

EXPOSURE DRAFT



Attachment 1

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Consumer Goods (Toys for Children up to and including 36 Months of Age) Safety Standard 2022

I, Michael Sukkar, Assistant Treasurer, Minister for Housing and Minister for Homelessness, Social and Community Housing, make the following instrument.

Dated 2022

Michael Sukkar [**DRAFT ONLY—NOT FOR SIGNATURE**]

Assistant Treasurer, Minister for Housing and Minister for Homelessness, Social and Community Housing

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Preliminary **Part 1**

Section 1

Part 1—Preliminary

1 Name

This instrument is the *Consumer Goods (Toys for Children up to and including 36 Months of Age) Safety Standard 2022*.

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.	

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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 8124.1:2019 Safety of toys Part 1: Safety aspects related to mechanical and physical properties*, published jointly by, or on behalf of,

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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 2021 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 means a consumer good that is designed or intended for use in play by a child of 36 months of age or younger.

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 2021 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 2021 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 8124-1:2018 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 2021 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 2021 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

- (1) This instrument applies to children's toys.

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- (2) Without limiting subsection (1), children's toys include the following:
- (a) rattles, toy dummies, teething rings and squeeze toys;
 - (b) toys to be attached to a crib, stroller, playpen or baby carriage;
 - (c) pull and push toys;
 - (d) pounding toys;
 - (e) blocks and stacking toys;
 - (f) toys for use in a bath tub;
 - (g) rocking, spring and stick horses and figures;
 - (h) musical chime toys;
 - (i) jacks-in-the-box;
 - (j) stuffed, plush and flocked animals and figures;
 - (k) toys with pompoms;
 - (l) games;
 - (m) puzzles;
 - (n) dolls;
 - (o) toy cars, trucks and other vehicles.
- (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, provided that, when assembled in accordance with instructions, the goods comply with the specified standards;
 - (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

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CHOKING HAZARD' in red upper case letters that are at least 2.5mm high and on a white background.

7 Relationship of standards

- (1) This section applies if:
 - (a) both this standard 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 standard that applies in relation to the toy either:
 - (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 2021 be viewed on the Federal Register of Legislation website (<https://www.legislation.gov.au>).

- (2) The requirement under this standard does not apply in relation to the 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*.

Part 2—Basic requirements

8 Requirements during the transitional period

- (1) During the transitional period, a children's toy must comply with either:
- (a) one of the following:
 - (i) the requirements in sections 10 and 16 (Australian/New Zealand Standard);
 - (ii) the requirements in sections 12 and 16 (European Standard);
 - (iii) the requirements in sections 13 and 16 (International Standard);
 - (iv) the requirements in sections 15 and 16 (US Standard); or
 - (b) 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 paragraph (a): 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 2021 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 sections 10 and 16 (Australian/New Zealand Standard);
- (b) the requirements in sections 12 and 16 (European Standard);
- (c) the requirements in sections 13 and 16 (International Standard);
- (d) the requirements in sections 15 and 16 (US Standard).

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.

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Part 3 Details of requirements

Section 10

Part 3—Details of requirements

10 Australian/New Zealand Standard

- (1) A children’s toy complies with the requirements of this section if the toy complies with each provision of the Australian/New Zealand Standard set out in subsection (3) that applies in relation to the toy.
- (2) The requirements are modified as described in subsection (3), and are affected by modifications to the Australian/New Zealand Standard set out in section 11.
- (3) For the purposes of subsection (1), the provisions of the Australian/New Zealand Standard are:
 - [(aa) clause 3, as modified by subsection (3A);]*
 - (a) clause 4.1;
 - (b) clause 4.2;
 - (c) subclause 4.4.1, as modified by subsections (4) and (5);
 - (d) subclause 4.5.1, as modified by subsections (4) and (6);
 - (e) subclause 4.5.2, as modified by subsections (4) and (7);
 - (f) subclause 4.5.3, as modified by subsection (4);
 - (g) subclause 4.5.4, as modified by subsection (4);
 - (h) subclause 4.5.5, as modified by subsection (4);
 - (i) clause 4.26, as modified by subsections (4) and (8).
 - [(3A) Clause 3 is modified by:*
 - (a) omitting clauses 3.2, 3.3, 3.13, 3.40, 3.41, 3.42, 3.49, 3.50, 3.51 and 3.69;*
and
 - (b) by omitting “or damage to property or the environment” in clause 3.30.]*
- (4) Clause 4.26 and 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.
- (5) Subclause 4.4.1 (heading) and subclause 4.4.1 of the Australian/New Zealand Standard are modified by omitting “under 36 months” and substituting “up to and including 36 months”.
- (6) Subclause 4.5.1 of the Australian/New Zealand Standard is modified by inserting “including teething necklaces” after the words “teething toys”.
- (7) Subclause 4.5.2 of the Australian/New Zealand Standard is modified by omitting paragraph (b).
- (8) Clause 4.26 of the Australian/New Zealand Standard is modified by omitting paragraph (d).

11 Modifications to testing standards—Australian/New Zealand Standard

- (1) 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” substituting “intended or appropriate for children up to and including 36 months of age”; and
 - (d) omitting “intended” wherever occurring.
 - (2) Clause 5.2 of the Australian/New Zealand Standard is modified by omitting “in any orientation” and substituting “in all possible orientations”.
 - (3) Clause 5.23 of the Australian/New Zealand Standard is modified by omitting “intended” wherever occurring.
 - (4) 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.
- [(5) Annex A is modified by:*
- (a) inserting “Further information can be found in the publication issues by the United States Consumer Product Safety Commission Age Determination Guidelines’ at the end of clause A.1; and*
 - (b) omitting the last sentence of clause A.4.1;*
 - (c) omitting clause A.4.4.]*

12 European Standard

- (1) A children’s toy complies with the requirements in this section if the toy complies with each of the following provisions of the European Standard that apply in relation to the toy:
 - (a) clause 4.11;
 - (b) clause 4.22;
 - (c) clause 5.1;
 - (d) clause 5.10;
 - (e) clause 5.11.

13 International Standard

[ACCC: To be drafted]

14 Modifications to testing standards—International Standard

[ACCC: To be drafted]

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Part 3 Details of requirements

Section 15

15 US Standard

- (1) A children's toy complies with the requirements in this section if the toy complies with each of the following provisions of the US Standard that apply in relation to the toy:
 - (a) subclause 4.6.1, as modified by subsection (2);
 - (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.
- (2) Subclause 4.6.1 is modified by omitting "intended".

16 Electric Toy Standard

- (1) A children's toy complies with the requirements in this section if the toy complies clause 13.4.1 of the Electric Toy Standard, as modified by subsection (2).
- (2) Clause 13.4.1 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".

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Details of requirements **Part 3**

Section 16

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.