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FAIR TRADING ACT 2010

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**Consumer Goods
(Toys for Children up to and
including 36 Months of Age)
Safety Standard 2023**



Consumer Goods (Toys for Children up to and including 36 Months of Age) Safety Standard 2023

I, Stephen Jones, Assistant Treasurer and Minister for Financial Services, make the following safety standard.

Dated 29 August 2023.

Stephen Jones
Assistant Treasurer
Minister for Financial Services

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<i>Consumer Product Safety Standard: Toys for children up to and including 36 months of age</i> <i>(Consumer Protection Notice No. 14 of 2003) (Federal Register of Legislation No. F2008C00607)</i>	

PART 1—PRELIMINARY

1 Name

This instrument is the *Consumer Goods (Toys for Children up to and including 36 Months of Age) Safety Standard 2023*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	5 September 2023

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under subsection 104(1) of the Australian Consumer Law.

Note: The reference to the Australian Consumer Law is a reference to Schedule 2 to the *Competition and Consumer Act 2010* as it applies as a law of the Commonwealth, States and Territories: see section 140K of that Act and corresponding provisions of Acts of States and Territories applying that Schedule.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

In this instrument—

Australian/New Zealand Standard means the Australian/New Zealand Standard *AS/NZS ISO 8124.1:2023 Safety of toys Part 1: Safety aspects related to mechanical and physical properties*, published jointly by, or on behalf of, Standards Australia and Standards New Zealand, as in force or existing at the time when this instrument commences.

Note: The Australian/New Zealand Standard could in 2023 be purchased online from SAI Global (<https://www.saiglobal.com>) or Techstreet (<http://techstreet.com>). The Australian Competition and Consumer Commission can make a copy of the standard available for viewing at one of its offices, subject to licensing conditions.

children's toy: see subsection 6(2).

Electric Toy Standard means the Australian/New Zealand Standard *AS/NZS 62115:2018 Electric toys—Safety*, published jointly by, or on behalf of, Standards Australia and Standards New Zealand, as in force or existing at the time when this instrument commences.

Note: The Electric Toy Standard could in 2023 be purchased online from SAI Global (<https://www.saiglobal.com>) or Techstreet (<http://techstreet.com>). The Australian Competition and Consumer Commission can make a copy of the standard available for viewing at one of its offices, subject to licensing conditions.

European Standard means the European Standard *EN 71-1:2014+A1:2018: Safety of toys—Part 1: Mechanical and physical properties*, published by the European Committee for Standardization, as in force or existing at the time when this instrument commences.

Note: The European Standard could in 2023 be purchased online from SAI Global (<https://www.saiglobal.com>) or Techstreet (<http://techstreet.com>). The Australian Competition and Consumer Commission can make a copy of the standard available for viewing at one of its offices, subject to licensing conditions.

International Standard means the International Standard *ISO 8124-1:2022 Safety of toys—Part 1: Safety aspects related to mechanical and physical properties*, published by the International Organization for Standardization, as in force or existing at the time when this instrument commences.

Note: The International Standard could in 2023 be purchased online from SAI Global (<https://www.saiglobal.com>) or Techstreet (<http://techstreet.com>). The Australian Competition and Consumer Commission can make a copy of the standard available for viewing at one of its offices, subject to licensing conditions.

transitional period means the period of 18 months beginning on the day this instrument commences.

US Standard means the American Society for Testing and Materials Standard ASTM F963—17 Standard Consumer Safety Specification for Toy Safety, published by the American Society for Testing and Materials International, as in force or existing at the time when this instrument commences.

Note: The US Standard could in 2023 be purchased online from SAI Global (<https://www.saiglobal.com>) or Techstreet (<http://techstreet.com>). The Australian Competition and Consumer Commission can make a copy of the standard available for viewing at one of its offices, subject to licensing conditions.

6 Application of this instrument

- (1) This instrument applies to consumer goods that are children's toys.
- (2) A **children's toy** is an object that is manufactured, designed, labelled or marketed as a plaything for a child up to and including 36 months of age.
- (3) However, this instrument does not apply to the following—
 - (a) balloons;
 - (b) marbles;
 - (c) tapes and compact discs;
 - (d) books;
 - (e) writing materials (including crayons, chalk, pencils and pens);
 - (f) paints, paint brushes and other painting implements;
 - (g) modelling materials (including clay, plasticine and play dough);
 - (h) bicycles with a wheelbase of not less than 640mm;
 - (i) home and public playground equipment;
 - (j) goods supplied wholly or partially unassembled for assembly by an adult after supply if, were the goods to be assembled in accordance with instructions, the assembled goods would comply with Part 2;
 - (k) flotation toys;
 - (l) pacifiers;
 - (m) toys made wholly from highly porous material (except toys with pompoms);
 - (n) toys made from closed cell polyethylene, ethylene vinyl acetate or like material which are labelled with a warning that—
 - (i) is clearly visible, prominent and legible; and
 - (ii) is in a conspicuous position on the toy or, if the toy is displayed in packaging for retail sale, on a principal outer display face of the packaging in which the toy is displayed; and
 - (iii) contains the word "WARNING" in red upper case letters that are at least 5mm high and on a white background; and
 - (iv) contains the words "NOT SUITABLE FOR CHILDREN UNDER 3 YEARS AS FOAM PIECES MAY BREAK OFF AND CAUSE A CHOKING HAZARD" in red upper case letters that are at least 2.5mm high and on a white background.

7 Relationship with requirements of batteries standard

- (1) Subject to subsection (3), this section applies if—
 - (a) both this instrument and the *Consumer Goods (Products Containing Button/Coin Batteries) Safety Standard 2020* (the **second standard**) apply in relation to a children's toy; and
 - (b) a requirement under this instrument that applies in relation to the children's toy—
 - (i) deals with the same or substantially the same matter as a requirement under the second standard; or
 - (ii) achieves the same purpose as a requirement under the second standard.

Note: The *Consumer Goods (Products Containing Button/Coin Batteries) Safety Standard 2020* could in 2023 be viewed on the Federal Register of Legislation website (<https://www.legislation.gov.au>).

- (2) The requirement under this instrument does not apply in relation to the children's toy.

Note: A children's toy may also be subject to requirements under the *Consumer Goods (Button/Coin Batteries) Safety Standard 2020*, the *Consumer Goods (Button/Coin Batteries) Information Standard 2020* and the *Consumer Goods (Products Containing Button/Coin Batteries) Information Standard 2020*.

This section does not affect requirement to comply with modified subclause 13.4.1 of Electric Toy Standard

- (3) This section does not apply to the requirement in section 19 of this instrument (as applying under paragraphs 8(1)(a) to (d) or section 9).

PART 2—BASIC REQUIREMENTS**8 Requirements during the transitional period**

- (1) During the transitional period, a children's toy must comply with one of the following—
- (a) the requirements in section 10 (Australian/New Zealand Standard) and section 19 (Electric Toy Standard);
 - (b) the requirements in section 13 (European Standard) and section 19;
 - (c) the requirements in section 14 (International Standard) and section 19;
 - (d) the requirements in section 17 (US Standard) and section 19;
 - (e) the Consumer Product Safety Standard: Toys for children up to and including 36 months of age (Consumer Protection Notice No. 14 of 2003), as in force immediately before the commencement of this section.

Note 1: On request by the regulator, a supplier of children's toys may be required to nominate the applicable requirements under this subsection: see section 108 of the Australian Consumer Law.

Note 2: The Consumer Product Safety Standard: Toys for children up to and including 36 months of age (Consumer Protection Notice No. 14 of 2003) could in 2023 be viewed on the Federal Register of Legislation website (<https://www.legislation.gov.au>).

- (2) This section is repealed at the end of the last day of the transitional period.

9 Requirements after the transitional period

After the transitional period, a children's toy must comply with one of the following—

- (a) the requirements in section 10 (Australian/New Zealand Standard) and section 19 (Electric Toy Standard);
- (b) the requirements in section 13 (European Standard) and section 19;
- (c) the requirements in section 14 (International Standard) and section 19;
- (d) the requirements in section 17 (US Standard) and section 19.

Note: On request by the regulator, a supplier of children's toys may be required to nominate the applicable requirements under this section: see section 108 of the Australian Consumer Law.

PART 3—DETAILS OF REQUIREMENTS**10 Australian/New Zealand Standard**

A children's toy complies with the requirements in this section if the children's toy complies with each of the following provisions of the Australian/New Zealand Standard (as modified by sections 11 and 12) that applies in relation to the children's toy—

- (a) subclause 4.1.1;
- (b) clause 4.2;
- (c) subclause 4.4.1;
- (d) subclause 4.5.1;
- (e) subclause 4.5.2;
- (f) subclause 4.5.3;
- (g) subclause 4.5.4;
- (h) subclause 4.5.5;
- (i) clause 4.26.

Note: The provisions of the Australian/New Zealand Standard set out in this section specify requirements for children's toys by reference to testing standards set out in clause 5 of that Standard. Section 12 of this instrument sets out modifications to clause 5 of that Standard.

11 Australian/New Zealand Standard—general modifications

- (1) For the purposes of section 10, the Australian/New Zealand Standard is taken to be modified as set out in this section.
- (2) Subclauses 4.4.1, 4.5.1, 4.5.2, 4.5.3, 4.5.4 and 4.5.5 of the Australian/New Zealand Standard are modified by omitting "intended" wherever occurring.
- (3) Subclause 4.4.1 (heading), subclause 4.4.1 and paragraph 4.5.2(a) of the Australian/New Zealand Standard are modified by omitting "under 36 months" and substituting "up to and including 36 months".
- (4) Subclause 4.5.1.2 of the Australian/New Zealand Standard is modified by inserting "including teething necklaces" after the words "teething toys".
- (5) Subclause 4.5.2 of the Australian/New Zealand Standard is modified by omitting paragraph (b).
- (6) Clause 4.26 of the Australian/New Zealand Standard is modified by omitting paragraph (d).

- (7) Annex A of the Australian/New Zealand Standard is modified by—
- (a) inserting "Further information can be found in the Age Determination Guidelines issued by the United States Consumer Product Safety Commission." at the end of clause A.1; and
 - (b) omitting the last sentence of subclause A.4.1; and
 - (c) omitting subclause A.4.4.

12 Australian/New Zealand Standard—modifications to testing standards

- (1) For the purposes of section 10, the Australian/New Zealand Standard is taken to be modified as set out in this section.
- (2) Clause 5.1 of the Australian/New Zealand Standard is modified by—
- (a) omitting "from 18 months and over but under 36 months" and substituting "from 18 months up to and including 36 months"; and
 - (b) omitting "36 months and over but under 96 months"; and
 - (c) omitting "intended or appropriate for children under 96 months" and substituting "appropriate for children up to and including 36 months of age"; and
 - (d) omitting "intended" wherever occurring.
- (3) Clause 5.2 of the Australian/New Zealand Standard is modified by—
- (a) omitting "4.3.2 (expanding materials), 4.4 (small parts), 4.18.3 (projectile toys with stored energy)" and substituting "4.4 (small parts)"; and
 - (b) omitting "in any orientation" and substituting "in all possible orientations".
- (4) Clause 5.23 of the Australian/New Zealand Standard is modified by omitting "intended" wherever occurring.
- (5) Subclause 5.24.2 of the Australian/New Zealand Standard is modified by omitting "18 months and over but under 96 months" and substituting "from 18 months up to and including 36 months".
- (6) Subclause 5.24.7 of the Australian/New Zealand Standard is modified by—
- (a) omitting "under 36 months" and substituting "up to and including 36 months"; and
 - (b) repealing the table item dealing with the age category 36 months and over but under 96 months.

13 European Standard

A children's toy complies with the requirements in this section if the children's toy complies with each of the following provisions of the European Standard that applies in relation to the children's toy—

- (a) clause 5.1;
- (b) clause 5.8;
- (c) clause 5.10;
- (d) clause 5.11.

Note: The provisions of the European Standard set out in this section specify requirements for children's toys by reference to testing standards set out in other provisions of that Standard.

14 International Standard

A children's toy complies with the requirements in this section if the children's toy complies with each of the following provisions of the International Standard (as modified by sections 15 and 16) that applies in relation to the children's toy—

- (a) subclause 4.1.1;
- (b) clause 4.2;
- (c) subclause 4.4.1;
- (d) subclause 4.5.1;
- (e) subclause 4.5.2;
- (f) subclause 4.5.3;
- (g) subclause 4.5.4;
- (h) subclause 4.5.5;
- (i) clause 4.26.

Note: The provisions of the International Standard set out in this section specify requirements for children's toys by reference to testing standards set out in clause 5 of that Standard. Section 16 of this instrument sets out modifications to clause 5 of that Standard.

15 International Standard—general modifications

- (1) For the purposes of section 14, the International Standard is taken to be modified as set out in this section.
- (2) Subclauses 4.4.1, 4.5.1, 4.5.2, 4.5.3, 4.5.4 and 4.5.5 of the International Standard are modified by omitting "intended" wherever occurring.
- (3) Subclause 4.4.1 (heading), subclause 4.4.1 and paragraph 4.5.2(a) of the International Standard are modified by omitting "under 36 months" and substituting "up to and including 36 months".

- (4) Subclause 4.5.1.2 of the International Standard is modified by inserting "including teething necklaces" after the words "teething toys".
- (5) Subclause 4.5.2 of the International Standard is modified by omitting paragraph (b).
- (6) Clause 4.26 of the International Standard is modified by omitting paragraph (d).
- (7) Annex A of the International Standard is modified by—
 - (a) inserting "Further information can be found in the Age Determination Guidelines issued by the United States Consumer Product Safety Commission." at the end of clause A.1; and
 - (b) omitting the last sentence of subclause A.4.1;
 - (c) omitting subclause A.4.4.

16 International Standard—modifications to testing standards

- (1) For the purposes of section 14, the International Standard is taken to be modified as set out in this section.
- (2) Clause 5.1 of the International Standard is modified by—
 - (a) omitting "from 18 months and over but under 36 months" and substituting "from 18 months up to and including 36 months"; and
 - (b) omitting "36 months and over but under 96 months"; and
 - (c) omitting "intended or appropriate for children under 96 months" and substituting "appropriate for children up to and including 36 months of age"; and
 - (d) omitting "intended" wherever occurring.
- (3) Clause 5.2 of the International Standard is modified by—
 - (a) omitting "4.3.2,"; and
 - (b) omitting "4.18.3,"; and
 - (c) omitting "in any orientation" and substituting "in all possible orientations".
- (4) Clause 5.4 of the International Standard is modified by omitting "and 4.18.2".
- (5) Clause 5.23 of the International Standard is modified by omitting "intended" wherever occurring.
- (6) Subclause 5.24.2 of the International Standard is modified by omitting "18 months and over but under 96 months" and substituting "from 18 months up to and including 36 months".
- (7) Subclause 5.24.7 of the International Standard is modified by—
 - (a) omitting "under 36 months" and substituting "up to and including 36 months"; and
 - (b) repealing the table item dealing with the age category 36 months and over but under 96 months.

17 US Standard

A children's toy complies with the requirements in this section if the children's toy complies with each of the following provisions of the US Standard (as modified by section 18) that applies in relation to the children's toy—

- (a) subclause 4.6.1;
- (b) subclause 4.6.2;
- (c) subclause 4.20.2;
- (d) clause 4.22;
- (e) clause 4.23;
- (f) clause 4.24;
- (g) clause 4.27;
- (h) clause 4.32;
- (i) subclause 4.34.1;
- (j) clause 4.35.

Note: The provisions of the US Standard set out in this section specify requirements for children's toys by reference to testing standards set out in other provisions of that Standard.

18 US Standard—general modifications

- (1) For the purposes of section 17, the US Standard is taken to be modified as set out in this section.
- (2) Subclause 4.6.1 of the US Standard is modified by omitting "intended".

19 Electric Toy Standard

A children's toy complies with the requirements in this section if the children's toy complies with subclause 13.4.1 of the Electric Toy Standard (as modified by section 20).

20 Electric Toy Standard—general modifications

- (1) For the purposes of section 19, the Electric Toy Standard is taken to be modified as set out in this section.
- (2) Subclause 13.4.1 of the Electric Toy Standard is modified by omitting all of the words after "Batteries that fit wholly within the small parts cylinder as specified in 5.2 of ISO 8124-1:2014 shall not be removable without the aid of a tool".

SCHEDULE 1—REPEALS

Consumer Product Safety Standard: Toys for children up to and including 36 months of age (Consumer Protection Notice No. 14 of 2003) (Federal Register of Legislation No. F2008C00607)

1 The whole of the instrument

Repeal the instrument.
