

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Small Business

Competition and Consumer Act 2010

Consumer Goods (Sunglasses and Fashion Spectacles) Safety Standard 2017

Overview

The Commonwealth Minister for Small Business (the Minister) has updated the mandatory safety standard for sunglasses and fashion spectacles.

The mandatory safety standard reduces the risk of eye disease, permanent vision loss and injuries associated with the use of sunglasses and fashion spectacles in several ways. It requires sunglasses and fashion spectacles to meet minimum design, construction, performance, and labelling requirements. Labelling allows consumers to select the right sunglasses for their needs, for example driving, and other requirements help protect from the harmful effects of glare and ultraviolet radiation (UVR). Long-term exposure to UVR increases the risk of cataracts and irreversible damage to the retina, eye inflammation, and eyelid cancers, with children being most at risk. Different categories of sunglasses provide varying levels of protection, and fashion spectacles provide limited protection.

Section 105 of the Australian Consumer Law (ACL) allows the Minister to declare a standard, or a part of a standard, prepared or approved by Standards Australia, as a mandatory safety standard for consumer goods. The updated mandatory safety standard for sunglasses and fashion spectacles incorporates updates in the voluntary Australian/New Zealand standard, AS/NZS1067.1 2016: *Eye and face protection - sunglasses and fashion spectacles*, on which the safety standard is based.

The updated mandatory safety standard adopts changes in the voluntary Australian/New Zealand (AS/NZS1067: 2016) which simplify testing requirements and closely align with international standards to reduce complexity for suppliers and test laboratories. Requirements from the voluntary standard which were previously excluded will continue to be excluded, where appropriate. Requirements have been excluded where they address non-safety related issues, where they are more properly addressed through provisions detailed in the Australian Consumer Law, or where they are redundant as they reference requirements particular to the voluntary Australian standard.

This mandatory safety standard comes into effect on the day after it is registered on the Federal Register of Legislation.

Repealed Standard

The previous safety standard for sunglasses and fashion spectacles was the *Trade Practices Act 1974* – Consumer Protection Notice No. 13 of 2003 – *Consumer Product Safety Standard: Sunglasses and Fashion Spectacles* (Federal Register of Legislation No. F2008C00606). The repealed mandatory safety standard was based on the 2003 version of AS/NZS 1067.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Requirements in the safety standard

The mandatory safety standard applies to sunglasses and fashion spectacles with the following definitions:

Australian standard means the Australian/New Zealand standard AS/NZS 1067.1:2016 *Eye and face protection - sunglasses and fashion spectacles* published by, or on behalf of, Standards Australia, as in force on the commencement of this instrument.

Sunglasses and fashion spectacles means:

- (a) spectacles comprising nominally afocal (plano power) filters mounted in a spectacle frame; or
- (b) individual nominally afocal (plano power) filters intended for use in sunglasses; or
- (c) rimless sunshields and one-piece visors; or
- (d) clip-on and slip-on type sunglasses; or
- (e) children's sunglasses; or
- (f) fashion spectacles/light tint sunglasses;

but does not include:

- (g) prescription and readymade spectacles; or
- (h) safety glasses and safety goggles intended to provide protection against optical radiation other than from the sun; or
- (i) eyewear for protection against radiation in solaria; or
- (j) eye protectors for sport; or
- (k) sunglasses for use as toys and clearly and legibly labelled as toys.

The new mandatory safety standard requires that sunglasses and fashion spectacles meets requirements based on the voluntary Australian/New Zealand standard AS/NZS1067.1: 2016 *Eye & face protection - sunglasses and fashion spectacles* (AS/NZS1067.1: 2016) as follows:

- construction and materials
- transmittance
- refractive power
- robustness
- resistance to solar radiation
- resistance to ignition
- protective requirements
- information and labelling.

Access to Australian and international standards

Where practicable, product safety instruments should only reference material that is readily accessible free-of-charge to the Australian public. However, as with the *Consumer Goods (Sunglasses and Fashion Spectacles) Safety Standard 2017*, many product safety instruments need to incorporate technical standards over which certain bodies have copyright. The Australian voluntary standard referenced in this instrument is available for purchase at the SAI Global website (<https://www.saiglobal.com>).

The Australian Competition and Consumer Commission (ACCC) can make a copy of the standards available for viewing at one of its offices, subject to licensing conditions.

Transitional arrangements

Suppliers may supply sunglasses and fashion spectacles which meet either the previous mandatory safety standard, or the updated mandatory safety standard, before 1 July 2019.

The previous mandatory safety standard is based on AS/NZS1067: 2003 as varied, with some minor changes. The updated mandatory safety standard is based on AS/NZS1067.1: 2016 as varied.

On and from 1 July 2019, suppliers must comply with only the updated mandatory safety standard.

Consultation

The ACCC conducted a review of the mandatory safety standard for sunglasses and fashion spectacles and recommended to the Australian Government Minister for Small Business that it be updated to reference changed requirements of AS/NZS1067.1: 2016.

The ACCC published a consultation paper for the review of the mandatory safety standard for public consultation, and circulated it to manufacturers, suppliers, government, injury prevention, industry and consumer groups.

The consultation was open from 28 September 2016 to 11 November 2016. The paper asked for comment on four policy options:

Option 1 Keep the current mandatory safety standard (status quo).

Option 2 Revoke the mandatory safety standard.

Option 3 Amend the mandatory safety standard by adopting sections of the updated voluntary Australian/New Zealand standard.

Option 4 Amend the mandatory safety standard by allowing compliance with either the updated voluntary Australian/New Zealand standard or trusted international standards.

The ACCC's preliminary position considered Option 3 to be the most effective option on the basis it would maintain safety, simplify the requirements by minimising the differences between the Australian and International standards, maintain the currency of the mandatory safety standard and not impose any additional burden for suppliers. The ACCC concluded that available international standards (Option 4) are not suitable due to differences in the level of UVR protection.

Thirty submissions were received from 27 stakeholders representing suppliers, manufacturers, industry associations, consumer advocates, injury prevention specialists, government agencies and ACL co-regulators. The majority of respondents (22 of 27) supported Option 3. Support for continued reliance on the Australian New Zealand standard and the higher requirements for UVR protection is because of concerns that the international

standards may not be sufficient for the higher levels of intensity and exposure to UVR in Australia compared to residents in the northern hemisphere at the same latitude.

Suppliers agreed that there would be little or no cost associated with the change. One supplier stated costs would be offset if an extended transition period were to be allowed.

Disallowance

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

Sunsetting

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

Regulation impact assessment

The Office of Best Practice Regulation advised a Regulation Impact Statement was not required.