



Australian  
Competition &  
Consumer  
Commission

# Product safety

## Swimming and flotation aids

Supplier guide



Australian Competition and Consumer Commission  
23 Marcus Clarke Street, Canberra, Australian Capital Territory, 2601

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The ACCC has made every reasonable effort to provide current and accurate information, but it does not make any guarantees regarding the accuracy, currency or completeness of that information.

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[www.productsafety.gov.au](http://www.productsafety.gov.au)

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# Swimming and flotation aids

## 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 swimming and flotation aids which are used for water familiarisation and swimming tuition. A full list of mandatory standards and bans is available on pages 13–15.

## Who should read this guide?

Suppliers of swimming and flotation aids should read this guide to understand the hazards and the mandatory requirements for this product.

## What are swimming and flotation aids?

The mandatory standard applies to aids designed for children under 14 years of age worn on or attached to the body or in which the user sits for the purpose of either enabling them to gain confidence through water familiarisation or assisting them in acquiring unaided buoyancy through swimming tuition.

Swimming and flotation aids include but are not limited to:

- armbands
- attached rings
- swimming aid vests.

This mandatory standard does not apply to:

- aquatic toys
- inflatable novelty shapes
- unattached rings—complete or partial
- kickboards
- articles designed for therapeutic use by people with a disability
- articles, including life jackets or other personal flotation devices, which are within the scope of AS 4758 *Personal flotation devices*, as at the date of Consumer Protection Notice No. 3 of 2009 (8 April 2009). Personal flotation devices are garments or devices which, when correctly worn and used in water, provide the user with a specific amount of buoyancy which will increase the likelihood of survival in situations such as man overboard or vessel foundering.

**Note:** there is a mandatory standard for flotation and aquatic toys.

## 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.

The ACCC has identified several hazards associated with swimming and flotation aids.

### **Death by drowning**

Children who cannot swim can drown if their aid fails or if they are using the aid 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.

### **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 swimming and flotation aids is based on the Australian Standard AS 1900–2002 *Flotation aids for water familiarization and swimming tuition*, with variations and additions made by Consumer Protection Notice No. 3 of 2009.

AS 1900–2002 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 1900–2002 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 1900–2002.

The mandatory standard applies to the supply of all relevant swimming and flotation aids from 1 April 2010.

# Meeting mandatory requirements

To comply with the mandatory standard for swimming and flotation aids, you and your business must meet all the requirements for design, construction, performance and marking. The mandatory standard provides various specific requirements, including the following:

- source of buoyancy
- valves
- valves—performance
- metal parts
- webbing or tapes
- inflatable components
- buoyancy—performance
- strength of attachment assembly
- fastener security
- marking and information.

Below are some key requirements of the mandatory standard.

## Labelling

Warning labels are required for products under this standard. Each type of label must be:

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

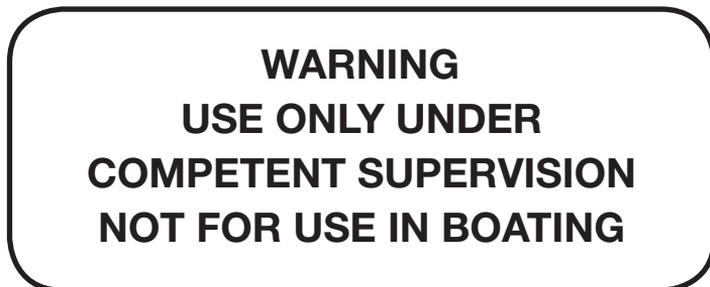
## Flotation aids

Flotation aids must be legibly marked with the following warning notice:

**WARNING  
USE ONLY UNDER  
COMPETENT SUPERVISION**

## Swimming aid vests

Swimming aid vests must be marked with the following warning notice:



The marking specified above for flotation aids and swimming aid vests must also be clearly marked on the packaging in a conspicuous position, in a colour contrasting with the background in letters not less than 6 mm in height.

Where a flotation aid is sold without packaging, the above marking requirements apply to any shipping outer or display unit in which the flotation aid is displayed at the point of sale. If a removable label is attached to the flotation aid and there is no other packaging, the marking requirements apply to the label.

## Information supplied with swimming and flotation aids

All information relating to the safe use of a flotation aid must be supplied with the aid. Such information must be marked on the packaging or be in the form of a leaflet or booklet supplied with the aid.

Also, the packaging must be clearly marked with information about the purpose of the device and the age or body mass range which the aid is designed for.

# Your responsibilities as a supplier

As a supplier, you are legally responsible for ensuring that the swimming and flotation aids 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 in the supply chain 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 the 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](http://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 swimming and flotation aids you sell comply with the mandatory standard, you should always:

- stipulate that the swimming and flotation aids 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:

- 'flotation aids are **not** safety devices'
- 'follow the manufacturer's age and/or weight recommendations when choosing flotation aids for children'
- 'read the warning labels and packaging carefully and follow instructions for proper assembly and use'
- 'to avoid drowning, a competent adult should constantly supervise children using these aids'.

# Consumer Protection Notice No. 3 of 2009

## COMMONWEALTH OF AUSTRALIA

*Trade Practices Act 1974*

Consumer Protection Notice No 3 of 2009

### **CONSUMER PRODUCT SAFETY STANDARD FOR SWIMMING AIDS AND FLOTATION AIDS FOR WATER FAMILIARISATION AND SWIMMING TUITION**

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) **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 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**

Swimming aids and flotation aids designed for children under 14 years of age worn on or attached to the body or in which the user sits for the purpose of either enabling them to gain confidence through water familiarisation, or to assist them in acquiring unaided buoyancy through swimming tuition;

including, but not limited to:

- (a) arm bands;
- (b) attached rings;
- (c) swimming aid vests;

but NOT including:

- (d) inflatable novelty shapes;
- (e) unattached complete or partial rings;
- (f) kickboards;
- (g) articles designed for therapeutic use by disabled persons;
- (h) articles, including life jackets or other personal flotation devices, which are within the scope of AS 4758 *Personal flotation devices*, as at the date of this notice.

## **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) Australian Standard AS 1900-2002 *Flotation aids for water familiarization and swimming tuition*, approved by Standards Australia on 30 November 2001.

## **Division 3: Variations**

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

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

'**SCOPE** This Standard specifies requirements for swimming aids designed for children under 14 years of age worn on or attached to the body or in which the user sits for the purpose of either enabling them to gain confidence through water familiarisation, or to assist them in acquiring unaided buoyancy through swimming tuition.'
- (b) Deleting the text in clause 1.3.5 and replacing it with:  

'**Swimming aid** – an article which is designed for children under 14 years of age worn on or attached to the body or in which the user sits for the purpose of either enabling them to gain confidence through water familiarisation, or to assist them in acquiring unaided buoyancy through swimming tuition (see Figure 1.1).'
- (c) Deleting clause 1.3.6;
- (d) Deleting clause 1.3.8;
- (e) In Figure 1.1:
  - i. deleting the text 'FLOTATION TOYS AND' as it appears in the heading; and
  - ii. deleting the part of the figure relating to the classification of flotation toys;

- (f) Deleting clause 2.10;
- (g) Deleting section 3;
- (h) Deleting section 4;
- (i) In clause 8.1.1 deleting the text 'flotation toys and';
- (j) Deleting clause 8.1.2;
- (k) Deleting clause 8.1.5;
- (l) In clause 8.1.6 deleting the text '8.1.2 to 8.1.5' and replacing with '8.1.3 and 8.1.4';
- (m) In clause 8.2 deleting the text '8.1.2 to 8.1.5' and replacing with '8.1.3 and 8.1.4'; and
- (n) In Appendix A deleting the text 'flotation toy or' in the first paragraph.

Australian Standard AS 1900-2002 *Flotation aids for water familiarization and swimming tuition* is varied by:

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

'SCOPE This Standard specifies requirements for flotation aids designed for children under 14 years of age worn on or attached to the body or in which the user sits for the purpose of either enabling them to gain confidence through water familiarisation, or to assist them in acquiring unaided buoyancy through swimming tuition.'
- (b) Deleting the text in clause 1.4.1 and replacing it with:  

**'Flotation aid**

An article which is designed for children under 14 years of age worn on or attached to the body or in which the user sits for the purpose of either enabling them to gain confidence through water familiarisation, or to assist them in acquiring unaided buoyancy through swimming tuition.'
- (c) Deleting clause 1.4.4;
- (d) Deleting clause 2.1.1; and
- (e) In clause 2.7, deleting the sentence 'Failure or deflation of any chamber shall not affect the security of fit of the aid, as required by Clause 2.1.1.'.

**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 8<sup>th</sup> 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 Australian Consumer Law (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 what 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](http://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 or furniture containing beads
- Jelly cups containing konjac
- Miniature motorbikes (monkey bikes) with unsafe design features
- No holes tongue stud
- 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](http://www.productsafety.gov.au).

# Key terms used in this guide

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

swimming aid flotation aid	A swimming aid or flotation aid is an article which is designed for children under 14 years of age worn on or attached to the body or in which the user sits for the purpose of either enabling them to gain confidence through water familiarisation or assisting them in acquiring unaided buoyancy through swimming tuition.
Australian Consumer Law (ACL)	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 (CCA)</i> .
<i>Competition and Consumer Act 2010 (CCA)</i>	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.
consumer protection notice	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.

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](http://www.productsafety.gov.au) for a list 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](http://www.productsafety.gov.au)

[www.recalls.gov.au](http://www.recalls.gov.au)

You can also follow us on Twitter: @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](http://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](http://www.saiglobal.com/shop).

## Addresses

### National office

23 Marcus Clarke Street  
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### Northern Territory

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