

## EXPLANATORY STATEMENT

### *Consumer Goods (Button/Coin Batteries) Information Standard 2020*

#### Overview

In March 2019, the Commonwealth Assistant Treasurer issued a Safety Warning Notice about the dangers of button/coin batteries and in April 2019, requested that the Australian Competition and Consumer Commission (ACCC) expedite a regulatory impact assessment process for developing regulation to address button/coin battery safety.

The Commonwealth Assistant Treasurer (the Minister), has made an information standard for button/coin batteries pursuant to section 134 of the Australian Consumer Law (ACL), which is Schedule 2 of the *Competition and Consumer Act 2010* (Cth) (CCA).

This information standard has been introduced to reduce the risk of fatality and injury associated with the use of button/coin batteries. Button/coin batteries can cause severe injury and even death if swallowed, particularly for young children aged 0-5 years.

In Australia and globally, there is a growing record of serious injuries and deaths of children from button/coin batteries. In Australia, three children have tragically died as a result of swallowing a coin battery and there are an increasing number of young children suffering severe injuries following the ingestion or insertion of button/coin batteries. Globally, since 1977, there has been at least 66 deaths and thousands of exposures and injuries with some children sustaining lifelong injuries requiring ongoing treatments.

This instrument forms part of a package of safety and information standards to improve the product safety of consumer goods containing button/coin batteries, as well as button/coin batteries themselves. This information standard for button/coin batteries has been developed in conjunction with the following instruments:

- Consumer Goods (Button/Coin Batteries) Safety Standard 2020
- Consumer Goods (Products Containing Button/Coin Batteries) Safety Standard 2020
- Consumer Goods (Products Containing Button/Coin Batteries) Information Standard 2020.

The estimated cost to the Australian economy of button/coin battery related fatalities, injuries and exposures is at least \$47.5 million during a 10-year forecast period of 2022-2031.

Button/coin batteries are flat, round single cell batteries with a diameter of up to 32 mm which range in height from 1-11 mm. These batteries are referred to as button or coin batteries. In this information standard, they are collectively referred to as 'button/coin batteries'. Button/coin batteries generally operate using one of four chemistries: lithium, alkaline, silver oxide and zinc air. Lithium button/coin batteries pose the highest risk. Their typically larger diameter means they are more likely to become stuck in a child's oesophagus if ingested and their higher voltage means they can cause tissue damage more quickly.

Available data indicates that lithium button/coin batteries and other types of button/coin batteries with a diameter of 16mm and above pose the greatest risk and have been responsible for most severe injuries and fatalities.

## Purpose

The purpose of this information standard is to reduce the risk of death or serious injury to children by requiring warnings on button battery packaging.

Warnings are necessary when supplying button/coin batteries to alert consumers to the battery hazard and to provide relevant information so that appropriate action can be taken when it is suspected that a child has swallowed or inserted a button/coin battery.

## Requirements and best practice recommendations

This information standard includes warning requirements and best practice recommendations for button/coin battery packaging and button/coin batteries themselves. Button/coin battery packaging refers to all types of packaging or containers used when supplying button/coin batteries.

This information standard requires that packaging used to supply button/coin batteries be marked clearly with a warning. Text and symbol warnings are to be provided on the front panel of the packaging or container, allowing flexibility for certain detailed warnings to be provided on a secondary panel of the packaging.

This information standard requires lithium button/coin batteries with a diameter of 20mm or more to be marked with a “keep out of reach of children” symbol on the cell of the battery. This standard also recommends that, where size permits, lithium button/coin batteries with a diameter less than 20mm and other types of button/coin batteries of all sizes be marked with a “keep out of reach of children” symbol on the cell of the battery. The symbol should have a diameter of at least 6mm to ensure it is clearly visible.

This information standard recommends that button/coin batteries supplied via an electronic platform include a warning in the product description that is clearly visible, prominent and legible.

It also recommends that button/coin battery packaging be supplied with a warning containing the phone number for the Australian Poisons Information Centre and that button/coin batteries be supplied with advice about safe disposal.

This information standard includes examples of internationally recognised “keep out of reach of children” and safety alert symbols that can be included in warnings.

## Exemptions

This information standard does not apply to button/coin batteries supplied in bulk intended to be used in trades, professions or industries and which are not intended for sale to the general public. Button/coin batteries supplied in bulk are typically packed in trays and are used by professionals such as jewellers, watchmakers or services persons that install and replace batteries on behalf of consumers.

## Definitions

The definitions used in this information standard are set out in section 4 and include the following definitions:

- **Design Principles** means the International Standard *ISO 3864-2:2016 Graphical Symbols—Safety colours and safety signs—Part 2: Design principles for product safety labels*, published by the International Organization for Standardization, as in force or existing at the time when this instrument commences.

- **Primary Batteries Standard** means the International Standard *IEC 60086-4: 2019 Primary Batteries Part 4: Safety of lithium batteries*, published by the International Electrotechnical Commission, as in force or existing at the time when this instrument commences.

### **Access to Australian and international standards**

Where practical, 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, which means the standards must be purchased.

The Primary Batteries Standard could in 2020 be purchased from SAI Global's website (<https://www.saiglobal.com>).

The Design Principles could in 2020 be purchased from the International Organization for Standardization's website (<https://www.iso.org>).

The ACCC can also make a copy of these standards available for viewing at one of its offices, subject to licensing conditions.

### **Consultation**

Section 131E of the CCA provides that an information standard made under section 134 of the ACL is a legislative instrument for the purposes of the *Legislation Act 2003*. Section 17 of the *Legislation Act* requires that the rule maker should consult prior to making a legislative instrument.

The ACCC released an issues paper in August 2019 and received 32 submissions from stakeholders in response to questions in relation to the issue of button/coin battery safety and how the safety hazards posed by button/coin batteries should be addressed. The issues paper was a necessary first step in the regulatory assessment process due to the wide range of products likely to be affected by any mandatory standard.

The ACCC released a *Button Battery Safety - Assessment of regulatory options - consultation paper* in March 2020. The consultation paper sought stakeholder feedback on proposed regulatory options to reduce the likelihood of serious injuries resulting from child exposure to button/coin batteries. The ACCC received 67 submissions in response to the consultation paper from a broad range of stakeholders, including national and international representative bodies, medical experts, relevant government agencies, international product safety regulators and advocacy organisations.

In addition to the two formal consultation periods, the ACCC met individually with 43 key stakeholders and also distributed surveys to industry and health professionals.

The ACCC also notified the World Trade Organization (WTO) of proposed requirements for the button/coin battery related safety and information standards on 29 September 2020 under the WTO Agreement on Technical Barriers to Trade.

### **Disallowance**

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

### **Commencement**

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

## **Transitional arrangements**

This instrument provides a transitional period of 18 months, beginning on the day this instrument commences.

## **Sunsetting**

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

## **Regulation impact assessment**

The ACCC has self-certified that a process equivalent to that of a Regulation Impact Assessment has been undertaken. Office of Best Practice Regulation Ref. 25774

## **Details of the *Consumer Goods (Button/Coin Batteries) Information Standard 2020***

### **Part 1 - Preliminary**

#### Section 1 – Name

This section provides the title of the legislative instrument is the *Consumer Goods (Button/Coin Batteries) Information Standard 2020*.

#### Section 2 – Commencement

This section provides that the instrument commences on the day after it is registered.

#### Section 3 – Authority

This section provides that the information standard is made under section 134 of the ACL.

#### Section 4 – Definitions

This section provides the definitions of terms used in the information standard.

#### Section 5 – Meaning of internationally recognised “keep out of reach of children” symbol

This section provides a suitable example of an internationally recognised “keep out of reach of children” symbol referred to in the information standard.

#### Section 6 – Meaning of internationally recognised safety alert symbol

This section provides a suitable example of an internationally recognised safety alert symbol referred to in the information standard.

#### Section 7 – Application

This section provides that the information standard applies to button/coin batteries.

The section also provides that the information standard does not apply to button/coin batteries supplied in bulk intended to be used in trades, professions or industries and which are not intended for sale to the general public.

Suppliers must provide warnings on button/coin batteries if supplying to consumers, regardless of whether the batteries are deemed to be supplied in bulk.

## **Part 2 – Requirements**

### **Section 8 – Requirements to be complied with on and after application day**

This section provides that an applicable button/coin battery and its packaging must comply with the requirements of this information standard from the application day.

### **Section 9 – Warnings required on packaging of button/coin batteries**

This section identifies the warning requirements that button/coin battery packaging must comply with including the content and location of warnings.

The purpose of this requirement is to ensure that button/coin battery packaging provides consumers with clear and concise warnings about the hazards of these batteries.

### **Section 10 – Warnings must comply with size, legibility and durability standards**

This section identifies the size, legibility and durability requirements that button/coin battery packaging must comply with.

The purpose of this requirement is to ensure that warnings on button/coin battery packaging are clearly visible, legible and durable.

### **Section 11 – Certain lithium button/coin batteries must be marked with internationally recognised “keep out of reach of children” symbol**

This section provides the requirement that lithium button/coin batteries with a diameter of 20mm or more must be marked with an international recognised “keep out of reach of children” symbol on the cell of the battery. Lithium button/coin batteries with a diameter of 20mm or more pose the greatest risk and have been responsible for most severe injuries and fatalities.

## **Part 3 – Recommendations**

### **Section 12 – Purpose of this Part**

This section provides that the sections in Part 3 are recommendations and not requirements. Compliance with the sections in Part 3 is encouraged as best practice.

### **Section 13 – Button/coin batteries should be marked with internationally recognised “keep out of reach of children” symbol**

This section recommends that, where size permits, all button/coin batteries be marked with an internationally recognised “keep out of reach of children” symbol on the cell of the battery and is subject to the requirement in section 11. The symbol should have a diameter of at least 6mm to ensure it is clearly visible.

### **Section 14 – Button/coin batteries supplied with electronic platform should include warnings**

This section recommends that button/coin batteries supplied online should include a warning in the product description that is clearly visible, prominent and legible.

The purpose of this recommendation is to alert consumers to the button/coin battery hazard when purchasing these batteries online.

Section 15 – Contact information for Australian Poisons Information Centre should be included with button/coin batteries

This section recommends the phone number for the Australian Poisons Information Centre be provided with warnings on the button/coin battery packaging.

The purpose of this recommendation is to make available contact information on the packaging of button/coin batteries so that timely assistance may be sought by consumers in the event a child swallows or inserts a battery.

Section 16 – Advice about the safe disposal of button/coin batteries should be included with button/coin batteries

This section recommends advice on the safe disposal of button/coin batteries should be included with button/coin batteries.

The purpose of this recommendation is to make available advice on the packaging of button/coin batteries for the safe disposal of these batteries as old or spent batteries can still have enough residual charge to cause serious harm.