**EXPLANATORY STATEMENT**

*Consumer Goods (Projectile Toys) Safety Standard 2020*

**Overview**

The Minister for Housing and Assistant Treasurer (the **Minister**) has made the Consumer Goods (Projectile Toys) Safety Standard 2020 (the **new** **safety standard**), pursuant to section 104 of the Australian Consumer Law, which is Schedule 2 of the *Competition and Consumer Act 2010* (Cth).

The new safety standard comes into effect on the day after registration on the Federal Register of Legislation. A transitional period of 12 months will apply during which suppliers may either supply projectile toys that comply with the new safety standard or the repealed safety standard. At the end of the 12 month transitional period suppliers must comply with the new safety standard.

The Australian Government introduced the Consumer Protection Notice No.16 of 2010 (the **repealed safety standard**) to mandate requirements for projectile toys to reduce the risk of eye injuries from the impact force of a projectile and asphyxiation where a projectile is fired or lodged into the mouth of a child or they otherwise attempt to swallow a projectile.

**Repealed safety standard**

The repealed safety standard for projectile toys was the *Consumer Protection Notice No. 16 of 2010* (Consumer Product Safety Standard for Children’s Projectile Toys).

Under subsection 33(3) of the *Acts Interpretation Act 1901* (Cth), where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

**Requirements of the new safety standard**

The new safety standard applies to projectile toys supplied new that are:

* designed or clearly intended for use in play by a child under 14 years of age; and
* capable of launching a projectile.

The new safety standard includes the following additional definitions:

***Australian/New Zealand Standard for safety of toys*** means the Australian/New Zealand Standard AS/NZS 8124.1:2019 – Safety of Toys – Part 1: Safety Aspects Related to Mechanical and Physical Properties

***European Standard*** means the European Standard EN 71-1:2014+A1:2018 Safety of toys – Part 1: Mechanical and physical properties

***International Standard for safety of toys*** means the ISO 8124.1:2018 Safety of toys Part 1: Safety aspects related to mechanical and physical properties

***US Standard*** means the American Society for Testing and Materials Standard ASTM F963-17 Standard consumer safety specification for toy safety

The new safety standard requires the supply of projectile toys to comply with the relevant voluntary Australian/New Zealand standard(with variations), or with the relevant clauses from the above overseas standards, as particularised by the instrument.

**Access to Australian and international standards**

Where practicable, product safety legislative instruments only reference extrinsic material that is readily accessible for free by the public. However, as in the current case, many product safety legislative instruments need to incorporate extrinsic technical standards over which certain bodies have copyright.

The Australian/New Zealand Standard (AS/NZS 8124.1:2019), European Standard (EN 71-1:2014+A1:2018) and US Standard (ASTM F963-17) referenced in this instrument are available for purchase at SAI Global’s website (<https://www.saiglobal.com>). The International Standard (ISO 8124.1:2018) referenced in this instrument is available for purchase at the International Organization for Standardization’s website (<https://www.iso.org>).

The Australian Competition and Consumer Commission (**ACCC**) can make a copy of the above standards available for viewing at one of its offices, subject to licensing conditions.

**Transitional arrangements**

The instrument provides a transitional period of 12 months beginning on the day this instrument commences. During the transitional period, suppliers must meet the requirements of either:

* the *Consumer Goods (Projectile Toys) Safety Standard 2020*,or
* the *Consumer Protection Notice No. 16 of 2010 (Consumer Product Safety Standard for Children’s Projectile Toys).*

After the transitional period, suppliers must meet the requirements of the *Consumer Goods (Projectile Toys) Safety Standard 2020.*

**Consultation**

The ACCC published a combined consultation paper for the five toy standards regulated by existing standards from 1 February to 9 April 2017. The safety standard for projectile toys is one of the five standards. The paper detailed five policy options for dealing with the mandatory safety standards for toys:

* Option 1 – Retain the current mandatory safety standards (status quo)
* Option 2 – Adopt the updated voluntary Australian standard
* Option 3 – Allow compliance with the updated voluntary Australian standard or trusted overseas standards
* Option 3a – Allow principles-based compliance with the current voluntary Australian standard and overseas standards
* Option 4 – Revoke the mandatory safety standard.

The ACCC’s preliminary position outlined in the paper supported Option 3, as this option would provide the greatest net benefit to consumers, suppliers and regulators.

Sixteen submissions were received from retail groups, community groups, industry bodies, child safety advocates and an insurer. Thirteen stakeholders supported allowing compliance with trusted international standards through support for either Option 3 or Option 3a. One stakeholder each supported Option 2 and Option 4. The remaining stakeholder did not express a preference.

Following the submission process, the ACCC undertook additional consultation, analysis and scrutiny, and reaffirmed that Option 3 is likely to have the greatest net benefit to the Australian community.

**Disallowance**

This legislative instrument is not subject to disallowance due to subsection 44 of the *Legislation Act 2003* (Cth).

**Commencement**

The legislative instrument commences on the day after it is registered on the Federal Register of Legislation.

**Sunsetting**

This legislative instrument is not subject to sunsetting due to section 54 of the *Legislation Act 2003* (Cth).

**Regulation impact assessment**

The Office of Best Practice Regulation advised that a Regulation Impact Statement was not required (OBPR reference ID 25710).