

EXPLANATORY STATEMENT

Consumer Goods (Elastic luggage straps) Safety Standard 2017

Overview

The Commonwealth Minister for Small Business (the Minister) has made a safety standard for elastic luggage straps pursuant to section 104 of the Australian Consumer Law (ACL), which is Schedule 2 of the *Competition and Consumer Act 2010 (Cth)* (CCA). This safety standard updates the safety standard for elastic luggage straps and repeals Regulation 11C of the *Trade Practices (Consumer Product Safety Standards) Regulations 1979 – Elastic luggage straps – consumer product safety standard from 1 December 2004 (Act s 65C(2))* (Federal Register of Legislation No. F2004C00303).

The safety standard comes into effect on the day after it is registered on the Federal Register of Legislation. Suppliers are able to continue to supply elastic luggage straps, which meet either the previous safety standard or new safety standard until 1 July 2019. After this date, suppliers will need to ensure they comply with the new standard.

The purpose of the safety standard is to reduce the risk of death, injuries to the face and head area and permanent blindness associated with use of elastic luggage straps. The ACCC estimates that 28 injuries are associated with luggage straps in Australia each year. While the number of injuries has decreased significantly, an unreasonable risk of injury remains, and the warning label is still required. The safety standard reduces this risk by updating the wording on the warning labelling in line with consumer comprehension testing and best practice for safety warnings.

Repealed Standard

The standard for elastic luggage straps was Regulation 11C of the *Trade Practices (Consumer Product Safety Standards) Regulations 1979* made pursuant to 65C of the *Trade Practices Act 1974* (TPA). Item 4 of Schedule 7 of the *Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010* provides that a product safety standard made under 65C of the TPA will continue in force under the ACL as if it had been made under section 104 of the ACL.

Requirements of the safety standard

The safety standard includes the following definition:

elastic luggage strap means an elastic strap or cord or two or more elastic straps or cords permanently joined and:

- (a) having a hook, buckle or other fastening device at each extremity; and
- (b) designed to be used for the purpose of securing luggage or other objects;

except for:

- (c) an elasticised cargo net; or
- (d) an elasticised strap specifically made for the purpose of securing a vehicle jack or toolkit with a vehicle.

The safety standard requires that an elastic luggage strap must have a prescribed warning label or notice that is fixed securely and permanently to, or stamped on the strap.

New warning (example only)

WARNING. Rebounding hooks cause blindness. Place hooks with care.
Keep face and body out of rebound path.
DO NOT overstretch. DO NOT use when strap has visible signs of wear or damage.

The new warning must:

- Bear the word 'WARNING' and the words 'DO NOT' in upper case black letters of not less than 5 millimetres in height on a yellow background;
- Bear the remaining words in upper and lower case letters as shown above, the upper case letters being of not less than 5 millimetres in height on a yellow background; and
- Be conspicuously displayed.

Transitional arrangements

Prior to 1 July 2019, the safety standard requires that an elastic luggage strap have the new warning, or that an elastic luggage strap have the previous warning from Regulation 11C(3) of the *Trade Practices (Consumer Product Safety Standards) Regulations 1979* made pursuant to 65C of the *Trade Practices Act 1974* (TPA).

Previous warning (example only)

WARNING. Avoid eye injury. DO NOT overstretch. ALWAYS keep face and body out of recoil path. DO NOT use when strap has visible signs of wear or damage.

On and after 1 July 2019, suppliers must supply elastic luggage straps, which meet the requirements of the new standard, with the new warning.

Consultation

The Australian Competition and Consumer Commission (ACCC) conducted a review of the safety standard for elastic luggage straps and recommended to the Australian Government Minister for Small Business that the text of the mandatory warning label be amended to be consistent with good practice for effective warnings.

Following initial discussion with industry, the ACCC released a consultation paper for the review of the standard and circulated it to manufacturers, suppliers and consumer groups. The consultation ran for over six weeks. The paper outlined the proposal to change the text of the mandatory warning label and asked for comment on transition arrangements.

A total of ten submissions were received from retailers, wholesalers, a government agency and consumer groups. All submissions supported the proposed change and there was support to retain part of the existing warning text for overstretching and wear and tear. There was agreement that there would be little or no cost to suppliers associated with the change.

On the basis of the comments received, the transition period was set as at least 24 months.

Disallowance

This legislative instrument is subject to disallowance under Chapter 3, Part 2 of the *Legislation Act 2003*.

Sunsetting

This legislative instrument is exempt from sunseting. Schedule 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* (No. 158, 2015) lists as exempt, instruments made under section 104 or 105 (safety standards) of Schedule 2 (the Australian Consumer Law) to the *Competition and Consumer Act 2010*.

Statement of Compatibility with Human Rights

Prepared in accordance with subsection 9(1) of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview

The legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

This legislative instrument is a safety standard that specifies requirements for elastic luggage straps warning labels.

Human Rights Implications

The legislative instrument engages the right to health contained in Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)

Article 12 of the ICESCR recognises the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

The legislative instrument will promote these rights by requiring all elastic luggage straps meet minimum standards. This will minimise the risk of death, injuries to the face and head area and permanent blindness associated with use of elastic luggage straps.

Conclusion

The legislative instrument does not limit human rights and is compatible with human rights. It advances the protection of human rights by requiring suppliers to ensure the goods they supply comply with safety standards, minimising the risk of injury or death to users.