

EXPLANATORY STATEMENT

Consumer Goods (Infant Sleep Products) Amendment Safety Standard 2025

1. Authority

The Assistant Treasurer and Minister for Financial Services (the **Minister**) has made the *Consumer Goods (Infant Sleep Products) Amendment Safety Standard 2025* (the **Amendment Instrument**) under subsection 104(1) of the Australian Consumer Law (the **ACL**), which is Schedule 2 of the *Competition and Consumer Act 2010* (Cth). Subsection 104(1) of the ACL provides that the Minister may, for the purposes of preventing or reducing the risk of injury to any person, make (by legislative instrument) a safety standard in relation to consumer goods of a particular kind.

Subsection 33(3) of the *Acts Interpretation Act 1901* (Cth) relevantly provides that where an Act confers a power to make a legislative instrument, 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.

2. Purpose and operation of the instrument

The purpose of the Amendment Instrument is to amend the *Consumer Goods (Infant Sleep Products) Safety Standard 2024* (the **Safety Standard**).

The Minister made the Safety Standard in 2024 to reduce the risk of asphyxiation, suffocation, falls and entrapment to infants caused by infant sleep products. The Safety Standard contains requirements to minimise the risks associated with the issues of incline, curvature, rigidity and materials used in infant sleep products. The Safety Standard incorporates, by reference, the latest voluntary Australian standards for household cots and folding cots as well as requirements from comparable overseas standards.

The Amendment Instrument amends the Safety Standard to correct a reference to mattress firmness requirements as set out in the U.S. Consumer Product Safety Commission (16 C.F.R. Part 1241), *Safety Standard for Crib Mattresses*.

The Amendment Instrument amends the requirements in the Safety Standard relating to gaps between mattresses and the sides of infant sleep products so that no gap is allowed around the mattresses for all infant sleep products except for household cots, which may have an allowable maximum gap of 20 mm. Hazardous gaps around the mattress pose a safety risk as an infant may roll into gaps around the edge of the mattress and become entrapped. Hazardous gaps may also present a suffocation risk if an infant's face is in the gap.

The Amendment Instrument amends the required dimensions of the small parts cylinder used to determine if a part is small enough to be a choking hazard to an infant. The amended dimensions of that cylinder are consistent with the dimensions of cylinders already used by test-houses and that are set out by various voluntary standards for this purpose.

The Amendment Instrument also specifies that the small parts that must not fit within a small parts cylinder are those that can detach or can be removed without the use of a tool. This is intended to capture small parts and components that could actively be pried loose by an infant or child's hands, fingers or fingernails and those parts and components that could inadvertently come loose.

A provision-by-provision description of the Amendment Instrument is set out in the details at the end of this explanatory statement.

3. Documents incorporated by reference

The Amendment Instrument incorporates the U.S. Consumer Product Safety Commission (16 C.F.R. Part 1241), *Safety Standard for Crib Mattresses* (the **US CPSC Standard**) and Australian/New Zealand Standard AS/NZS 2195:2010, *Folding cots—Safety requirements* (the **Australian/New Zealand Standard for household cots**).

The US CPSC Standard can be accessed free of charge on the Electronic Code of Federal Regulations website (<https://www.ecfr.gov>) and is incorporated as existing at the time the Amendment Instrument commenced.

The Australian/New Zealand Standard for household cots is incorporated as existing at the time the Safety Standard commenced (19 July, 2024) and is available for purchase at the *Intertek Inform* website (<https://intertekinform.com/en-au>).

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

4. Consultation

Before the Amendment Instrument was made, the Minister was satisfied that consultation was undertaken to the extent appropriate and reasonably practicable, in accordance with section 17 of the *Legislation Act 2003*.

In September 2024, the ACCC conducted targeted consultation on the proposed amendment of section 27 to clarify the requirements around the small parts cylinder, to confirm the dimensions of the cylinder should be consistent with the dimensions of the small parts cylinder used by test-houses and to specify that relevant small parts are only those which can detach or be removed without the use of a tool. All stakeholders agreed with the proposed amendment.

In November 2024, the ACCC conducted targeted consultation on a proposed amendment to paragraph 18(d) to remedy an error in the Safety Standard that left subparagraph 18(d)(ii) effectively inoperative. The proposed amendment would operate to set the mattress gap requirements to those contained in paragraph 6.1(d) of the Australian/New Zealand Standard for household cots for mattresses supplied with all types of infant sleep products.

Following feedback from stakeholders received in the course of consultation, the proposed amendment was changed to create a distinction between the gaps allowed for household cots and other infant sleep products. For household cots, the mattress must comply with paragraph 6.1(d) of the Australian/New Zealand Standard for household cots. For all other infant sleep products, the mattress must fit snugly with no gap between the mattress and the sides of the product.

On 18 December 2024, stakeholders were informed of the outcome of the ACCC's consultations and of the proposed correction to the referenced United States standard which was identified by stakeholder feedback in response to the consultation undertaken in November 2024.

The stakeholders involved in these targeted consultations were government and industry participants that would be affected by the proposed changes, including testing product test-houses, manufacturers, retailers, regulatory consultants and consumer advocacy bodies.

5. Disallowance and sunseting

By operation of subsections 44(1) and 54(1) of the *Legislation Act 2003*, the Amendment Instrument is not subject to disallowance or sunseting because its enabling legislation, the ACL (at Schedule 2 of the CCA), facilitates the operation of an intergovernmental scheme

involving the Commonwealth and all the States and Territories (*the Intergovernmental Agreement for the Australian Consumer Law*), and the ACL authorises the making of the Amendment Instrument for the purposes of that scheme. To make the Amendment Instrument subject to disallowance or sunseting would frustrate the importance of uniform product safety standards in reducing the supply of unsafe goods and related services for Australian consumers, which is a key part of the ACL as an intergovernmental scheme involving the Commonwealth and the States and Territories.

Item 16 in the table at section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* also provides that the instrument is not subject to the sunseting provisions of the *Legislation Act 2003*.

6. Commencement

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

7. Regulation impact assessment

The Office of Impact Analysis advised a Detailed Impact Analysis was not required (OIA reference OIA 24-08343 and OIA 25-08838).

Details of the *Consumer Goods (Infant Sleep Products) Amendment Safety Standard 2025*

Section 1 – Name

This section provides for the Amendment Instrument to be cited as the *Consumer Goods (Infant Sleep Products) Amendment Safety Standard 2025*.

Section 2 – Commencement

This section provides that the Amendment Instrument commences on the day after it is registered on the Federal Register of Legislation. The Federal Register of Legislation may be accessed free of charge at www.legislation.gov.au.

Section 3 – Authority

Section 3 provides that the Amendment Instrument is made under subsection 104(1) of the ACL.

Section 4 – Schedules

Section 4 provides that the Safety Standard is amended as set out in Schedule 1 to the Amendment Instrument.

Schedule 1 – Amendments

Item 1

Item 1 repeals the definition of the incorrectly referenced 'United States Standard Consumer Safety Specification for Crib Mattresses' in section 6 and substitutes it with a the 'US CPSC Standard', defined to mean the U.S. Consumer Product Safety Commission (16 C.F.R. Part 1241), *Safety Standard for Crib Mattresses*, published by the United States Consumer Product Safety Commission.

Item 2

Item 2 amends paragraph 17(c) of the Safety Standard to reference the newly defined 'US CPSC Standard'.

Item 3

Item 3 sets the mattress gap requirement for household cots by reference to paragraph 6.1(d) of the Australian/New Zealand Standard for household cots such that any gap between the mattress and sides of a cot when the mattress is placed in the middle of the cot should be no more than 20 millimetres.

Item 4

Item 4 adds a new paragraph which requires that where a mattress is supplied with an infant sleep product other than a household cot (for example, a folding cot), the mattress must fit snugly, with no gap between the mattress and the sides, including the ends, of the infant sleep product.

Item 5

Item 5 substitutes a revised section 27 into the Safety Standard so as to correct an error in the expressed dimensions of a small parts cylinder, by specifying that a small parts cylinder has a 31.7 millimetre wide opening at the top, a cavity depth on the shorter side of 25.4 millimetres and a cavity depth on the longer side of 57.1 millimetres. The revised

section 27 also specifies that any component or part of an infant sleep product that can detach or that can be removed without the use of a tool, must not be able to fit entirely inside a small parts cylinder.