

EXPLANATORY STATEMENT

Select Legislative Instrument 2008 No. 242

Issued by the Authority of the Minister for Competition Policy and Consumer Affairs

Trade Practices Act 1974

Trade Practices (Consumer Product Safety Standard) (Bicycle Helmets) Amendment Regulations 2008 (No. 1)

Subsection 172(1) of the *Trade Practices Act 1974* (the Act) provides, in part, that the Governor-General may make regulations not inconsistent with the Act, prescribing all matters that are required or permitted by the Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Paragraph 65C(1)(a) of the Act provides that a corporation shall not, in trade or commerce, supply goods that are intended to be used, or are of a kind likely to be used, by a consumer, if there is a consumer product safety standard for those goods and they do not comply with that standard.

Subsection 65C(2) of the Act provides that a regulation may, in respect of goods of a particular kind, prescribe a consumer product safety standard consisting of such requirements as are reasonably necessary to prevent or reduce risk of injury to any person. These requirements may relate to, among other things, performance, design, or construction of the goods; testing of the goods; and the markings, warnings or instructions to accompany them.

The *Trade Practices (Consumer Product Safety Standard) (Bicycle Helmets) Regulations 2001*, which is amended by these Regulations, set out the consumer product safety standard for bicycle helmets until 12 December 2008. When originally promulgated, it was intended that this mandatory Standard (“the mandatory Standard”) would be reviewed before it expired.

The purpose of the Regulations is to provide that the mandatory Standard remains in force until 12 December 2009. This will allow Standards Australia adequate time to complete a review currently being undertaken of the Australia / New Zealand standard which provides the basis for the mandatory Standard. This will enable consideration to be given to incorporating any changes to the Australia / New Zealand standard which might result from the review into the mandatory Standard.

The mandatory Standard specifies the basic performance requirements for bicycle helmets, so as to mitigate the adverse effects of a blow to the head.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. For the purposes of section 17 of that Act, no consultation was undertaken in relation to the Regulations as they are of a minor or machinery nature and do not substantially alter existing arrangements. The Office of Best Practice Regulation has agreed that the Regulations would have no or low impact on business. In consequence, a Regulation Impact Statement was not required.

The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Details of the Regulations are at [Attachment A](#).

Details of the *Trade Practices (Consumer Product Safety Standard) (Bicycle Helmets) Amendment Regulations 2008 (No. 1)*

Regulation 1 – Name of Regulations

This regulation provides that the name of the Regulations is the *Trade Practices (Consumer Product Safety Standard) (Bicycle Helmets) Amendment Regulations 2008 (No. 1)*.

Regulation 2 – Commencement

This regulation provides that the Regulations commence on the day after they are registered.

Regulation 3 – Amendment of *Trade Practices (Consumer Product Safety Standard) (Bicycle Helmets) Regulations 2001*

This regulation provides that the *Trade Practices (Consumer Product Safety Standard) (Bicycle Helmets) Regulations 2001* (the Principal Regulations) are amended by Schedule 1.

Schedule 1 – Amendments

This schedule provides for two amendments to the Principal Regulations.

Item [1] substitutes a new heading for Regulation 6.

Item [2] omits a date (12 December 2008) and inserts another (12 December 2009) in its place. The effect of this change is to extend the operation of the Principal Regulations.