

## **REPLACEMENT EXPLANATORY STATEMENT**

Issued by the Authority of the Minister for Small Business

*Competition and Consumer Act 2010*

*Extension of the ban period for the interim ban on certain decorative alcohol fuelled devices*

### **Background**

Section 109(1)(b) of the Australian Consumer Law (ACL) which is Schedule 2 to the *Competition and Consumer Act 2010* (CCA), provides that a responsible Minister (including the Commonwealth Minister) may impose an interim ban on consumer goods where another responsible Minister has imposed an interim ban on consumer goods of the same kind, or on consumer goods of a kind that includes those goods, and the ban is still in force.

Section 111(1) of the ACL provides that an interim ban on consumer goods remains in force for a period of 60 days. Section 111(2) of the ACL provides that, before the ban period for the interim ban ends, the responsible Minister may, by written notice published on the internet, extend the ban period for the ban by a period of up to 30 days.

The Minister for Small Business signed an interim ban notice on certain decorative alcohol fuelled devices on 15 March 2017. The notice was registered on the Federal Register of Legislation on 16 March 2017. The interim ban came into force on the day after it was registered, on 17 March 2017.

The interim ban is available on the Federal Register of Legislation website at [www.legislation.gov.au/Details/F2017L00236](http://www.legislation.gov.au/Details/F2017L00236).

The interim ban applies to devices designed for domestic use producing a flame using alcohol as fuel, primarily for decorative purposes, but excludes each of the following:

- .1. those with a power output more than 4.5 kilowatts;
- .2. those that require installation in a fixed position;
- .3. those designed for food warming;
- .4. those with a dry weight of at least 8 kilograms and a footprint of at least 900 square centimetres and that satisfy one or more of the following:
  - (a) the device has a fuel tank that must be removed from the device for refuelling and the device displays a permanent, prominent legible warning with the following text:

**WARNING**

Filling an alcohol fuelled device while lit has caused severe burns.

You must remove the fuel tank from the device before refilling.

When refilling first check the flame is extinguished and that the device is cool.

or

- (b) the device is supplied with a fuel container that incorporates a flame arrestor and the device displays a permanent, prominent legible warning with the following text:

**WARNING**

Filling an alcohol fuelled device while lit has caused severe burns.

When refilling only use containers with a flame arrestor.

When refilling first check the flame is extinguished and that the device is cool.

**Extension of the interim ban on certain decorative alcohol fuelled devices**

The interim ban on certain decorative alcohol fuelled devices expires on 15 May 2017. To enable the ACCC to consider what, if any, longer term options for the regulation of certain decorative alcohol fuelled devices are appropriate to minimise the risk of injury to persons, the Minister for Small Business has extended the interim ban for a period of 30 days.

**Consultation**

Section 131E of the CCA provides that an interim ban made under section 109 of the ACL is a legislative instrument for the purposes of the *Legislation Act 2003*. Section 17 of the *Legislation Act 2003* provides that before a legislative instrument is made, the rule maker must be satisfied that there has been undertaken any consultation that is considered to be appropriate, and reasonably practicable to undertake.

No consultation has been undertaken before making the legislative instrument to extend the ban period for the interim ban for a period of 30 days. This is because extending the ban period is of a minor nature and does not significantly alter existing arrangements. Therefore, consultation was not considered appropriate or reasonably practicable to undertake.

**Commencement**

This legislative instrument commences on the day specified in the instrument.

**Disallowance**

This legislative instrument is not subject to disallowance due to section 44 of the *Legislation Act 2003*.

**Sunsetting**

This legislative instrument is not subject to sunsetting due to section 54 of the *Legislation Act 2003*.

**Period of effect**

This extension to the ban period for the interim ban on certain decorative alcohol fuelled devices is effective for a period of 30 days starting on 16 May 2017, unless revoked.