



Australian
Competition &
Consumer
Commission

Product safety

Aquatic toys

Supplier guide



Australian Competition and Consumer Commission
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Aquatic toys

What is this guide about?

Under the Australian Consumer Law (ACL), mandatory consumer product safety standards are introduced when considered reasonably necessary to prevent or reduce the risk of injury to a person. This guide provides a summary of the requirements for the supply of aquatic toys.

A full list of mandatory standards and bans is available on pages 12–14.

Who should read this guide?

Suppliers of aquatic toys should read this guide to familiarise themselves with the hazards and the mandatory requirements for these products.

What are aquatic toys?


- The mandatory standard applies to articles that are:
- designed or clearly intended for use in play by children under 14 years of age
- intended to bear the mass of a child in water, whether or not:
 - inflatable
 - worn or
 - otherwise attached to the body.
- This mandatory standard does not apply to items such as:
- beach balls (not designed to support the weight of a child)
- surfboards (designed to be used in surf conditions)
- body/boogie boards (designed to be used in surf conditions)
- inflatable air beds (these are generally not considered toys)
- inflatable boats that by virtue of their size and design are intended for use in deep water
- kickboards.

What are the hazards?

From July 2008 to June 2009, 50 children aged up to 17 years drowned in Australia. Almost two-thirds were under five years old.

Death by drowning

Children who cannot swim can drown if their aquatic toy fails or if they are using the toy unsupervised and relying on its buoyancy. As children are still developing, they generally have



limited motor (brain to muscle) coordination and are not able to judge potentially dangerous situations or react to them in time. The risk of drowning also increases if a child suffers an injury while playing with a toy in the water.

Brain injury by near drowning

Children who are revived from near drowning may still suffer permanent brain injury resulting from a lack of oxygen to the brain.

Mandatory standard

The mandatory standard for aquatic toys is based on the Australian/New Zealand Standard AS/NZS ISO 8124.1:2002 *Safety of toys, Part 1: Safety aspects related to mechanical and physical properties (ISO 8124-1:2000, MOD)*, with variations and additions made by Consumer Protection Notice No. 2 of 2009.

AS/NZS ISO 8124.1:2002 is a voluntary standard, except for those sections specifically called up by the consumer protection notice. It is important to note that the sections of AS/NZS ISO 8124.1:2002 called up by the consumer protection notice may also be varied by the notice. For this reason it is important to read both the notice **and** AS/NZS ISO 8124.1:2002 together.

The mandatory standard applies to the supply of all aquatic toys from 1 April 2010.

Meeting mandatory requirements

To comply with the mandatory standard for aquatic toys, you and your business must meet all the requirements for design, construction and marking.

The following are some key requirements of the mandatory standard.

Design and construction

Non-return valves with stoppers

All air inlets of inflatable aquatic toys must have non-return valves with stoppers permanently attached to the toy. When the toy is inflated, the stopper must not protrude more than 5 mm from the surface of the toy.

Labelling

Aquatic toys must be permanently marked with the following warning notice:

**WARNING
AQUATIC TOY
USE ONLY UNDER SUPERVISION**

The words in the warning must be:

- indelible
- in block capitals
- not less than 6 mm in height when the aid is deflated
- in a colour contrasting with the background.

Advertising copy or graphics cannot state or imply that a child will be safe with such a toy if left unsupervised.

Your responsibilities as a supplier

As a supplier, you are legally responsible for ensuring that the aquatic toys you supply meet the mandatory safety standard requirements, which are enforceable by law. Failure to comply can result in legal action, penalties and/or recalls.

All suppliers are equally responsible for ensuring that products they supply meet the mandatory standard.

To do this, we strongly advise you to take the following steps:

- Read requirements specified in the consumer protection notice printed in this guide.
- Have systems in place to visually check these products to ensure they comply with the requirements of this mandatory standard.
- Where necessary, use reports from reliable, independent testing laboratories to verify compliance.
- Register to receive automatic email updates from the Product Safety Australia website (www.productsafety.gov.au) to help ensure you are aware of the latest product safety information.

Information for retailers

If you are a retailer, you are responsible for ensuring that the products you supply meet mandatory safety standards. To ensure that the aquatic toys you sell comply with the mandatory standard, you should always:

- stipulate that any aquatic toy you order must meet the mandatory standard
- undertake visual checks of delivered stock where possible to check compliance with the requirements of the mandatory standard
- obtain and keep reliable written verification from independent sources that products have been tested to and meet the mandatory requirements.

Providing safety advice to consumers

Retailers can provide additional safety advice to their consumers, such as the following:

- 'aquatic toys are **not** safety devices'
- 'follow the manufacturer's age and/or weight recommendations when choosing aquatic toys for children'
- 'read the warning labels and packaging carefully and follow instructions for proper assembly and use'
- 'children injured while playing with a toy in the water are at greater risk of drowning'.

Consumer Protection Notice No. 2 of 2009

COMMONWEALTH OF AUSTRALIA

Trade Practices Act 1974

Consumer Protection Notice No 2 of 2009

CONSUMER PRODUCT SAFETY STANDARD FOR FLOTATION TOYS AND AQUATIC TOYS

I, Chris Bowen, Minister for Competition Policy & Consumer Affairs, pursuant to subsection 65E(1) of the *Trade Practices Act 1974* and for the purposes of section 65C of that Act, hereby:

- (a) **REVOKE** the consumer product safety standard for children's flotation toys and swimming aids declared by consumer protection notice No 4 of 1992 published in Commonwealth of Australia Gazette No. GN 10 of 11 March 1992; and
- (b) **DECLARE** that in respect of goods of the kind specified in Division 1 of the Schedule to this Notice, the standards approved by Standards Australia specified in Division 2 of the Schedule, as varied by Division 3 of the Schedule, are consumer product safety standards for the purposes of section 65C of the *Trade Practices Act 1974*. The standard specified at Division 2(a) of the Schedule to this Notice will cease to operate as a consumer product safety standard from 1 April 2010.

THE SCHEDULE

Division 1: Particulars of the goods

Flotation toys and aquatic toys which are:

- (a) designed or clearly intended for use in play by children under 14 years of age; and
- (b) intended to bear the mass of a child in water, whether inflatable or not;

whether or not worn or otherwise attached to the body, including but not limited to:

- (c) inflatable novelty shapes;
- (d) inflatable toy boats, which by virtue of their size and design are intended for use in shallow water;
- (e) unattached complete or partial rings;

but NOT including:

- (f) beach balls;
- (g) surfboards;
- (h) body/boogie boards;
- (i) inflatable air beds;
- (j) inflatable boats, which by virtue of their size and design are intended for use in deep water;
- (k) kickboards.

Division 2: The Standards

Either:

- (a) Australian Standard AS 1900-1991 *Flotation toys and swimming aids for children*, approved by Standards Australia on 12 July 1991 and incorporating all amendments approved by Standards Australia as at the date of this Notice;

Or:

- (b) The following parts of Australian/New Zealand Standard AS/NZS ISO 8124.1:2002 *Safety of toys, Part 1: Safety aspects related to mechanical and physical properties (ISO 8124-1:2000, MOD)* approved by Standards Australia on 30 April 2002:
 - (i) clauses 3.2, 4.19, C.2.6, and E.33;
 - (ii) the variations to clauses 4.19, C.2.6, and E.33 contained in Appendix ZZ.

Division 3: Variations

Australian Standard AS 1900-1991 *Flotation toys and swimming aids for children* is varied as follows:

- (a) Deleting the text in clause 1.1 and replacing it with:

‘**SCOPE** This Standard specifies requirements for flotation toys which are:

 - (a) designed or clearly intended for use in play by children under 14 years of age; and
 - (b) intended to bear the mass of a child in water, whether inflatable or not;

whether or not worn or otherwise attached to the body.’
- (b) Deleting clause 1.3.5;
- (c) Deleting the text in clause 1.3.6 and replacing it with:

‘**Flotation toy** – an article which is:

 - (a) designed or clearly intended for use in play by children under 14 years of age; and
 - (b) intended to bear the mass of a child in water, whether inflatable or not;

whether or not worn or otherwise attached to the body.

(See Figure 1.1)’
- (d) Deleting clause 1.3.7;

- (e) In Figure 1.1:
 - i. deleting the text ‘Kickboards’ as it appears in relation to ‘Flotation toys’;
 - ii. deleting the text ‘AND SWIMMING AIDS’ as it appears in the heading; and
 - iii. deleting the part of the figure relating to the classification of ‘Swimming aids’;
- (f) In clause 2.5 deleting the text “, and swimming aid vests shall retain sufficient buoyancy to comply with Clause 7.2.3”;
- (g) Deleting clause 2.8;
- (h) Deleting clause 2.10;
- (i) In clause 3.1 deleting the text:
 - ‘(a) kickboards;
 - (b) inflatable novelty shapes;
 - (c) inflatable toy boats (see Clause 1.3.8) and;
 - (d) inflatable pontoon shoes.’
 and replacing it with:
 - ‘(a) inflatable novelty shapes;
 - (b) inflatable toy boats (see Clause 1.3.8) and;
 - (c) inflatable pontoon shoes.’
- (j) Deleting section 5;
- (k) Deleting section 6;
- (l) Deleting section 7;
- (m) In clause 8.1.1 deleting the text ‘and swimming aids’;
- (n) In clause 8.1.2 deleting the text ‘Any flotation toy, including all inflatable novelty shapes, inflatable toy boats and all flotation rings but excluding kickboards,’ and replacing it with ‘All flotation toys’.
- (o) Deleting clause 8.1.3;
- (p) Deleting clause 8.1.4;
- (q) Deleting clause 8.1.5;
- (r) In clause 8.1.6 deleting the text ‘Clauses 8.1.2 to 8.1.5’ and replacing with ‘Clause 8.1.2’;
- (s) In clause 8.2 deleting the text ‘Clauses 8.1.2 to 8.1.5’ and replacing with ‘Clause 8.1.2’;

- (t) In Appendix A deleting the text ‘or swimming aid’ in the first paragraph; and
- (u) Deleting Appendix B.

Australian/New Zealand Standard AS/NZS ISO 8124.1:2002 *Safety of toys, Part 1: Safety aspects related to mechanical and physical properties (ISO 8124-1:2000, MOD)* is varied as follows:

- (a) Deleting the text in clause 3.2 and replacing it with:

aquatic toy

article, which is:

- (a) designed or clearly intended for use in play by children under 14 years of age; and
- (b) intended to bear the mass of a child in water, whether inflatable or not;

whether or not worn or otherwise attached to the body.

- (b) In Appendix ZZ, for the variation to Clause C.2.6, inserting the text ‘indelible’ after the word ‘following’ and before the word ‘warning’; and
- (c) In Appendix ZZ, for the variation to Clause E.33, inserting the text ‘of the first paragraph’ after the text ‘last sentence’.

Note: The choice between two consumer product safety standards in this consumer product safety notice is available until 31 March 2010. From 1 April 2010 the standard at Division 2(b) of the Schedule will operate as the only consumer product safety standard in this consumer product safety notice.

Dated this 8th day of April 2009

Chris Bowen
Minister for Competition Policy & Consumer Affairs

Role of the ACCC

To minimise the risk of injury associated with consumer products, the ACCC undertakes a variety of activities:

- consulting with suppliers and other agencies to identify non-compliant goods
- developing mandatory safety and information standards, when necessary
- informing and educating suppliers about emerging hazards and requirements of mandatory standards or bans
- liaising with suppliers to assist them in understanding how to comply with the standards or bans
- promoting benefits of compliance with mandatory safety standards or bans
- assessing overall levels of marketplace compliance with mandatory safety standards or bans
- informing and educating consumers to choose only compliant products, report suppliers of non-compliant goods to the ACCC and always use products safely
- conducting compliance surveys or inspections to detect non-complying products
- investigating allegations from consumers and suppliers about supply of non-compliant products
- investigating possible breaches found during compliance surveys or inspections
- seeking the immediate withdrawal of non-compliant or unsafe products from sale
- seeking the recall of non-compliant or unsafe products from the market
- taking action against suppliers including:
 - substantiation, infringement or public warning notices
 - court enforceable undertakings, injunctions and various other court orders
 - damages, compensation orders, disqualification orders and civil penalties
 - adverse publicity orders or requirements for corrective advertising
 - prosecutions resulting in criminal sanctions (fines).

Product liability

Parts 3–5 of the ACL (which forms Schedule 2 to the *Competition and Consumer Act 2010*) contain provisions on product liability. Under these provisions, consumers can seek compensation or damages for personal injury or other loss caused by a safety defect in products supplied by a manufacturer.

Goods with a safety defect are those that are not as safe as people are generally entitled to expect.

Generally the manufacturers or importers of products are liable under Parts 3–5 of the ACL. But if other suppliers, such as retailers, cannot identify the manufacturer or importer, they may be deemed liable for the damages.

Suppliers may reduce their exposure to product liability action by using these responsible and sensible business practices:

- conducting regular reviews of product designs and production
- implementing and reviewing quality assurance procedures
- testing products regularly to relevant standards, including batch testing
- conducting appropriate marketing
- providing clear and thorough user instructions
- where necessary, conducting a quick voluntary recall of any products that are defective or unsafe.

Mandatory standards and bans

The following mandatory standards and bans apply nationally under the ACL.

Mandatory standards

- Aquatic toys
- Babies' dummies
- Baby bath aids
- Baby walkers
- Balloon-blowing kits
- Basketball rings and backboards
- Bean bags
- Bicycle helmets
- Bunk beds
- Care labelling—clothing and textile products
- Child restraints for motor vehicles
- Children's household cots
- Children's nightwear and paper patterns for children's nightwear
- Children's portable folding cots
- Children's projectile toys
- Children's toys containing magnets
- Corded internal window coverings
- Cosmetics and toiletries—ingredient labelling
- Disposable cigarette lighters
- Elastic luggage straps
- Exercise cycles
- Hot water bottles
- Lead and certain elements in children's toys
- Motor vehicle recovery straps
- Movable soccer goals
- Pedal bicycles


- Portable fire extinguishers (aerosol type)
- Portable fire extinguishers (non-aerosol type)
- Portable ramps for motor vehicles
- Prams and strollers
- Protective helmets for motorcyclists
- Reduced fire risk cigarettes
- Sunglasses and fashion spectacles
- Swimming aids and flotation aids for water familiarisation and swimming tuition
- Tobacco labelling
- Toys for children under, up to and including 36 months of age
- Treadmills
- Trolley jacks
- Vehicle jacks
- Vehicle support stands.

Interim bans

Interim bans may be made by the state, territory or Commonwealth Minister. Their duration may be 60–120 days. Check the Product Safety Australia website (www.productsafety.gov.au) for details of any interim bans.

Permanent bans

- Candles with lead wicks
- Children's plastic products with more than 1 per cent DEHP
- Children's stationery sets containing undeclared knives or cutters with a metal blade
- Combustible candle holders
- Fire footbags and other such goods
- Gas masks with asbestos breathing devices
- Glucomannan in tablet form
- Inflatable toys, novelties and furniture containing beads
- Jelly cups containing konjac
- Miniature motorbikes (monkey bikes) with unsafe design features
- No hole tongue studs

- 
- Novelty cigarettes
 - Pools and spas with unsafe design features
 - Sky lanterns
 - Smokeless tobacco products
 - Tinted headlight covers
 - Toothpaste containing Diethylene glycol (DEG)
 - Toy-like novelty cigarette lighters
 - Yo-Yo water balls

Penalties

Supplying products that do not comply with a mandatory standard or ban is an offence under the ACL.

Fines for non-compliance are:

- up to \$1.1 million for companies
- up to \$220,000 for individuals.

More information

For the latest information on bans, standards and recalls, visit www.productsafety.gov.au.

Key terms used in this guide

Below is a list of key terms that have been used in this guide.

aquatic toys	<p>Aquatic toys are articles:</p> <ul style="list-style-type: none">• designed or clearly intended for use in play by children under 14 years of age• intended to bear the mass of a child in water, whether or not:<ul style="list-style-type: none">– inflatable– worn or– otherwise attached to the body.
Australian Consumer Law (ACL)	<p>The ACL replaces previous Commonwealth, state and territory consumer protection legislation in fair trading acts. It is contained in a schedule to the <i>Trade Practices Act 1974</i>, which has been renamed the <i>Competition and Consumer Act 2010</i> (CCA).</p>
<i>Competition and Consumer Act 2010</i> (CCA)	<p>The <i>Competition and Consumer Act 2010</i> (formerly the <i>Trade Practices Act 1974</i>) deals with almost all aspects of the marketplace: the relationships between suppliers, wholesalers, retailers, competitors and customers. It covers anti-competitive conduct, unfair market practices, industry codes, mergers and acquisitions of companies, product safety, product labelling, price monitoring, and the regulation of industries such as telecommunications, gas, electricity and airports.</p>
consumer protection notice	<p>A consumer protection notice is a notice that declares a particular standard prepared by Standards Australia (or other approved body), with any additions or variations specified in the notice, to be a prescribed standard.</p>

mandatory consumer
product safety standard

The Commonwealth Minister can prescribe compulsory safety standards for consumer goods and product related services. Suppliers must not supply goods or services that do not comply with a safety standard for goods of that kind.

Safety standards require goods to comply with particular performance, composition, content, design, construction, finish, labelling or packaging rules.

Visit www.productsafety.gov.au for lists of products that mandatory safety standards currently apply to in Australia.

Many mandatory standards are based on Australian voluntary standards published by SAI Global.

supplier

Anyone in the business of selling, exchanging, leasing, hiring or hire-purchasing of goods or provisions, or of granting or conferring of services.

supply

Selling, exchanging, leasing, hiring or hire-purchasing of goods or provisions, or granting or conferring of services.

Contacts

Australian Competition and Consumer Commission

Product safety

For more information about mandatory standards, bans, recalls and emerging issues—and to subscribe to email alerts and RSS feeds—visit our websites:

www.productsafety.gov.au

www.recalls.gov.au

You can also follow us on Twitter: @ProductSafetyAU

ACCC Infocentre: 1300 302 502

Callers who are deaf or have a hearing or speech impairment can contact us through the National Relay Service: www.relayservice.com.au

Voice-only (speak and listen) users phone: 1300 555 727 and ask for 1300 302 502

SAI Global

To obtain copies of Australian/New Zealand standards, contact SAI Global on 131 242 or visit the SAI Global website at www.saiglobal.com/shop.

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