

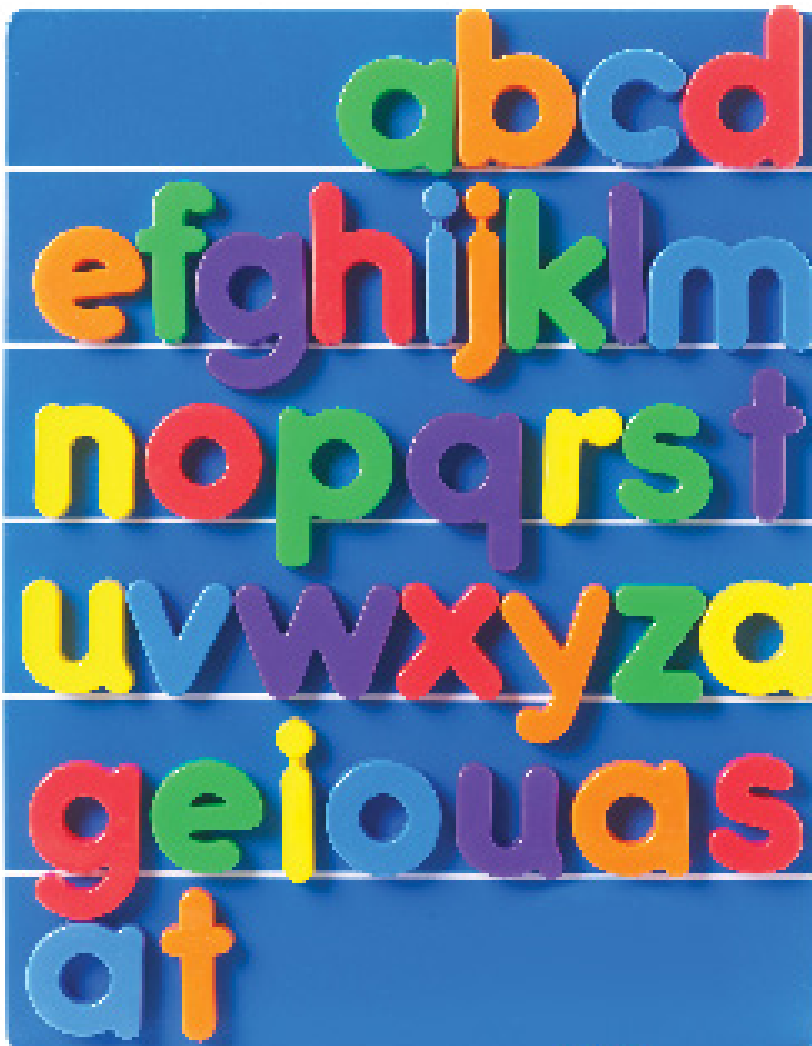


Australian
Competition &
Consumer
Commission

Product safety

Children's toys containing magnets

Supplier guide



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

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www.accc.gov.au

www.productsafety.gov.au

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Children's toys containing magnets

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 children's toys containing magnets. A full list of mandatory standards and bans is available on pages 11–13.

Who should read this guide?

Suppliers of children's toys containing magnets should read this guide to familiarise themselves with the hazards and the mandatory requirements for this product.

What are children's toys containing magnets?

The mandatory standard applies to all toys that are supplied new and:

- are designed or clearly intended for children under 14 years to play with
- contain hazardous small magnets that are loose, attached to or embedded in components of toys.

A hazardous small magnet is a magnet with a magnetic strength or flux index of more than 50 kG² mm² that comes in any of the following shapes and sizes, or any combination of the following shapes and sizes:

- a cylinder with a length of 32 mm or less and a diameter of 11 mm or less
- a disc with a diameter of 26 mm or less and a thickness of 5 mm or less
- a sphere with a diameter of 22 mm or less
- any solid that will fit entirely within the volume or envelope of any of the above defined shapes.

The mandatory standard does not apply to magnets used in motors, relays, speakers, electrical components and similar devices that are not intended for use in play.

Other excluded products are:

- sporting goods
- camping goods
- bicycles
- playground equipment
- trampolines

- electronic game units
- models powered by combustion or steam engines
- fashion jewellery for children.

What are the hazards?

Serious injury and death

Children can suffer bowel obstructions, infections and piercing of the intestine if they swallow multiple magnets, as the magnets can lock together through the walls of the intestine. To avoid serious illness and death it is vital to have the ingested magnets removed quickly. Usually surgery is required to remove the magnets, and sometimes sections of the intestine require removal.

In 2006 a nine-year-old New South Wales boy required surgery for intestine perforations and bowel obstruction after he ingested several strong magnets from toys.

In January 2009, three Queensland children aged between four and 11 underwent surgery for multiple bowel/intestine perforations after ingesting strong magnets.

From 2004 to 2008, 39 children presented at Victorian hospitals after swallowing magnets.

Mandatory standard

This mandatory standard for children's toys containing magnets is based on AS/NZS ISO 8124.1:2002, *Safety of Toys Part 1 – Safety aspects related to mechanical and physical properties*, and Amendment No. 2 to AS/NZS ISO 8124.1, with variations made by Consumer Protection Notice No. 5 of 2010.

AS/NZS ISO 8124.1:2002 and Amendment No. 2 to AS/NZS ISO 8124.1 are voluntary standards 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 and Amendment No. 2 to AS/NZS ISO 8124.1 called up by the consumer protection notice may also be varied by the notice. For this reason it is important to read the notice **together with** AS/NZS ISO 8124.1:2002 and Amendment No. 2 to AS/NZS ISO 8124.1.

The mandatory standard was declared on 10 February 2010 and came into effect on 1 July 2010.

Meeting mandatory requirements

To comply with the mandatory standard for children's toys containing magnets, you and your business must meet all the requirements for labelling, performance and testing.

Labelling

Where a toy includes a hazardous small magnet that is loose, attached to or embedded in a component of the toy, the packaging and instructions must include the following words or words to the same effect:

Warning! The product contains small magnet(s). Swallowed magnets can stick together across intestines causing serious infections and death. Seek immediate medical attention if magnet(s) are swallowed or inhaled.

Performance and testing

Hazardous small magnets must not come loose after being subjected to tests designed to simulate structural damage that can result from typical actions young children take when playing, such as dropping, pulling and twisting toys.

Suppliers should ensure that testing in accordance with the requirements of the mandatory standard is or has been undertaken by a laboratory with appropriate expertise, experience and equipment to conduct tests for these products.

Consumer Protection Notice No. 5 of 2010

COMMONWEALTH OF AUSTRALIA

Trade Practices Act 1974

Consumer Protection Notice No. 5 of 2010

CONSUMER PRODUCT SAFETY STANDARD FOR CHILDREN'S TOYS CONTAINING MAGNETS

I, Craig Emerson, pursuant to subsection 651(1) of the Trade Practices Act 1974 and for the purposes of section 650 of that Act, hereby **DECLARE** that from 1 July 2010 the consumer product safety standard for children's toys containing magnets is the clauses of the standard approved by Standards Australia as specified in Division 1 of the Schedule and varied in Division 2 of the Schedule.

Division 1 of the Schedule defines children's toys for the purposes of this safety standard and defines the scope of the standard.

THE SCHEDULE

Division 1: The Standard

Clause 4.28 of Australian/New Zealand Standard AS/NZS ISO 8124.1:2002, Safety of toys Part 1 – Safety aspects related to mechanical and physical properties, published by Standards Australia on 16 May 2003 and Amendment 2 to AS/NZS ISO 8124, published by Standards Australia on 20 February 2009, and the following clauses as referenced by clause 4.28:

- i) Clause 3;
- ii) Clause 4.1 first paragraph only;
- iii) Clause 5.24.1 first paragraph only;
- iv) Clauses 5.24.2, 5.24.3, 5.24.5, 5.24.6.1, 5.24.7, omitting the last paragraph of each of these clauses;
- v) Clause 6.25 and Figure 32;
- vi) Clause C.2.19;
- vii) Clause B.2

Division 2: Variations to Standard

Australian/New Zealand Standard AS/NZS ISO 8124.1:2002 and Amendment 2 to the Standard are varied as follows:

- i) In Clause 4.28 a) delete the words "see C.2.19 for guidance" and substitute "as specified in C.2.19"; and
- ii) In Clause C.2.19 delete the words "should include a statement similar to the following" and substitute the words "shall include the following words or words to the same effect".

Division 3: Definition of children's toys and scope of the standard

Children's toys are products supplied new that are designed or clearly intended for use in play by children under the age of 14 years.

Products not included in the scope of this standard include sporting goods, camping goods, bicycles, home and public playground equipment, trampolines, electronic game units, models powered by combustion or steam engines and fashion jewellery.

Traded this 10th day of February 2010



CRAIG EMERSON
Minister for Competition Policy and Consumer Affairs

Your responsibilities as a supplier

As a supplier, you are legally responsible for ensuring that the children's toys containing magnets 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 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) 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 children's toys containing magnets you sell comply with the mandatory standard, you should always:

- stipulate that any children's toys containing magnets you order must meet the mandatory standard
- undertake visual checks of delivered stock where possible to check they have the mandated warning labels
- 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

You can add value for your customers by giving them the following safety advice:

- Seek immediate medical attention if you suspect that a child has swallowed magnets.
- Dispose of toys if their magnets become loose.

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

Part 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 Part 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 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

Key terms used in this guide

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

hazardous small magnets	<p>A hazardous small magnet is a magnet with a magnetic strength or flux index of more than 50 kG² mm² that comes in any of the following shapes and sizes, or combinations of the following shapes and sizes:</p> <ul style="list-style-type: none">• a cylinder with a length of 32 mm or less and a diameter of 11 mm or less• a disc with a diameter of 26 mm or less and a thickness of 5 mm or less• a sphere with a diameter of 22 mm or less• any solid that will fit entirely within the volume or envelope of any of the above defined shapes.
children's toys containing magnets	<p>The mandatory standard for children's toys containing magnets applies to all toys that are supplied new and:</p> <ul style="list-style-type: none">• are designed for children under 14 years to play with• contain hazardous small magnets that are loose, attached to or embedded in components of toys.
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 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

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.

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

SAI Global

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

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