



Australian
Competition &
Consumer
Commission

Product safety

Portable spas, pools, potty skimmers and outlets

Supplier guide



Australian Competition and Consumer Commission
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Portable spas and pools with unsafe skimmers and outlets

What is this guide about?

Under the *Trade Practices Act 1974*, product safety bans are introduced when considered reasonably necessary to prevent or reduce the risk of injury. This guide provides a summary of the ban on supply of:

- potty skimmers designed for installation in domestic swimming pools or spas
- unsafe pool or spa outlets
- transportable spas and swimming pools with integrally moulded potty skimmers or unsafe outlets.

Who should read this guide?

Manufacturers, distributors, importers, wholesalers, retailers and hirers of the following products should read this guide to familiarise themselves with the hazards and the ban relating to these products:

- swimming pools or spas (transportable and domestic)
- skimmer boxes
- outlets for swimming pools or spas.

We also strongly advise you to take the following steps to confirm compliance of goods:

- Read the requirements specified in the consumer protection notice printed in this guide.
- Read the requirements for safe skimmers and outlets in the relevant Australian or ASME, ANSI or ASTM standards. These include, but are not limited to, AS1926.3, AS2610.2 and ANSI A112. You can buy copies of these standards from SAI Global (call 131 242 or visit www.saiglobal.com/shop).
- Have systems in place to check these products to ensure they comply with the requirements of the ban.
- Where necessary, use reports from reliable, independent testing laboratories to verify compliance.

What is a potty skimmer?

A potty skimmer is a pool or spa outlet at water level used as a suction point for the water reticulation system that:

- looks or is shaped like a child's potty or other toilet device
- has no fixed protective cover or other feature to prevent a person becoming lodged or caught in the skimmer as a result of the suction created when it is operating.

What is an unsafe outlet?

An outlet is an opening in a pool or spa wall or floor, other than a skimmer, through which water is drawn from the pool or spa by a pump.

An unsafe spa or swimming pool outlet is one which:

- is not designed to minimise the likelihood of entrapment of hair and body parts, or
- fails to comply with an Australian or ASME, ANSI or ASTM standard or any other relevant standard requiring design features that minimise the likelihood of entrapment of hair and body parts.

Which transportable spas and pools are banned?

Transportable pools and spas that contain integrally moulded potty skimmer boxes or unsafe outlets are banned. This includes any transportable models that can be built in.

Which spas, pools, skimmers and outlets are excluded?

- Any transportable pools and spas in which the skimmers or outlets have features to minimise the likelihood of hair or parts of the body becoming trapped when the devices are in use, or that meet the relevant provisions in the Australian or ASME, ANSI or ASTM standards, are excluded from the ban.
- Built-in pools and spas are covered by the Building Code of Australia and associated state and territory legislation and are excluded from the ban.

What are the hazards?

Serious and fatal internal injuries

People have suffered serious injuries or died after sitting on unsafe potty skimmer boxes. The risk to children is particularly great. There have been cases in Australia where children sitting on open skimmer boxes have been disembowelled by the strong suction.

Drowning

The strong suction on unsafe outlets has trapped people's hair and body parts, pulling and trapping them under water. Once trapped, they have been unable to free themselves and have drowned.

Ban

This ban is outlined in Consumer Protection Notice No. 26 of 2010, which is reproduced on page 5 of this guide. It is intended to prevent:

- supply of transportable spas and swimming pools that contain unsafe outlets and potty skimmers
- separate supply of unsafe outlets and potty skimmers.

Does this ban apply to my business?

Under the Trade Practices Act, supply includes being in the business of:

- selling
- exchanging
- leasing or hiring out
- offering for sale through hire purchase.

This ban applies to anyone in the business of supplying transportable spas and swimming pools, outlets and potty skimmers, including:

- manufacturers
- importers
- distributors
- retailers
- hirers.

Where can I go for more information?

For complete information about this ban, we strongly advise that you read the following:

- Consumer Protection Notice No. 26 of 2010 (which is reproduced on page 5 of this guide).
- AS1926.3, AS2610.2 and ANSI A112 and other relevant standards (available from SAI Global—call 131 242 or visit www.saiglobal.com/shop).

These documents are vital to ensuring that you and your business do not supply transportable spas or swimming pools with banned skimmers or outlets, or separately supply banned skimmers (including potty skimmers) or outlets.

Complying with the ban

To comply with this ban you and your business must meet all of the requirements for design, construction and performance specified in Consumer Protection Notice No. 26 of 2010.

You should obtain and keep reliable written verification from independent sources that products have been tested and meet the relevant provisions in the Australian or ASME, ANSI or ASTM standards requiring features to minimise the likelihood of hair or parts of the body becoming trapped when the devices are in use.

Potty skimmers

To best comply with the requirement to reduce or minimise the likelihood of serious injury that can occur when a person sits on an operating skimmer, we strongly advise that suppliers:

- not rely solely on secondary suction outlets as a protective device that cuts in when the major (skimmer) outlet is blocked
- ensure the skimmer has a secure, fixed cover or other device that requires considerable effort to remove—for example a cover that can only be opened and closed using a tool.

Transportable spas and pools that may become fixtures

Suppliers should note that even though transportable spas and swimming pools covered by the ban at the time of supply may become built-in fixtures, they are still subject to compulsory recall if they fail to comply with the ban.

Consumer Protection Notice No. 26 of 2010



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SPECIAL

COMMONWEALTH OF AUSTRALIA

TRADE PRACTICES ACT 1974

Consumer Protection Notice No. 26 of 2010

UNSAFE GOODS NOTICE

I, CRAIG ANTHONY EMERSON, Minister for Competition Policy and Consumer Affairs, pursuant to subsection 65C(5) of the *Trade Practices Act 1974*, hereby DECLARE that goods of the kinds specified below are unsafe goods, in that it appears to me the goods will or may cause injury to a person.

Particulars of Goods:

1. Potty skimmers designed for installation in domestic swimming pools or spas.
2. Pool or spa outlets which are not designed to reduce or minimise the likelihood of entrapment of any part of a person's body or hair by the outlet when in use.
Note: In this clause, 'outlets' does not include outlets which comply with the relevant provisions of an Australian or ASME / ANSI / ASTM Standard having the purpose of reducing or minimising the likelihood of entrapment of any part of a person's body or hair by the outlet when in use.
3. Transportable swimming pools or spas which contain integrally moulded potty skimmers or outlets that are not designed to reduce or minimise the likelihood of entrapment of any part of a person's body or hair by the outlet when in use.
Note: In this clause, 'outlets' does not include outlets which comply with the relevant provisions of an Australian or ASME / ANSI / ASTM Standard having the purpose of reducing or minimising the likelihood of entrapment of any part of a person's body or hair by the outlet when in use.

Interpretation:

"ANSI" means American National Standards Institute.

"ASME" means American Society of Mechanical Engineers.

"ASTM" means American Society for Testing and Materials.

"Australian or ASME / ANSI / ASTM Standard having the purpose of reducing or minimising the likelihood of entrapment" includes AS1926.3; AS2610.2 and ANSI A112.

"Potty skimmer" means a pool or spa outlet at water level used as a suction point for the water reticulation system which (a) resembles a child's chamber-pot or other toilet device and which (b) has no protective device fixed to the skimmer box outlet which would prevent a person becoming lodged or caught in the skimmer box outlet through the operation and effect of suction within or through the water reticulation system.

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Note: Goods subject to this Notice and which fail to comply may be subject to compulsory recall. This includes goods which subsequently become fixtures [by virtue of sub-section 65F(11) of the Act].

Dated this 16th day of July 2010.



CRAIG ANTHONY EMERSON
Minister for Competition Policy and Consumer Affairs



Other legislation

Australian Capital Territory Fair Trading, Consumer Affairs Victoria, Northern Territory Consumer Affairs (Department of Justice) and the South Australian Office of Consumer and Business Affairs also currently enforce bans on spa and pool skimmer boxes.

There are also mandatory standards in New South Wales and Western Australia related to certain spa and swimming pool filters, outlets and covers.

These state and territory bans and mandatory standards will be repealed by 1 January 2011.

From January 2011, a new system of national mandatory standards will be implemented across Australia. For details, visit www.productsafety.gov.au.

Role of the ACCC

To minimise the risk of injury associated with consumer products, the ACCC undertakes a variety of compliance and enforcement activities.

Compliance and enforcement activities

- Consulting with suppliers and other agencies to identify hazards.
- Developing mandatory safety and information standards, when necessary.
- Informing and educating suppliers about emerging hazards and requirements of mandatory standards.
- Liaising with suppliers to assist them in understanding how to comply with the standards.
- Promoting benefits of compliance with mandatory safety standards.
- Assessing overall levels of marketplace compliance with mandatory safety standards.
- 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 among retail outlets to detect non-complying products.
- Conducting compliance surveys of wholesalers and importers that have supplied non-compliant goods to retailers.
- Investigating allegations from consumers and suppliers about supply of non-compliant products.
- Investigating possible breaches found during compliance surveys.
- 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:
 - court enforceable undertakings
 - injunctions and various other court orders
 - damages
 - requirements for corrective advertising
 - prosecutions
 - fines and penalties.

Product liability

Part VA of the Trade Practices Act contains provisions on product liability. Under these provisions, consumers can seek compensation or damages for personal injury or other loss caused by a defective product.

Goods will be considered defective if they are not as safe as people generally are entitled to expect. This is an objective measure of expectations of the general public and not of one individual.

Generally, the manufacturers or importers of products are liable under Part VA. 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

- 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

- Children's nightwear — paper patterns
- Children's portable folding cots
- Corded internal window coverings (new standard from 31 December 2010)
- Cosmetics and toiletries — ingredient labelling
- Disposable cigarette lighters
- Elastic luggage straps
- Exercise cycles
- Fire extinguishers — portable aerosol
- Fire extinguishers — portable non-aerosol
- Hot water bottles
- Jacks — trolley
- Jacks — vehicle
- Motorcycle helmets
- Moveable soccer goals (new standard from 31 December 2010)
- Pedal bicycles
- Portable ramps for motor vehicles
- Projectile toys (new standard from 31 December 2010)
- Prams and strollers
- Reduced fire risk cigarettes (new standard from 23 September 2010)
- Sunglasses and fashion spectacles
- Swimming and flotation aids for water familiarisation and swimming tuition
- Tobacco products — labelling
- Toys containing magnets
- Toys for children — lead and certain elements
- Toys for children up to and including 36 months of age
- Treadmills
- Vehicle recovery straps (new standard from 1 October 2010)
- Vehicle support stands

Interim bans

- 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
- Inflatable toys, novelties or furniture containing beads
- Mini/monkey bikes
- Novelty cigarettes
- Sky lanterns
- Toy-like novelty cigarette lighters
- Transportable pools and spas with unsafe design features
- Yo-yo water balls

Permanent bans

- Candles with lead wicks
- Dart gun sets for children
- Fire footbags and other such goods
- Gas masks with asbestos breathing devices
- Glucomannan in tablet form
- Jelly cups containing konjac
- No holes tongue stud
- Smokeless tobacco products
- Tinted headlight covers
- Toothpaste containing DEG (Diethylene glycol)

Penalties

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

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.

ANSI	American National Standards Institute
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
Australian Standards	Voluntary standards developed by Standards Australia.
ban	<p>Commonwealth and state and territory ministers currently issue bans when there is evidence of the risk of serious injury, illness or death associated with a product.</p> <p>Once a ban comes into effect, it is illegal for manufacturers, importers, wholesalers, distributors, retailers and hire companies to supply the product in the Australian marketplace. Suppliers who fail to comply can face penalties and consequences under the Trade Practices Act and/or under relevant state and territory Acts.</p>
outlet	An opening in a pool or spa wall or floor, other than a skimmer, through which water is drawn from the pool or spa by a pump.
potty skimmer	<p>A pool or spa outlet at water level used as a suction point for the water reticulation system which:</p> <ul style="list-style-type: none">a) resembles a child's chamber-pot or other toilet device andb) has no protective device fixed to the skimmer box outlet which would prevent a person becoming lodged or caught in the skimmer box outlet through the operation and effect of suction within or through the water reticulation system.
supplier	Anyone who is in the business of selling, exchanging, leasing, hiring out or offering for sale through hire purchase of a product.

supply

The selling, exchanging, leasing, hiring out or offering for sale through hire purchase of a product.

Trade Practices Act 1974

The Trade Practices Act deals with almost all aspects of marketplace relationships between suppliers, wholesalers, retailers, competitors and customers. It covers anti-competitive conduct, unfair market practices, industry codes, product labelling, price monitoring, and the regulation of industries such as telecommunications, gas, electricity and airports.

transportable spas and pools

Any transportable spas or swimming pools, even those that may later become fixtures after delivery.

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: www.twitter.com/productsafetyau.

ACCC Infocentre: 1300 302 502.

Callers who are deaf or who 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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