

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 390

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 2009 (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 (“the mandatory Standard”) for bicycle helmets until 12 December 2009.

The mandatory Standard specifies the basic performance requirements for bicycle helmets, including those relating to impact energy attenuation, load distribution, strength and effectiveness of the retention system and its attachment points, ventilation, and peripheral vision clearance, so as to mitigate the adverse effects of a blow to the head.

The purpose of the Regulations is to amend the Principal Regulations to adopt only the latest version of the Australian/New Zealand Standard, AS/NZS 2063:2008.

Details of the Regulations are at Attachment A.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. A Regulation Impact Statement [Attachment B] which proposes adoption of the latest Australian Standard has been prepared and approved by the Office of Best Practice Regulation. OBPR reference number is 10638.

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

Details of the Trade Practices (Consumer Product Safety Standard) (Bicycle Helmets) Amendment Regulations 2009 (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) Regulations 2009 (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 four amendments to the Principal Regulations.

Item [1] substitutes a new paragraph for Regulation 5(2)(a). The effect of this change is to: (i) correct a reference from the ‘Australian Standard AS 2512.1:1988’ to the ‘Australian/New Zealand Standard AS/NZS 2512.1:1988’, and (ii) take into account latest version of the Australian/New Zealand Standard 2512.1, AS/NZS 2512.1:2009, published by the Standards Australia on 7 April 2009.

Item [2]

- (i) substitutes a new heading for Regulation 6 – Standard until 12 December 2010.

This regulation specifies the mandatory standard applicable to bicycle helmets until 12 December 2010.

- (ii) omits a date (12 December 2009) and inserts another (12 December 2010) in its place. The effect of this change is to provide a transition period of approximately 12 months (during which time compliance with the Part 1 of Schedule 1, as varied by Part 2 of Schedule 1, or Part 1 of Schedule 2 subject to Part 2 of Schedule 2, will be permitted) for suppliers to adjust to the new requirements of Part 3 of Schedule 1, as varied by Part 4 of Schedule 1.

- (iii) inserts a new consumer product safety standard, Part 3 of Schedule 1 (AS/NZS 2063:2008) as varied by Part 4 of that Schedule.

- (iv) inserts a new Regulation 7 – Standard from 13 December 2010.

This regulation specifies the mandatory standard applicable to bicycle helmets after 13 December 2010 and adopts the requirements of the updated Australian/New Zealand Standard (AS/NZS 2063:2008), subject to the variations detailed in Part 4 of Schedule 1.

Item [3] substitutes a new heading for Schedule 1 – Australian/New Zealand Standards (regulations 6 and 7) as the latter regulation is newly cited.

Item [4]

- (i) inserts a new Part 3 to Schedule 1.

Part 3 of Schedule 1 provides that AS/NZS 2063:2008 is an applicable standard for the purposes of Regulations 6 and 7.

- (ii) inserts a new Part 4 to Schedule 1.

Part 4 of Schedule 1 provides for variations to AS/NZS 2063:2008, and maintains a general consistency with the variations to the 1996 standard made by Part 2.