooters* (UL 2272).

The IEC is an international organisation that prepares and publishes international standards for electrical and electronic technologies.

IEC 62133 sets out safety requirements for portable sealed secondary (rechargeable) cells and for batteries made from cells for use in portable applications.

IEC 60335-1 specifies general safety requirements for household and similar electrical appliances. Section 11 specifies requirements to reduce the risk that appliances and their surroundings will overheat. Section 19 specifies requirements to reduce the risk of hazards, including fire hazards, as a result of abnormal operation. AS/NZS 60335.1 adopts relevant sections of IEC 60335-1.

The IEC 62133 and IEC 60335-1 standards can be purchased from a variety of online sources including the IEC ([webstore.iec.ch/](file:///\\cdchnas-evs02\home$\sbell\trimdata\TRIM\TEMP\HPTRIM.6816\webstore.iec.ch\)), SAI Global ([infostore.saiglobal.com/store/](https://infostore.saiglobal.com/store/)) and the International Organization for Standardization ([www.iso.org/iso/store.htm](http://www.iso.org/iso/store.htm)).

The AS/NZS 60335.1 standard can be purchased from SAI Global ([infostore.saiglobal.com/store/default.aspx](http://infostore.saiglobal.com/store/default.aspx)).

Underwriters Laboratories Inc. has developed and published UL 2272. UL 2272 includes requirements for the electrical drive train system, including the battery and charger system combinations, for electric-powered self-balancing scooters (hoverboards). The requirements of UL 2272 specified in the interim ban notice require hoverboards to include appropriate components and electrical circuitry to reduce fire risk.

The first edition of UL 2272 was published on 29 January 2016 and can be purchased from Underwriters Laboratories Inc. ([www.comm-2000.com/](http://www.comm-2000.com/)). On 22 April 2016, after the interim ban was imposed, Underwriters Laboratories Inc. released the second edition of UL 2272.

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 reduce the risk of fire in rechargeable lithium-ion batteries in the hoverboard, and thereby reduce the risk of injury to consumers.

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 for a period of up to 30 days.

The Minister for Small Business and Assistant Treasurer extended the interim ban period by 30 days from 18 May 2016 to 16 June 2016 via Consumer Protection Notice No. 5 of 2016. The interim ban extension notice is available on the FRL website – [www.legislation.gov.au/Details/F2016L00797](http://www.legislation.gov.au/Details/F2016L00797).

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

Section 111(6) of the ACL provides that, if the ban period for an interim ban is extended under subsection 111(2) and the extended ban period has not ended and the interim ban was imposed by the Commonwealth Minister, the Commonwealth Minister may, by written notice published on the internet, extend the extended ban period for the interim ban by a further period of up to 30 days.

The ACCC is 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 extended interim ban period for 30 days to provide the ACCC with the opportunity to conclude its assessment of the options.

**Consultation**

Section 131E of the CCA provides that the extension of an interim ban under section 111 of the ACL is a legislative instrument for the purposes of the *Legislation Act 2003*. Section 17 of the *Legislation Act 2003* requires that the rule-maker must be satisfied that any consultation considered to be appropriate and reasonably practicable has been undertaken.

Prior to the imposition of the interim ban, the ACCC contacted all known hoverboard suppliers and advised them that the ACCC was considering options to reduce the risk of house fires caused by hoverboards and that one of the options under consideration was a recommendation to the Minister for Small Business and Assistant Treasurer that she impose an interim ban on hoverboards that do not meet specific safety requirements.

The ACCC subsequently held a conference with hoverboard suppliers and electrical safety regulators about the interim ban at the request of suppliers, pursuant to section 132E of the CCA. The ACCC has had ongoing targeted consultation with these stakeholders about the interim ban and the options for a possible longer term regulatory response.

The legislative instrument extending the interim ban for a period of 30 days was of a minor nature and did not significantly alter the arrangements at the time. Accordingly, consultation was not considered appropriate.

This legislative instrument, which extends the extended interim ban period for a further 30 days is also of a minor nature and does not significantly alter the existing arrangements. Accordingly, specific consultation on this legislative instrument was also not considered necessary. It is noted however that suppliers have been advised in correspondence that the extended interim ban period may be extended by a further 30 days.

**Commencement**

This legislative instrument commences on the day specified in the instrument.

**Disallowance**

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

**Sunsetting**

The legislative instrument is not subject to sunsetting due to section 54 of the *Legislation Action 2003*.

**Period of Effect**

This extension to the extended interim ban period for hoverboards that do not meet specific safety requirements is effective for a period of 30 days from 17 June 2016, unless revoked.