

## EXPLANATORY STATEMENT

### *Consumer Goods (Motor Vehicle recovery Straps) Safety Standard 2017*

#### Overview

The Commonwealth Minister for Small Business (the Minister) has made a safety standard for motor vehicle recovery straps pursuant to section 104 of the Australian Consumer Law, which is Schedule 2 of the *Competition and Consumer Act 2010 (Cth)*.

The safety standard comes into effect on the day after it is registered on the Federal Register of Legislation. A transitional period of 24 months will apply during which suppliers may supply motor vehicle recovery straps that meet either the previous safety standard or the new safety standard. At the end of the 24 month transitional period suppliers will need to ensure they comply with the new safety standard.

The purpose of the safety standard is to reduce the risk of death and serious injuries resulting from the use of motor vehicle recovery straps. The previous standard was introduced in 2010 due to concerns about the safety of these products.

Since 2003, six Australians have been killed when motor vehicle recovery straps have been used to recover a bogged vehicle. These deaths have occurred when a person has incorrectly attached the motor vehicle recovery strap to a non-prescribed part of a vehicle. As a result incorrect attachment points (such as a tow bar) have sheared from the vehicle and lethally struck either a vehicle occupant or bystander.

#### Repealed Standard

The previous safety standard for motor vehicle recovery straps was the *Trade Practices (Consumer Product Safety Standard) (Motor Vehicle Recovery Straps) Regulations 2010*.

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 of the safety standard

This safety standard applies to motor vehicle recovery straps.

The safety standard has been updated to amend the warning label and user instructions to include pictograms, instructions for correct use and clearer statements about the hazards associated with incorrect use.

The safety standard includes the following definitions:

**gross vehicle mass**, for a motor vehicle, means the maximum loaded mass of the vehicle as stated:

- (a) on the compliance plate, registration certificate or build plate for the vehicle; or
- (b) in the handbook for the vehicle; or
- (c) in documentation for the vehicle available from the vehicle's manufacturer.

**minimum breaking strength**, for a motor vehicle recovery strap, means the minimum load necessary to cause the strap to fail.

**motor vehicle recovery strap** means a strap, commonly called a snatch strap, for attaching to a bogged vehicle to tow it clear of the bogged situation.

**transitional period** means the period of 24 months beginning on the day this instrument commences.

### **Transitional arrangements**

The instrument provides a transitional period of 24 months beginning on the day this instrument commences. During the transitional period suppliers must meet the requirements of either:

- the *Trade Practices (Consumer Product Safety Standard) (Motor Vehicle Recovery Straps) Regulations 2010*, or
- the *Consumer Goods (Motor Vehicle Recovery Straps) Safety Standard 2017*.

After the transitional period suppliers must meet the requirements of the *Consumer Goods (Motor Vehicle Recovery Straps) Safety Standard 2017*.

### **Consultation**

The Australian Competition and Consumer Commission (ACCC) published a consultation paper for motor vehicle recovery straps on 23 October 2016 closing on 26 November 2016. The paper detailed three policy options for dealing with the current mandatory safety standard:

Option 1 - Keep the current safety standard (status quo)

Option 2 - Remake the safety standard with improved safety warnings and instructions

Option 3 - Revoke the safety standard.

Eight submissions were received from a range of stakeholders, including an industry association, a motoring association, retailers and suppliers.

All eight stakeholders were in favour of option 2 – to remake the safety standard with improved warnings and instructions.

Stakeholders indicated that including pictograms in the warning label could be achieved at minimal cost provided an adequate transition period was provided.

### **Disallowance**

This legislative instrument is not subject to disallowance due to subsection 44(1) of the *Legislation Act 2003*.

### **Commencement**

This legislative instrument commences on the day after it is registered on the Federal Register of Legislation.

### **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*.

## **Regulation impact assessment**

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