

## **EXPLANATORY STATEMENT**

Issued by the Authority of the Minister for Small Business

*Competition and Consumer Act 2010*

*Competition and Consumer (Corded Internal Window Coverings) Safety Standard 2014*

### Overview

This Legislative Instrument introduces requirements for the installation of Corded Internal Window Coverings (CIWC) in domestic dwellings, specifically excluding caravans, boats and mobile homes. Once in force, the ACL will prohibit installation of CIWC in trade or commerce, that does not comply with the standard.

The requirements relate to the safety of young children and are directed at ensuring that corded internal window coverings installed in domestic dwellings in trade or commerce are installed in accordance with the safety instructions and using any safety devices that are required to be supplied with the product under the existing safety standard on the supply of these products, *Trade Practices (Consumer Product Safety Standard - Corded Internal Window Coverings) Regulations 2010*.

### Background

#### *Legislative Power*

The *Trade Practices Amendment (Australian Consumer Law) Act (No.2) 2010* together with the *Trade Practices Amendment (Australian Consumer Law) Act (No.1) 2010*, amended the *Trade Practices Act 1974* (TPA) to implement a new national consumer law regime known as the Australian Consumer Law (ACL). The TPA was renamed the *Competition and Consumer Act 2010* (CCA) on 1 January 2011. The ACL forms Schedule 2 to the CCA.

Subsection 104 of the ACL provides that the Commonwealth Minister may, by written notice published on the internet, make a safety standard for product related services of a particular kind, consisting of such requirements about the matters specified in s.104(3), as are reasonably necessary to prevent or reduce risk of injuries.

The matters specified in s.104(3) include the manner in which the services are supplied, the skills or qualifications of the person supplying the service, materials used, testing and the form and content of warnings, instructions and other information.

Subsection 107(1) provides that a person must not, in trade or commerce, provide product related services of a particular kind if a safety standard for services of that kind is in force and those services do not comply with the standard.

Safety requirements for the supply of corded internal window coverings are set by [\*Trade Practices \(Consumer Product Safety Standard - Corded Internal Window Coverings\) Regulations 2010\*](#) which was prescribed pursuant to subsection 65C(2) of the TPA. Item 4 of Schedule 7 of the *Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010* provides that a product safety standard made under 65C of the TPA will continue in force under the

ACL as if it had been made section 104 of the ACL. This regulation requires the provision of warning labels and instructions and the provision of any devices necessary for the installation of the product any devices.

### *Sunset Provisions*

This safety standard is exempt from sunset provisions. Schedule 3 of the *Legislative Instruments Amendment (Sunsetting Exemptions) Regulation 2013 (SLIO No 212 of 2013)* lists as exempt instruments made under section 104 or 105 (safety standards) of Schedule 2 (The Australian Consumer Law) to the *Competition and Consumer Act 2010*, including prescribed consumer product safety standards under section 65C of the *Trade Practices Act 1974* that were in force immediately before the commencement of item 4 of Schedule 7 to the *Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010*.

As a matter of good regulatory practice, the ACCC regularly reviews product safety standards to ensure they remain effective, efficient and appropriate and remain the best available solution, in the public interest, to an identified safety hazard.

### Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### *Overview*

This Legislative Instrument is a safety standard concerning the product related service of installing corded internal window coverings in domestic dwellings.

#### *Human Rights Implications*

The Legislative Instrument engages the right to health and the rights of the child.

The International Covenant on Economic, Social and Cultural Rights recognises the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

The Convention on the Rights of the Child recognises the right of the child to the enjoyment of the highest attainable standard of health.

The Legislative Instrument promotes these rights by requiring installers to install corded internal window coverings in domestic dwellings in a way which avoids the production of dangerous loops and lengths of cord which are a demonstrated threat to life in young children.

#### *Conclusion*

The Legislative Instrument does not limit human rights and is compatible with human rights because it advances the protection of human rights by requiring a supplier to supply goods which comply with current international standards, thereby preventing harm or injury to people, including children.

## Consultation

For the purposes of section 17 of the LIA, consultation has been undertaken concerning the product safety standard.

Following initial discussion with industry and advocacy groups a Consultation Paper was released in November 2011 asking for public comment on the concept and possible provisions of a services standard and circulated to interested parties, including the manufacturers, suppliers and installers of CIWC, State and Territory fair trading / consumer affairs agencies, consumer groups and child safety specialists. This consultation identified issues with the coverage and detail of the proposal and, together with research, legal analysis and further informal discussion was used to develop a Draft Regulation. This draft formed part of a second round consultation conducted in August 2013.

There were 20 formal submissions in response to the August 2013 Consultation Paper and Draft Regulation. These were from industry associations (2), companies or people in industry (14) and health and advocacy groups or individuals (4). These were made up of: clear or probable supporters of the proposal (11); those raising no objection (including a 'no objection') (4); clear or probable negatives (3) and those making no direct comment on purpose of the proposed regulation (2).

Both rounds of formal consultation and the informal discussions with stakeholders were used to identify issues and practical matters of definition, testing and compliance that have been incorporated in the regulation and will be used to inform the education and compliance program to support it.

## The Services Standard

### *Application*

Applies to installations of corded internal window coverings carried out in trade or commerce in domestic dwellings, excluding caravans, mobile homes and boats.

### *Definitions*

The definitions in the regulation are the same as those set out in *Trade Practices (Consumer Product Safety Standard - Corded Internal Window Coverings) Regulations 2010*:

***cleat*** means a device that has a bar with arms around which a cord can be wound, and that can be attached to a wall or other structure.

***cord*** means a rope, strap, string, chain, line or wire used to manipulate a corded internal window covering.

***corded internal window covering*** means:

- (a) a window covering, such as a curtain or blind; or
  - (b) fittings used with a window covering, such as a traverse rod or track;
- that can be used inside a building and has a cord.

***cord guide*** means a device designed to retract, tension or secure a cord.

***retail packaging*** means the packaging in which a corded internal window covering is supplied when it is offered for retail sale.

## *Requirements*

### 1. Installation.

The corded internal window covering must be installed in a way that ensures a loose cord cannot form a loop 220 mm or longer at or less than 1,600 mm above floor level and using any components specified in the installation instructions as necessary to meet requirements for cord safety.

The corded internal window covering must be also be installed in accordance with the installation instructions on any retail packaging for the covering and in accordance with any other installation instructions related to ensuring that a loose cord cannot form a loop as described in paragraph (1) (a).

No part of a cord guide may be installed lower than 1,600 mm above the floor level unless the cord guide will remain firmly attached to a wall or other structure specified in the instructions when subjected to a specified force and the cord is sufficiently secured or tensioned so as to prevent formation of a loop 220 mm or longer.

A cleat used to secure a cord must be installed at least 1,600 mm above floor level.

### 2. Labelling.

A person installing a corded internal window covering must attach a label to it containing the name and contact details of the person or company responsible for the installation and must not remove any warning label or swing tag supplied with the corded internal window covering.