

The Fair Trading Act

Product safety standards – 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.

The product safety standard regulations set the official safety standard for children’s nightwear

The Product Safety Standard (Children’s Nightwear and Limited Daywear Having Reduced Fire Hazard) Regulations 2016 (**Regulations**) set safety standard AS/NZS 1249:2014 *Children’s nightwear and limited daywear having reduced fire hazard* as the official safety standard that suppliers of children’s nightwear must comply with.

We use the term “product safety standard” in this fact sheet to refer to the official safety standard AS/NZS 1249:2014, that is identified by the Regulations.

Failure to comply with the product safety standard is a breach of the Fair Trading Act and is illegal.

If you comply with the product safety standard, you will meet your legal obligations.

Standards NZ revise standards periodically. However, your legal obligations do not change until the Regulations are amended to refer to the revised standard. This may not happen at the same time. When the Regulations are amended, we will update our fact sheet.

Even if the Regulations do not require you to comply with the most recent standard, we encourage you to look at the revised standard and adopt any additional or higher product safety protections, even if they are not required by law.



Who must comply with the product safety standard?

Any person who supplies, offers to supply or advertises the supply of new or used children’s nightwear must comply with the product safety standard. This includes:

- manufacturers, importers and distributors who supply new children’s nightwear to retailers
- retailers who sell new or used children’s nightwear instore or online to consumers
- individuals who offer second-hand children’s nightwear for sale at markets or on Internet auction sites.

The product safety standard does not apply to persons who sew children’s nightwear for their own children or to provide as a gift.

Before selling children’s nightwear, all suppliers should take reasonable steps to check that such nightwear has, where required, the correct fire hazard information label. It is common for manufacturers to test and label children’s nightwear. However, distributors and retailers must not simply assume that the children’s nightwear they are supplied with complies with the product safety standard.

If you have any doubts that the children’s nightwear you are selling is not correctly labelled, do not sell it. Confirm first with your supplier that the nightwear complies with the product safety standard. The best way to prove this is for your supplier to provide you with a copy of independent test results. You can also arrange your own testing.

What items of clothing are defined as children's nightwear and limited daywear?

'Children's nightwear and limited daywear' is defined as garments sized between 00 – 14 and includes:

- pyjamas (whether sold as top and bottom together or as nightwear separates)
- sizes 3 – 14 knitted nightwear all-in-ones
- sizes 00 – 14 woven nightwear all-in-ones
- predominantly knitted all-in-one garments in sizes 00 – 2 made from fabrics that have a pile or nap, or include fabrics with a pile or nap
- nightdresses, nightshirts, nighties, dressing gowns and bathrobes
- boxer shorts of a loose style commonly used as nightwear
- infant sleepbags with sleeves or arm openings
- blankets and towels that incorporate a sleeve or arm opening.

Definitions of 'pile' and 'nap':

- Pile is a fabric with a raised surface that may be cut or looped. For example velour, terry towelling or coral fleece.
- Nap is a fabric with a raised or brushed surface. For example flannelette and polar fleece.



The following garments are excluded from the definition and the product safety standard requirements:

- knitted all-in-ones up to and including size 2 that are not made from fabrics with a pile or nap and do not include fabrics with a pile or nap
- woven all-in-ones for daywear
- knitted trunks or boxer shorts in form fitting styles commonly worn as underwear
- tee-shirts, singlets, track tops and similar where they are not sold as nightwear and are not a component of a nightwear set
- track pants, leggings (with or without feet), shorts and similar where they are not sold as nightwear and are not a component of a nightwear set
- towels and blankets that do not incorporate a sleeve or arm opening
- headwear, footwear and handwear
- infant sleepbags without sleeves or arm openings
- sleeping bags in all sizes, as typically used for camping
- baby wraps and swaddles
- detachable capes, hoods, wings, tutus and similar costume accessories.

The term 'children's nightwear' is used in this fact sheet to refer to all items of clothing covered by the product safety standard.

How do I know if an item of children's nightwear is sized between 00 - 14?

The Regulations and the product safety standard refer to the standard AS1182-1997 Size coding scheme for infants' and children's clothing – underwear and outward.

Suppliers can use this standard to assess whether an item of children's nightwear is sized between 00 – 14. AS1182-1997 outlines a system for determining and labelling the sizes of infant's and children's clothing.

Size 00 is comparable to size 6 months. The product safety standard does not apply to children's nightwear sized for babies under 6 months of age (ie, sizes 0000 and 000).

What are the fire hazard information labelling requirements?

All children's nightwear covered by the product safety standard must have fire hazard information labels. 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. The white and red labels should look as follows:



White label

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

Children's nightwear that require a white fire hazard information label are garments falling within the scope of Categories 1, 2 and 3 of the product safety standard.

Red label

Children's nightwear having a higher fire hazard risk must be marked with the red fire hazard information label. These are garments which do not comply with categories 1, 2 and 3 of the product safety standard but do fall within the scope of category 4.

White or red labels are the only coloured labels that comply with the standard. An orange label, which was required for some children's nightwear under the previous product safety standard, must no longer be on children's nightwear. This is important to remember especially if you are supplying old stock or second-hand children's nightwear.

Some garments do not meet any of the design or flammability requirements of the standard. They are considered too highly flammable and cannot be sold.

Where on the nightwear must the fire hazard information labels be located?

A fire hazard information label must be placed on the inside of the back neck of a top or one-piece item.



Fire hazard and size information must be clearly visible on the face side of the label. This information cannot be obscured by other labels.

The label must be permanently fixed to the children's nightwear. This means the label is attached in such a way that it won't come off in the wash. Alternatively, fire hazard information can be directly printed onto the garment.

On pants, the label must be placed at the waist, waistband or top of the back seam.



Where children's nightwear is sold in packaging which makes it difficult to see and read the labelling, the packaging must also be clearly marked with the required fire hazard information.

Suppliers offering children's nightwear for sale on the Internet must provide clear and legible fire hazard information as part of the online image and product description.

What other labels does the product safety standard require children's nightwear to have?

Children's nightwear must also have clear and permanently fixed labels that contain the following information:

- Name, trademark or brand name of the manufacturer or supplier.
- The item of clothing's numerical size (eg, 00, 3, 12). An age-related size may also be provided in addition to the numerical size.
- If the clothing has been made from fabrics chemically treated to reduce the risk of burning, suitable cleaning instructions to preserve the fabric's treatment.

The information above may be added to a white fire hazard information label so long as the fire hazard information remains clearly visible. No additional information can be added to a red fire hazard information label.

Are there any other rules that apply to the labelling of children's nightwear?

Yes, Children's nightwear must comply with the:

- *Consumer Information Standards (Care Labelling) Regulations 2000*, which requires any type of clothing, household textile or furnishing to be labelled with information about how to care for the item.
- *Consumer Information Standards (Country of Origin (Clothing and Footwear) Labelling) Regulations 1992*, which requires all new clothing and footwear to be labelled with information that clearly states where the items were made.
- *Consumer Information Standards (Fibre Content Labelling) Regulations 2000*, which requires most textile goods, including clothing to be labelled with fibre content information.

More information about these Consumer Information Standards is available at www.comcom.govt.nz.

What can happen if I supply children's nightwear that does not comply with the product safety standard?

It is an offence under section 30 of the Fair Trading Act to supply, offer to supply or advertise for supply children's nightwear that does not comply with the product safety standard. The Commerce Commission, who enforces the Fair Trading Act, may take a prosecution against you in court.

There can be serious consequences for businesses that a court finds to have broken the law. Companies can be fined up to **\$600,000** for each breach and an individual up to **\$200,000**. Where a company is a repeat offender, directors and those involved in the management of the company can be banned from involvement in the management of any company for a period of up to 10 years.

In addition to any action taken by the Commerce Commission, you may have to conduct a recall of any children's nightwear that you have supplied which does not carry the correct fire hazard information labels. Information on carrying out a product recall is available from Trading Standards at the Ministry of Business, Innovation and Employment.

Where can I get more information about the product safety standard?

The standards *AS/NZS 1249:2014 Children's Nightwear and Limited Daywear having Reduced Fire Hazard* and *AS1182:1997 Size Coding Scheme for Infants' and Children's Clothing* – underwear and outerwear are available to purchase from Standards New Zealand by calling 0800 782 632 or via its website www.standards.govt.nz.

You can access the Regulations and the Fair Trading Act online at www.legislation.govt.nz. The information on this website is free.

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