

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Small Business, the Hon. Bruce Billson MP

Competition and Consumer Act 2010

Consumer Goods (Bean Bags) Safety Standard Amendment 2015

Consumer Protection Notice No.4 of 2015

1. Overview:

This Legislative Instrument amends the *Consumer Goods (Bean Bags) Safety Standard 2014*, the new safety standard for bean bags, bean bag covers and retail packages which contain bean bag filling. The standard was made in November 2014 for commencement on 1 January 2016.

This instrument amends transitional arrangements in the *Consumer Goods (Bean Bags) Safety Standard 2014*, by allowing for compliance with the new standard immediately, and extending the period during which stock complying with the old standard may be sold to 30 June 2016. The instrument also makes two minor amendments to the standard to ensure that it does not have unintended consequences (paragraph 5 of this explanatory statement).

The Australian Competition and Consumer Commission assesses the proposed amendments as having no overall effect on the safety of products and the Office of Best Practice Regulation has classified them as minor or machinery in nature.

2. Background:

Legislative Power

A national consumer law regime known as the Australian Consumer Law (ACL) was included as Schedule 2 to the *Competition and Consumer Act 2010* (CCA) on 1 January 2011.

Subsection 104(1) of the ACL provides that the Commonwealth Minister may, by written notice published on the internet, make a safety standard for consumer goods of a particular kind, consisting of such requirements (as are specified in subsection 104(2)) as are reasonably necessary to prevent or reduce risk of injury to any person. By virtue of section 33(3) of the *Acts Interpretation Act 1901*, which provides that the power to make an instrument includes the power to amend or vary the instrument, the Commonwealth Minister can amend a Standard made under s.104.

Subsection 106(1) provides that a person must not, in trade or commerce, supply consumer goods of a particular kind if a safety standard for consumer goods of that kind is in force and those goods do not comply with the standard.

3. Statement of Compatibility with Human Rights

In accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*, this Legislative Instrument does not limit and is compatible with human rights.

This Instrument amends the *Consumer Goods (Bean bags) Safety Standard 2014* which engages, amongst others, the right to health and the rights of the child. It advances the protection of human rights by requiring a supplier to supply goods which comply with current safety standards, thereby preventing harm or injury to people, including children.

4. Stakeholder consultation:

The ACCC conducted discussions with stakeholders who had raised concerns relating to administrative difficulty and potential compliance costs in the transition to the new standard. The ACCC response to these concerns was developed in consultation with stakeholders and is understood to address these matters.

5. The amendments:

This Legislative Instrument makes four amendments to the *Consumer Goods (Bean Bags) Safety Standard 2014*:

1. The commencement date for the standard is amended to allow products complying with the new standard to be supplied immediately.
2. The period during which products complying with the existing standard can be supplied is extended to 30 June 2016; with the new standard becoming the sole standard on 1 July 2016.
3. The standard is amended to ensure that child resistant slide fasteners are only required on bean bag openings which provide direct access to bean bag filling.
4. The standard is amended to ensure that the standard is not interpreted strictly as requiring the warning label to be in a prescribed form when the intention is to ensure that the specified text is used. .

6. Commencement date

This Legislative Instrument will commence on the day it is registered on the Federal Register of Legislative Instruments (FRLI).