

EXPLANATORY STATEMENT

Consumer Goods (Trolley Jacks) Safety Standard 2017

Overview

The Commonwealth Minister for Small Business (the Minister) has made a safety standard for trolley jacks pursuant to sections 104 and 105 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 will apply during which suppliers may supply trolley jacks that meet either the previous safety standard or the new safety standard. At the end of the 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 serious injuries and death resulting from the use of trolley jacks and associated products. The previous standard was introduced in 1985 due to concerns about the safety of these products.

Since the year 2000, five Australians have, on average, been killed at home from vehicles falling on them while they were performing maintenance underneath the vehicle. These deaths have been linked to incorrect use of lifting and support products (e.g. using a trolley jack without support stands) or using unstable and inappropriate alternatives such as bricks and wooden blocks.

Repealed Standard

The previous safety standard for trolley jacks was the *Trade Practices Act 1974* Consumer Protection Notice No 10 of 2008 – *Consumer Product Safety Standard for Trolley Jacks*.

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 new safety standard

The safety standard applies to all trolley jacks regardless of their nominated capacity as the 2500 kg upper capacity limit in the repealed standard has not been maintained in this standard.

Note: Trolley jacks with a nominated capacity over 2500 kg are not required to comply with the new safety standard until after the transitional period ends.

The safety standard includes the following definition for trolley jacks which is the same meaning as Australian Standard AS 2615:2016 *Hydraulic trolley jacks*:

Hydraulic trolley jack:

A jack mounted on a chassis which may have wheels and which is provided with a handle to position this equipment under the vehicle and includes hydraulic cylinders filled with hydraulic fluid to lift the vehicle.

The safety standard requires the supply of trolley jacks to comply with the updated voluntary Australian standard AS 2615:2016 *Hydraulic trolley jacks* (with variations listed in the legislative instrument).

Access to Australian standards

Where practicable, product safety legislative instruments only reference extrinsic material that is readily accessible for free by the public. However, as in the current case, many product safety legislative instruments need to incorporate extrinsic technical standards over which certain bodies have copyright. The Australian voluntary standards referenced in this instrument are available for purchase at SAI Global's 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

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

- the *Consumer Goods (Trolley jacks) Safety Standard 2017*, or
- the *Trade Practices Act 1974 - Consumer Protection Notice No 10 of 2008 – Consumer Product Safety Standard for Trolley Jacks*.

After the transitional period suppliers must meet the requirements of:

- the *Consumer Goods (Trolley jacks) Safety Standard 2017*.

Consultation

The ACCC published a combined consultation paper for trolley jacks, vehicle support stands and portable ramps for vehicles on 28 September 2016 closing on 18 November 2016. The paper detailed four policy options for dealing with the current mandatory safety standards:

Option 1 - Keep the current mandatory safety standards (status quo)

Option 2 - Accept the superseded and current voluntary Australian standards

Option 3 - Accept multiple trusted standards

Option 4 - Revoke the mandatory safety standards

Eleven submissions were received from suppliers, industry associations, test laboratories and individuals. Seven stakeholders supported maintaining the repealed safety standard (i.e. not adopting the updated Australian standard or international standards). Three stakeholders supported adopting the updated voluntary Australian standard and international standards, and one stakeholder supported adopting both the repealed and updated Australian standard.

Disallowance

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

Commencement

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

Sunsetting

The legislative instrument is exempt from sunsetting. 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.