



New South Wales

Fair Trading Amendment (Lead in Toys) Regulation 2010

under the

Fair Trading Act 1987

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

VIRGINIA JUDGE, MP
Minister for Fair Trading

Explanatory note

The object of this Regulation is to amend the *Fair Trading Regulation 2007* to reinstate (with minor changes) Division 8 of Part 2 of that Regulation, as substituted by the *Fair Trading Amendment (Children's Toys) Regulation 2010*, and to insert a separate Division that will apply the product safety standard prescribed for the amount of lead and other toxic elements contained in certain toys. That product safety standard will apply to toys that are designed or clearly intended for use in play by children.

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

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Clause 1 Fair Trading Amendment (Lead in Toys) Regulation 2010

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1 Name of Regulation

This Regulation is the *Fair Trading Amendment (Lead in Toys) Regulation 2010*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Fair Trading Regulation 2007

Part 2 Product safety standards

Omit Division 8. Insert instead:

Division 8 Children's toys

29 Definitions

In this Division:

AS/NZS ISO 8124.1:2002 means the Australian/New Zealand Standard entitled AS/NZS ISO 8124.1:2002, *Safety of toys, Part 1: Safety aspects related to mechanical and physical properties* as published jointly by Standards Australia and Standards New Zealand and as in force on 16 May 2002.

children's toys means toys for children under 3 years of age, being objects or groups of objects manufactured, designed, labelled or marketed as playthings for a child or children of an age less than 3 years, including but not limited to:

- (a) rattles, toy dummies, teething rings and squeeze toys, and
- (b) toys to be affixed to a crib, stroller, playpen or baby carriage, and
- (c) pull and push toys, pounding toys, blocks and stacking toys, and
- (d) toys for use in bath-tubs, and
- (e) rocking, spring and stick horses and other figures, and
- (f) musical chime toys and jacks-in-the-box, and
- (g) stuffed, plush and flock animals and other figures, and
- (h) toys with pompoms, and
- (i) games, puzzles and dolls, and
- (j) toy cars, trucks and other vehicles,

but not including:

- (k) balloons, marbles, tapes and compact discs, or
- (l) books, or
- (m) writing materials, including crayons, chalk, pencils and pens, or
- (n) paints (including finger paints and water paints), paint brushes and other painting implements, or

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- (o) modelling materials, including clay, plasticine and play-dough, or
- (p) flotation aid toys, or
- (q) pacifiers, or
- (r) bicycles having a wheelbase of at least 640 millimetres, or
- (s) toys that are made wholly from highly porous fabric material such as cheesecloth, except toys with pompoms, or
- (t) playground equipment for parks, schools and domestic use (including swings, see-saws, slides, agility apparatus, climbing, swinging, rotating and rocking apparatus, cubby houses, sand pits, apparatus for use in sand, sliding poles and ladders), or
- (u) goods supplied in a wholly or partially unassembled state for assembly by an adult after supply, provided that, when assembled in accordance with the instructions supplied in writing with the goods, the goods comply with the requirements of this Division, or
- (v) toys made from closed cell polyethylene, ethylene vinyl acetate or like material with the word “WARNING” in red upper case letters at least 5 millimetres high on a white background adjacent to 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 at least 2.5 millimetres high on a white background marked legibly in a conspicuous position:
 - (i) on the toys, or
 - (ii) if the toys are displayed in packaging for retail sale—on a principal outer display face of the packaging in which the toys are displayed.

Note. Guidance for establishing age grades within the scope of the consumer product safety standards prescribed in this Division can be found in Annex B of AS/NZS ISO 8124.1:2002. Guidance is also available in the publication issued by the United States Consumer Product Safety Commission (CPSC) *Age Determination Guidelines: Relating Children’s Ages To Toy Characteristics and Play Behavior*. The most recent edition of this publication is available from the CPSC site on the Internet and can be downloaded free of charge (www.cpsc.gov).

30 Safety standard

The product safety standard prescribed for children’s toys is that they must comply with AS/NZS ISO 8124.1:2002.

31 Variation of AS/NZS ISO 8124.1:2002

For the purposes of this Division, AS/NZS ISO 8124.1:2002 is taken to have been amended as follows:

- (a) by omitting clauses 1 and 2,
- (b) by omitting from clause 3.21 the words “or damage to property or the environment”,
- (c) by omitting clauses 3.52 and 4.3,
- (d) by omitting from clause 4.4.1 the word “intended” where firstly occurring,
- (e) by omitting clause 4.4.2,
- (f) by omitting from clause 4.5.1 the word “intended” where firstly occurring,
- (g) by omitting from paragraph (a) of clause 4.5.2 the word “intended”,
- (h) by omitting paragraph (b) of clause 4.5.2,
- (i) by omitting from clause 4.5.3 the word “intended”,
- (j) by omitting from clause 4.5.4 the word “intended”,
- (k) by omitting from clause 4.5.5 the word “intended”,
- (l) by omitting the note to clause 4.5.5,
- (m) by omitting clauses 4.5.6–4.24, 4.25 (d), 4.26 and 4.27,
- (n) by omitting from clause 5.1 the matter “36 months and” and by inserting instead the matter “36 months.”,
- (o) by omitting from clause 5.1 the following matter:
 - from 37 months up to and including 96 months of age.
- (p) by omitting from clause 5.1 the words “intended or appropriate for children up to and including 96 months” and by inserting instead the words “appropriate for children up to and including 36 months”,
- (q) by omitting from clause 5.1 the words “Toys reasonably intended to be assembled by an adult and not intended to be taken apart by a child shall be tested only in the assembled state if the packaging and the assembly instructions prominently indicate that the article is to be assembled only by an adult.”,
- (r) by omitting from the heading to clause 5.2 the matter “4.3.2, 4.4, 4.18.2” and by inserting instead the matter “4.4”,

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- (s) by omitting from clause 5.2 the words “any orientation” and by inserting instead the words “all possible orientations”,
- (t) by omitting clauses 5.7–5.19, 5.21 and 5.22,
- (u) by omitting from clause 5.23 the word “intended”,
- (v) by omitting note 1 to clause 5.23,
- (w) by omitting from clause 5.24.1 the words “Unless otherwise stated, these tests are only applicable for toys intended for children up to and including 96 months.”,
- (x) by omitting from Table 4 to clause 5.24.2 the matter “96” and by inserting instead the matter “36”,
- (y) by omitting clause 5.24.4,
- (z) by omitting from clause 5.24.6.2 the word “beanbags” and by inserting instead the words “beanbag-type toys (ie a toy that contains plastic pellets, beads, polystyrene balls or similar materials)”,
- (aa) by omitting clause 5.24.6.4,
- (ab) by omitting from clause 5.24.7 the words “according to the age group for which the toy is intended”,
- (ac) by omitting from Table 5 to clause 5.24.7 the row applying to the age category of 37 months up to and including 96 months,
- (ad) by omitting from clause 5.24.7 the words “required force” and by inserting instead the words “force in Table 5”,
- (ae) by omitting clause 5.24.8,
- (af) by omitting Annex A.1, A.2.1 and A.2.2,
- (ag) by omitting from Annex A.2.3 the words “The batteries shall not be accessible when tested according to 5.7 (accessibility of a part or component).”,
- (ah) by omitting Annex A.2.4–A.2.10,
- (ai) by omitting from Annex B.1 the matter “[12]” and by inserting instead the words “the publication issued by the United States Consumer Product Safety Commission (CPSC) *Age Determination Guidelines: Relating Children’s Ages To Toy Characteristics and Play Behavior*”,
- (aj) by omitting from Annex B.4.1 the words “Age grades are indicators of average development, which does not necessarily reflect suitability for the exceptional child.

A parent remains the best judge of whether the child is at the appropriate development stage for safe play with a particular toy.”,

- (ak) by omitting Annexes B.4.4, C and D,
- (al) by omitting Annex F, the Bibliography and Appendix ZZ.

Division 8AA Lead and other elements in toys

31AA Definitions

In this Division:

AS/NZS ISO 8124.3:2003 means the Australian/New Zealand Standard entitled AS/NZS ISO 8124.3:2003, *Safety of toys, Part 3: Migration of certain elements* as published jointly by Standards Australia and Standards New Zealand and as in force on 23 May 2003.

toys means products supplied new that are designed or clearly intended for use in play by children, but does not include the following:

- (a) sporting goods,
- (b) camping goods,
- (c) bicycles,
- (d) home and public playground equipment,
- (e) trampolines,
- (f) electronic game units,
- (g) models powered by combustion or steam engines,
- (h) fashion jewellery for children.

31AB Safety standard

The product safety standard prescribed for toys is that they must comply with AS/NZS ISO 8124.3:2003.

31AC Variation of AS/NZS ISO 8124.3:2003

For the purposes of this Division, AS/NZS ISO 8124.3:2003 is taken to have been amended by omitting “When appropriate, the toy shall be subjected to relevant tests in accordance with ISO 8124–1, before the accessibility is considered.” from clause 7.