



New South Wales

# Fair Trading (Product Safety Standards) Amendment (Disposable Cigarette Lighters) Regulation 1997

under the  
Fair Trading Act 1987

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Fair Trading Act 1987*.

Faye Lo Po' MP  
Minister for Fair Trading

## Explanatory note

The object of this Regulation is to provide a product safety standard for disposable cigarette lighters to accord with the *Trade Practices (Consumer Product Safety Standard) (Disposable Cigarette Lighters) Regulations* of the Commonwealth.

The Commonwealth Regulations set out the requirements for disposable lighters, including such matters as flame testing, structural safety, labelling and child resistance.

This Regulation is made under the *Fair Trading Act 1987*, including section 26 (Safety standards) and section 92 (the general regulation making power).

**1997 No 513**

Clause 1 Fair Trading (Product Safety Standards) Amendment (Disposable Cigarette Lighters Regulation 1997

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**Fair Trading (Product Safety Standards)  
Amendment (Disposable Cigarette Lighters)  
Regulation 1997**

**1 Name of Regulation**

This Regulation is the *Fair Trading (Product Safety Standards) Amendment (Disposable Cigarette Lighters) Regulation 1997*.

**2 Commencement**

This Regulation commences on 1 October 1997.

**3 Amendment of Fair Trading (Product Safety Standards) Regulation 1995**

The *Fair Trading (Product Safety Standards) Regulation 1995* is amended as set out in Schedule 1.

**4 Notes**

The explanatory note does not form part of this Regulation.

**Schedule 1 Amendment**

(Clause 3)

**Schedule 17**

Insert after Schedule 16:

**Schedule 17 Disposable cigarette lighters****Part 1 Preliminary****1 Definitions**

In this Schedule:

*adjustable lighter* means a lighter with provision for flame height adjustment.

*American Standard* means the Consumer Product Safety Standard for Cigarette Lighters (16 CFR 1210):

- (a) set out in Part 1210, Title 16 of the Code of Federal Regulations, and
- (b) published in the Federal Register of the United States of America, Volume 58, No 131, on 12 July 1993.

*customs value* for a device means the customs value determined for the device under section 159 of the *Customs Act 1901* of the Commonwealth.

*disposable lighter* see clause 2 (4).

*ex works agreement* means an agreement for the supply of goods under which the supplier's obligation to deliver the goods is fulfilled when the supplier makes the goods available to the buyer at the supplier's premises.

*indexed amount* see clause 16.

*lighter* see clause 2.

*non adjustable lighter* means a lighter with no provision for flame height adjustment.

*novelty lighter* see clause 2 (5).

*refillable lighter* see clause 2 (6).

*safe operation* means the operation of a lighter so that it:

- (a) does not spit or sputter, and
- (b) does not produce an abnormal or unsafe flame, and
- (c) cannot be operated easily by a young child.

*spit or sputter* for a flame produced by a lighter means the escape of liquid fuel from the lighter producing burning liquid droplets that separate from the flame.

*the Table* means the Table to this Schedule.

*young child* means an individual who is under 5 years.

## 2 Meaning of “lighter” and types of lighters

- (1) *A lighter* is a flame producing device that:
  - (a) is designed to light cigarettes, cigars and pipes, and
  - (b) is an eligible device.
- (2) For the purposes of subclause (1), a flame producing device is an *eligible device* if
  - (a) it is designed to be discarded when its fuel supply is exhausted, or
  - (b) it is designed to incorporate a separate container of fuel that is designed to be discarded when empty, or
  - (c) it is designed to have an entertaining audio or visual effect (other than production of a flame), or
  - (d) it is designed to depict or resemble, in physical form or function, an article commonly recognised as appealing to, or intended for use by, a young child.

*Examples of paragraph (c):*

Playing musical notes or displaying flashing lights.

*Examples of paragraph (d):*

A beverage, cartoon character, food, gun, musical instrument, toy, toy animal, watch or vehicle.

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- (3) For the purposes of subclause (1), a flame producing device is also an *eligible device* if
- (a) it is designed to be refilled with fuel, and
  - (b) it is imported into Australia after 30 September 1997, or it is not imported into Australia but is supplied by its manufacturer under an ex works agreement after that date, and
  - (c) its value is less than the relevant amount.
- (4) A *disposable lighter* is a lighter that is an eligible device mentioned in subclause (2) (a) or (b).
- (5) A *novelty lighter* is a lighter that is an eligible device mentioned in subclause (2) (c) or (d).
- (6) A *refillable lighter* is a lighter that is an eligible device mentioned in subclause (3).
- (7) For the purposes of subclause (3):
- relevant amount* means:
- (a) for a device imported into Australia before 1 October 2002—\$2, or
  - (b) for another device supplied by its manufacturer under an ex works agreement before 1 October 2002—\$2, or
  - (c) in any other case—the indexed amount.
- value* for a device means:
- (a) for a device imported into Australia—its customs value, or
  - (b) for another device—its supply price.

### 3 Safety standard

The product safety standard prescribed for lighters is that they must comply with the requirements of this Schedule.

## **Part 2 Flame testing, structural safety and labelling**

### **4 Application of this Part**

This Part does not apply to a lighter that:

- (a) is a novelty lighter, and
- (b) is not a disposable lighter or a refillable lighter.

### **5 Testing procedures**

When a lighter is tested in accordance with the procedures described in Part 2, 3, 4, 5 or 6 of the Table, the test must be performed in accordance with the procedures described in Part 1 of the Table.

### **6 Ignition and adjustment of flame**

- (1) A lighter must be designed so that deliberate action is necessary to ignite and sustain a flame.
- (2) An adjustable lighter must be designed so that deliberate action is necessary to adjust the height of the flame.

### **7 Abnormal burning**

A lighter, after being tested in accordance with Parts 4, 5 and 6 of the Table, must not, when tested in accordance with Parts 2 and 3 of the Table, spit or sputter or produce an abnormal or unsafe flame.

### **8 Flame height**

- (1) A lighter must comply with subclause (2) when tested in accordance with Part 2 of the Table:
  - (a) after being tested in accordance with Part 4 or 5 of the Table, or
  - (b) after being tested in accordance with Parts 4 and 5 of the Table.
- (2) For the purposes of subclause (1), the height of the flame produced by a lighter must not exceed:
  - (a) in the case of a non-adjustable lighter, 50 millimetres, and

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- (b) in the case of an adjustable lighter:
    - (i) where the lighter is adjusted to produce the maximum flame height, 150 millimetres, and
    - (ii) where the lighter is adjusted to produce the minimum flame height, 100 millimetres.
  - (3) If the flame height of an adjustable lighter has not been adjusted after being supplied in trade or commerce, the lighter must not, when first used after being supplied, produce a flame exceeding 125 millimetres in height.

#### **9 Flame extinction**

- (1) A lighter must comply with subclause (2) after being tested in accordance with the procedures described in Parts 3, 4 and 5 of the Table.
- (2) For the purposes of subclause (1) where:
  - (a) a non-adjustable lighter produces a flame for 10 seconds, or
  - (b) an adjustable lighter:
    - (i) produces a flame for 5 seconds at the maximum flame height adjustment, or
    - (ii) produces a flame for 10 seconds at the minimum flame height adjustment,

the flame produced must extinguish after cessation of the action sustaining the flame within two seconds if the lighter has no flameguard or four seconds if it has a flameguard.

#### **10 Structural safety**

- (1) A lighter must have no sharp external edges.
- (2) A lighter, when tested in accordance with Part 3, 4 or 5 of the Table, must not be damaged so as to affect its safe operation.
- (3) A lighter, when tested in accordance with Part 4 of the Table, must not spontaneously ignite.

- (4) The internal pressure of the fuel reservoir of a lighter when tested in accordance with Part 6 of the Table must not suddenly decrease.

### 11 Labelling

- (1) A lighter must incorporate (as a permanent part of the lighter) in a legible form:
- (a) the name or other identification of the manufacturer or distributor of the lighter, and
  - (b) where the lighter is an adjustable lighter, symbols indicating the direction in which force is to be applied to increase or decrease the flame height and the effect of the application of force in that direction.
- (2) In addition to subclause (1), either:
- (a) the following information that is enclosed by inverted commas must be displayed in a legible form on a lighter, or on an adhesive label that is affixed to the lighter:
    - (i) “WARNING” in capital letters and adjacent to the words that must be displayed under subparagraphs (ii)–(ix),
    - (ii) “KEEP AWAY FROM CHILDREN” or “KEEP OUT OF REACH OF CHILDREN”\* in capital letters,
    - (iii) “Ignite lighter away from face and clothing”,
    - (iv) “Never expose to heat above 50°C or to prolonged sunlight\*\*
    - (v) “Never puncture or put in fire”,
    - (vi) for a lighter that contains flammable gas under pressure—“Contains flammable gas under pressure”,
    - (vii) for a lighter that contains flammable liquid—“Contains flammable liquid”,

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- (viii) for a self-extinguishing lighter—"Be sure flame is out after use",
  - (ix) for a non-self-extinguishing lighter—"This lighter does not extinguish itself—close the cover to put out", or
- (b) if a lighter is contained in a package when it is sold at retail — the information in paragraph (a) must be displayed in a legible form on the package.

### **Part 3 Child resistance**

#### **12 Application of this Part**

This Part only applies to a lighter to which the American Standard would apply if the lighter were imported into the United States of America after 12 July 1994.

#### **13 Child resistance**

- (1) A lighter must be of a kind that has been:
  - (a) tested in the manner set out in section 1210.4 of the American Standard, and
  - (b) shown to be resistant to successful operation by at least 85 per cent of the child-test panel when tested in that manner.
- (2) The mechanism or system of a lighter that is designed or intended to make the lighter resistant to successful operation by at least 85 per cent of the child-test panel must:
  - (a) reset itself automatically after each operation of the ignition mechanism of the lighter, and
  - (b) not impair safe operation of the lighter when used in a normal and convenient manner, and
  - (c) be effective for the functional life of the lighter, and
  - (d) not be easily overridden or deactivated.

#### 14 Certification

A certificate of compliance, within the meaning of the American Standard, must have been issued for the lighter in accordance with that standard.

### Part 4 Indexation

#### 15 Definitions

In this Part:

*CPI number* means the All Groups Consumer Price Index number (that is the weighted average of the 8 capital cities) published by the Australian Statistician.

*earlier CPI number* means the CPI number for the July quarter in 1997.

*July quarter* means the 3 months starting on 1 July in a year.

*latest CPI number* means the CPI number for the July quarter in 2002.

#### 16 Indexed amount

- (1) The indexed amount is the amount worked out in accordance with the formula:

$$\frac{\$2 \times \text{latest CPI number}}{\text{earlier CPI number}}$$

- (2) If, apart from this subclause, the indexed amount under this clause would be an amount of dollars and cents, the amount is to be rounded to the nearest 25 cents, and if the amount to be rounded is 12.5 cents, rounded up.
- (3) If, at any time, whether before or after 1 October 1997, the Australian Statistician publishes for a particular July quarter a CPI number in substitution for a CPI number previously published by the Australian Statistician for the quarter, the publication of the later CPI number is to be disregarded for this clause.

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- (4) However, if, at any time, whether before or after 1 October 1997, the Australian Statistician changes the reference base for the Consumer Price Index, then in applying this clause after the change is made, regard is to be had only to numbers published in terms of the new reference base.

**Table Test procedures for lighters**

**Part 1 General test procedures**

- (1) The lighter must be maintained at a temperature of  $23\pm 2$  degrees Celsius for at least 10 hours immediately preceding testing in accordance with Parts 2, 3 and 4.
- (2) The area in which tests are carried out must be maintained at a temperature of  $23\pm 2$  degrees Celsius during testing in accordance with Parts 2, 4 and 5.
- (3) The lighter to be tested must be new, free of mechanical damage and must not (except where required by this Schedule) have been previously tested.

**Part 2 Flame height test procedures**

- (1) The test must be carried out inside a draft free chamber constructed from suitable non-flammable material. The flame height must be measured to the nearest 10 millimetres.
- (2) Adjustable lighters must be tested with the lighter adjusted to produce the maximum flame height and then with the lighter adjusted to produce the minimum flame height.
- (3) The lighter must produce a flame for a continuous 5 second period and the flame height must be determined by measuring from the tip of the flame to the top of the flameguard or to the base of the flame (in the case of a lighter that does not have a flameguard) by means of a board positioned at least 25 millimetres behind the lighter which is marked with 10 millimetre increments.

**Part 3 Inversion test procedures**

The lighter (adjustable lighters adjusted to produce a 50 millimetre flame) must be operated to produce a flame, for a continuous 10 second period in a draft free chamber, while being held at 45 degrees below the horizontal.

**Part 4 Drop test procedures**

- (1) The lighter must be allowed to fall three times onto a concrete surface from a point 1.5 metres above it, from the following positions:
  - (a) firstly, an upright position,
  - (b) secondly, an inverted position,
  - (c) thirdly, a horizontal position.
- (2) The lighter must be inspected after every fall and any spontaneous ignition or damage must be recorded.

**Part 5 Temperature test procedures**

- (1) An oven capable of withstanding the explosion of a lighter when being tested and of maintaining a temperature of  $54 \pm 2$  degrees Celsius must be used in the test.
- (2) The lighter must be placed in the oven for four hours during which time the oven temperature must be maintained at  $54 \pm 2$  degrees Celsius.
- (3) The lighter when removed from the oven must, when cool, be tested in accordance with Part 3.

**Part 6 Pressure test procedure**

- (1) The test apparatus must consist of a device capable of producing gauge pressure of 2 (MPa).
- (2) The lighter must be emptied of fuel.
- (3) The fuel reservoir of the lighter must be subjected to an internal pressure equal to twice the vapour pressure at 54 degrees Celsius of the fuel normally used in the lighter. The pressure rise must not exceed a rate of 69 kPa per second.