Product safety standards

Know your responsibilities as a trader

This guide provides a short summary of the product safety regulations and standards. For more information, see www.comcom.govt.nz
Product safety standards
The Commerce Commission enforces product safety standards that are set by regulation under the Fair Trading Act which relate to:
→ children’s toys
→ cigarette lighters
→ children’s nightwear
→ baby walkers
→ household cots
→ pedal bicycles.

Why are there product safety standards?
Product safety standards are set by regulation to prevent or reduce the risk of injury, particularly to children. Each individual product safety standard has different requirements.

What are product safety regulations and what are product safety standards?
Product safety regulations set product safety standards that products must comply with. They describe how some products must be designed, made, packaged and tested. Some also describe warnings and instructions that must be included when some products are sold. Failure to comply with these standards breaches the Fair Trading Act and is illegal.

Product safety regulations currently in force set product safety standards by identifying all, or parts, of an official safety standard that must be complied with. Official safety standards are set by Standards New Zealand or equivalent overseas agencies. You are obliged to comply with the official safety standard, or parts of the official safety standard identified as a product safety standard by the regulations. Product safety standards set by the regulations are not always the same as official safety standards.

Product safety regulations, and the product safety standards they set, are often updated when new official standards are introduced, but this may not happen at the same time. Sometimes, the regulations still require you to comply with an older official standard that is different from the most recent official standard applying to the same product. Make sure you know which official standard you need to comply with by checking the regulations at www.legislation.govt.nz.

Even if the regulations do not require you to comply with the most recent official standard, we encourage you to look at that safety standard and to adopt any additional product safety protections, even if they are not required by the existing regulation.

Supplying or selling products that do not meet product safety regulations is illegal.

We use the term “product safety standard” in this guideline to refer to the official safety standard, or parts of the official safety standard, that are identified by the regulations.

Who is responsible for ensuring these products meet their safety standard?
If a product safety standard applies to products you are selling, you are responsible for ensuring your products comply with the standard. You cannot assume the product meets the product safety standard just because a supplier is offering to supply the product to you.

If you have any doubts about the safety of a product, do not sell the product. You can ask the supplier to provide information and evidence of safety tests, such as certificates. You can also carry out safety tests yourself. Ultimately, you must be satisfied that the products you sell comply with any applicable product safety standard.
Children’s toys

This product safety standard helps prevent small children hurting themselves by choking while playing with a toy. Children under the age of 36 months are less able to cough up anything they swallow and may choke if they inhale a part of a toy when they are playing with it. The standard will apply if the toy has characteristics that will appeal to a child up to 36 months of age.

The standard applies to any person selling new or second-hand toys in trade. The standard also covers the supply of toys as ‘give-aways’ such as prizes at side-show stalls, toys which are gifts when buying other goods, and toys given away in breakfast cereal packets.

Children’s toys must not have parts that are small enough for a child to swallow. Children’s toys must not have parts that break off or can be removed by a child during normal use. This applies even when children play with the toy in a destructive manner. The product safety standard provides detailed information about how to decide whether a toy complies with these requirements.

Children’s toys must not contain lead. Any toys containing lead, including toys with lead paint, are banned under an Unsafe Goods Notice, which is explained in a later section in this guide.

Labels cannot be used to avoid following the product safety standard for toys for young children.

For example, even if a label saying ‘Not for children under 36 months of age’ is put on a toy intended for an older child, the toy must still meet the product safety standard if it is a toy that a small child could be expected to be interested in playing with.

What is the Commerce Commission’s role?

The Commerce Commission enforces product safety standards that are set by regulation under the Fair Trading Act. We take action if we find a person or a business has breached any of the product safety standards.

We do not set the product safety standards identified by regulations or decide which products need to comply with them. For more information on that, visit www.mbie.govt.nz.

Who sets the product safety standards?

The product safety standards are set by Standards NZ or equivalent overseas agencies.

You can purchase a copy of any of the products standards from Standards New Zealand by calling 0800 782 632 or visit www.standards.co.nz.
Cigarette lighters
This product safety standard is to prevent accidental fires caused by cigarette lighters that are unsafe, do not work properly or are used incorrectly, particularly by children. To reduce the risk of accidents, lighters must meet certain performance, design and labelling standards. Lighters must be designed to ensure most children would not be able to operate them.

The standard applies to all new and second-hand:
→ disposable cigarette lighters; and
→ refillable lighters with a customs value of less than $3.50.

A customs value is the value of a product at the point of import or export and may be different from the product’s retail value. You can check the customs value of goods with Customs New Zealand.

A certificate of compliance with aspects of the product safety standard intended to protect children is required. You should request one from your supplier to ensure that lighters you are selling comply with the product safety standard. It is illegal to sell a lighter that does not have a certificate of compliance.

Children’s nightwear
This product safety standard intends to help reduce the risk of children being injured if their nightwear accidentally catches on fire. It requires all new and used clothing suitable for children to wear as nightwear to be made of fabric that is less likely to burn or to have a fire hazard information label. Clothing made from fabrics that are too highly flammable must not be supplied.

What are the fire hazard information labelling requirements?
Children’s nightwear covered by the standard that must carry a fire hazard information label are garments sizes 00-14 and includes: pyjamas, nightdresses and nighties, some nightwear all-in-ones, nightshirts, dressing gowns, bathrobes, loose style boxer shorts, infant sleepbags with sleeves or arm openings and blankets or towels that incorporate sleeves or arm openings.

The colour of and wording required to be put on the label depends on the design of the garment and the type of fabric it is made from. The standard also specifies the type and size of the font, and the size of the symbol for the label.
**Baby walkers**

This product safety standard helps prevent injury to children when using a baby walker. Baby walkers allow children who cannot walk to move around faster, further and in different ways than they are able to on their own. As a result, children may hurt themselves when using a baby walker. To reduce this risk, all baby walkers must meet the safety standards for design, construction and performance, and pass safety tests. They must also be labelled with warnings about how to use them safely.

A baby walker is a frame on wheels that supports a child who cannot walk on their own. When in use, the child is inside the frame and their feet touch the ground. The child’s movement moves the baby walker.

The standard applies to any new or used baby walkers offered for sale in New Zealand.

Before you offer a baby walker for sale, you should ask your supplier for safety test results to ensure the baby walker meets the product safety standard. Ultimately, you must be satisfied that any baby walkers you sell comply with the product safety standard.

**Household cots**

This product safety standard helps prevent babies and young children from injury or death as a result of an unsafe cot.

The standard provides information about requirements and tests for materials, design, construction, performance and labelling of household cots. For example, one requirement specifies that the amount of space between bars in a cot must be between 50-95mm. This requirement is to prevent injury to babies and young children from falling through or becoming stuck in these gaps. The full list of requirements and tests is given in the product safety standard.

New and second-hand cots made for a baby or young child to sleep in at home must meet the product safety standard. The standard also applies to cots used outside the home, for example in a hotel, that are the same as those used in a home.

Any supplier or individual selling cots should ensure the cots meet the product safety standard. This includes sellers who are not in trade.

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**White label**

Children’s nightwear made from low fire hazard fabrics and those that are snug fitting must be marked with the white label.

**Red label**

Children’s nightwear having a higher fire hazard risk must be marked with the red fire hazard information label.
Pedal bicycles

This product safety standard helps prevent injuries to cyclists from using unsafe bicycles. This standard also ensures cyclists are given the right safety information and safety warnings so they can use the bicycle correctly and reduce the risk of accidents.

In addition, every bicycle must meet labelling and warning requirements. For example, it must be permanently marked with the name and address of the manufacturer or supplier.

Bicycles that are partially assembled must come with a warning that recommends the bicycle is assembled by a skilled bicycle mechanic. Bicycles that look like a stunt or off-road bicycle, but are not made to perform like one, must have a warning label stating that the bicycle is not designed for off-road use or for stunts.

Bicycles must also be provided with an owner’s manual that has clear instructions for assembly, use, maintenance and repair.

It is illegal to supply or sell a bicycle that does not comply with the standard. A manufacturer may carry out the required tests and place warning labels on the bicycles they supply. Ask your supplier to provide proof that the bicycles they are supplying have passed all the necessary tests set out in the product safety standard. However, you are ultimately responsible for making sure the bicycles you offer for sale are safe.

You should ensure that any bicycle you are supplying, selling or advertising to sell complies with the standard.

The standard applies to many types of new bicycles, including ones that are partially assembled. Second-hand bicycles are exempt from the standards. A full list of bicycles that are covered or exempt is given in the standard.

Bicycles covered by the standard must meet the design and performance requirements in the product safety standard.

How do I know if my product meets the testing set out in a product safety standard?

The product safety standard may require certain products to be tested. The product must pass these tests. We recommend testing be done by a laboratory that is internationally qualified and recognised to perform the testing to the specific standard. This ensures that any testing done meets the requirements of the standard, the results are reliable and the certificate is acceptable.
What happens if I sell a product that does not comply with the safety standard?

If a product you are selling or advertising to sell does not meet the product safety standard specified in the regulations, you are at risk of breaking the law under the Fair Trading Act. Any person that is found guilty of breaking the law under the Fair Trading Act can be fined up to $200,000. Businesses found guilty of not following the law can be fined up to $600,000.

Unsafe Goods Notices

The Minister of Consumer Affairs may declare goods unsafe where it appears they may cause injury. You need to ensure you do not supply any product that has been banned by an unsafe goods notice. Anyone who supplies a banned product may be fined.

A number of products are subject to an unsafe goods notice:
→ inclined infant sleep products
→ small high-powered magnets
→ multipurpose ladders
→ chainsaws without a chain brake
→ lead in children’s toys
→ hot water bottles that do not meet the standard
→ candles with lead in the wicks and candlewicks containing lead
→ pistol crossbows.


Suspension of supply notices

Product safety officers, who are appointed by the Ministry of Business, Innovation and Employment, can issue suspension of supply notices. A product safety officer can issue a suspension of supply notice for goods:
→ that have been implicated in serious injury or death; or
→ that the officer has good reason to suspect are unsafe.

A product safety officer can issue a suspension of supply notice for such goods if they believe it may lead to serious harm and the notice is necessary to prevent the supply of goods until they are investigated further.

The person identified in the suspension of supply notice cannot supply the goods until it expires. A suspension of supply notice may prohibit a person from supplying the goods for a total of nine consecutive working days.

Failing to comply with a suspension of supply notice is illegal under the Fair Trading Act. The courts can fine any individual who fails to comply with a suspension of supply notice up to $10,000, and a business up to $30,000.

Alternatively, the Commerce Commission may decide to fine you $1,500 by issuing an infringement notice if you do not comply with a suspension of supply notice.

More information

This information is current as at June 2017. Details about what the current product safety standards require can be found at www.comcom.govt.nz and at www.consumerprotection.govt.nz.
Tips for traders

✔ Know what products are covered by product safety standards that are set by regulations under the Fair Trading Act.
✔ Understand how product safety standards apply to products you sell or supply.
✔ Ask your supplier for proof that the product has passed all required product safety tests and satisfy yourself that your products comply.
✔ Be aware of labelling requirements for products you sell and speak to your supplier if any labels or information is missing.
✔ Ask for proof from the supplier that the information provided on any label is true and accurate.
✔ Check the current list of Unsafe Goods Notices to ensure you are not selling a banned product.
✔ Learn about your obligations under the Fair Trading Act at www.comcom.govt.nz.
✘ DO NOT supply or sell any product if you are unsure if it meets the consumer information standard.

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AS/NZS ISO 8124.1:2002 Safety of toys – Safety aspects related to mechanical and physical properties
AS/NZS 2172:2003 Cots for household use – Safety requirements
AS/NZS 1927:1998 Pedal bicycles – Safety requirements
AS/NZS 1957:1998 Textiles – Care labelling
AS/NZS 2622:1996 Textile products – Fibre content labelling
AS/NZS 1249:2014 Children’s nightwear and limited daywear having reduced fire hazard

This is a guideline only and reflects the Commission’s view. It is not intended to be definitive and should not be used in place of legal advice. You are responsible for staying up to date with legislative changes.

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