

CHILDREN'S NIGHTWEAR AND LIMITED DAYWEAR

A GUIDE TO COMPLYING WITH THE PRODUCT SAFETY STANDARD

PRODUCT SAFETY STANDARD: CHILDREN'S NIGHTWEAR

This product safety standard aims to ensure that all clothing that is suitable for children to wear at night is either designed to reduce fire danger or is made of fabric that is less likely to burn. All children's nightwear (including some types of daywear) must carry a fire hazard label. The label provides to caregivers information aimed at helping to reduce the risk of death and injury from fire hazards.

SAFETY STANDARD REGULATIONS

It is mandatory under the Product Safety Standard (Children's Nightwear and Limited Daywear Having Reduced Fire Hazard) Regulations 2008 that the children's nightwear you supply complies with specific parts of the standard AS/NZS 1249:2003 *Children's Nightwear and limited daywear having reducing fire hazard* (with New Zealand-only Amendment A 2008). It is illegal to sell children's nightwear that does not comply with the regulations.

The regulations set out what types of children's wear must carry labelling and what parts of the standard apply to New Zealand.

The standard sets out the labelling specifications that children's nightwear must meet and the tests which have to be carried out to determine the fire hazard categories for children's nightwear.

The regulations are issued under section 29 of the Fair Trading Act 1986.

The regulations and the standard AS/NZS 1249:2003 also refer to the Standard AS1182-1997 *Size coding scheme for infants' and children's clothing – underwear and outerwear*.

This standard assists suppliers to know what sizes will fit what age of children.



If you are supplying older stock of children's nightwear or second-hand clothing, the items may have been labelled following the mandatory standard from the 2005 regulations. Please check that your children's nightwear complies with the current regulations from 2008. The 2005 regulations no longer apply.

WHO DO THESE REGULATIONS APPLY TO?

The regulations apply to any person supplying, offering to supply or advertising the supply of children's nightwear. It includes manufacturers, distributors and retailers.

Types of supply include displaying children's nightwear for sale in a shop, selling children's nightwear on a market stall or advertising nightwear for sale on internet retail or auction sites.

WHAT TYPES OF CHILDREN'S WEAR ARE COVERED BY THE REGULATIONS?

Most children's wear suitable for nightwear and sized between 00 and 14 is covered by the regulations. The size range covers children between six months and 14 years of age. Some day clothing that can be used as nightwear is also covered.

The type of children's wear covered includes:

- pyjamas and pyjama type over-garments;
- nightdresses and nightshirts;
- dressing gowns and bathrobes;
- infant sleepbags with sleeves or arm openings;
- knitted all-in-ones in sizes 00 to 2 where more than 80 per cent of the item is closely fitted, these can be styled for either daywear or nightwear;
- woven all-in-ones in sizes 00 to 2 and all-in-ones over size 2 that are styled for nightwear;
- loose style boxer shorts normally used for nightwear; and
- any other children's wear recognisably and exclusively designed as nightwear.

The regulations apply to any person supplying, offering to supply or advertising the supply of children's nightwear and some daywear.

The regulations apply to both new and second-hand children's nightwear.

The term 'children's nightwear' is used in this fact sheet to cover all types of clothing that fall under the standard and the regulations.

HOW CAN I KNOW IF THE CHILDREN'S NIGHTWEAR I SUPPLY FALLS INTO 00-14 SIZE RANGE?

The standards AS/NZS 1249:2003 and AS 1182:1997 set out more information on clothing sizes for children. These can help you work out whether the nightwear you supply fits into the 00-14 size groups.

WHAT TYPES OF CHILDREN'S WEAR ARE NOT COVERED BY THE REGULATIONS?

The types of children's wear not covered by the regulations are:

- form-fitting boxer shorts usually worn as underwear;
- sheets and blankets that include a partial garment (for example, a baby shawl with a hood);
- infant sleepbags without sleeves or openings for arms;
- woven all-in-ones in sizes 00 to 2 and all-in-ones over size 2 that are not styled for night wear;
- all-in-ones mostly made up of knitted fabric where:
 - + the fabric weighs more than 280 grams per square metre, and
 - + the all-in-ones are clearly designed for daywear; or
- all-in-ones mostly made up of knitted fabric where:
 - + the fabric weighs less than 280 grams per square metre; and
 - + less than 80% of the all-in-one is closely fitted; and
- clothes that are not styled for night wear.


The regulations also do not apply to the sale of sewing patterns for children's nightwear.

WHAT ARE THE REQUIREMENTS OF THE CHILDREN'S NIGHTWEAR STANDARD AND REGULATIONS?

Children's nightwear must carry fire danger labels. What label applies depends on what category the nightwear falls under as set out in the standard. The standard sets out four different categories. Which category applies is based on a garment's design, type of fabric and the burn test results.

Children's nightwear must carry one of three labels. The low fire danger label only applies to Category 1 nightwear. Children's nightwear that falls into Category 2 or 3 must carry a caution label. The caution label was introduced in the 2008 regulations to address some confusion over the meaning of low fire danger. Category 4 garments must carry a high fire danger label.

The fire danger labels must be in the correct colours and must follow the exact wording set out in the regulations.

CATEGORY	DESCRIPTION	FIRE HAZARD INFORMATION LABEL	LABEL DETAILS
1	Garments made from fabric of the low fire hazard type and which comply with section 1	LOW FIRE DANGER	Black wording on a white label, commonly in bold typeface.
2	Garments made from fabric which does not comply with section 1 but which are designed to reduce fire hazard and which comply with section 2	CAUTION NOT HEAT OR FLAME RESISTANT WEAR SNUG-FITTING TO REDUCE RISK	Black wording on a label coloured 'marigold' as specified AS 2700, or 'light orange' as specified in NZS 7702. The word 'caution' must be in bold typeface.
3	All-in-one garments made predominantly from knitted fabrics, in sizes 00 to 2, which comply with section 3		
4	Garments which do not comply with sections 1 to 3, but which comply with section 4	WARNING HIGH FIRE DANGER KEEP AWAY FROM FIRE 	Black wording on a label coloured 'R13 signal red' as specified in AS 2700, or '537 signal red' as specified in NZS 7702. The word 'warning' must be in bold typeface. The triangle must not be less than 17 mm height and 33 mm length.

A LOW FIRE DANGER LABEL DOES NOT MEAN NO FIRE DANGER

All fibres will burn. Whatever fire hazard label children's nightwear is required to carry, there can still be a risk of injury or death if a child wearing the clothing is too close to a fire danger. Making sure children stay at least one metre away from any heat source such as a heater or open fire could reduce their risk of injury or death from a fire hazard.

CAN OTHER INFORMATION BE INCLUDED ON FIRE DANGER LABELS?

No other information can be added to the fire hazard labels on children's nightwear that must carry an orange caution label (Categories 2 and 3) or a high fire danger label (Category 4).

Other information can be added to the fire hazard label on children's nightwear that carries the low fire danger label (Category 1).

WHERE SHOULD FIRE DANGER LABELS BE PLACED ON CHILDREN'S NIGHTWEAR?

A fire hazard label must be placed on the inside back neck of a top or one piece garment. In pants, the label must be located at the waist, waistband or top of the back seam.

Fire hazard and size information must be clearly visible on the face side of the label. This information cannot be obscured by other labels.

The label must be placed on the nightwear so that they are permanently fixed, and likely to remain there during normal wear and cleaning for the useful life.

If the nightwear is made up of more than one piece, each item must be labelled with the highest category risk that applies to the parts of the garment. For example, a shorty-pyjama set made up of a top that falls into Category 1 and bottoms in Category 4 must label both pieces with the high fire danger warning label.

If the garment is sold in packaging which makes it difficult to see and read the label, the packaging must also be clearly marked with the information and warnings that are required to be on the garment.

WHAT OTHER INFORMATION MUST BE PROVIDED WITH CHILDREN'S NIGHTWEAR?

Nightwear must also be clearly and permanently marked with this information:

- name or trademark of the manufacturer or supplier;
- garment size (eg, 00, 3, 12), the size must be in numbers;
- if the garment has been made from fabrics chemically treated to reduce the risk of burning, suitable cleaning instructions to preserve the fabric treatment.

ARE THERE ANY OTHER LABELLING REGULATIONS THAT APPLY TO CHILDREN'S NIGHTWEAR?

Yes. Children's nightwear must also comply with the Consumer Information Standard Regulations on country of origin, care and fibre content labelling. Factsheets on these labelling regulations are available from the Commerce Commission's website at www.comcom.govt.nz/consumer-information-standards

WHO IS RESPONSIBLE FOR MAKING SURE THAT CHILDREN'S NIGHTWEAR IS PROPERLY LABELLED?

Although the manufacturer is likely to test and label the children's nightwear they supply, you are responsible for making sure the nightwear you supply carries the correct fire danger labels.

You should not rely on the labels being correct simply because the supplier is offering them to you for sale.

If you have any doubt that the children's nightwear you supply is not correctly labelled, ask the supplier to provide you with test results and correct labels if the supplied labels are wrong. You can also arrange your own testing.

Do not supply children's nightwear that is not properly labelled.

WHAT HAPPENS IF I SUPPLY CHILDREN'S NIGHTWEAR WITH NO LABELLING OR INCORRECT LABELS?

Supplying children's nightwear without the proper fire hazard labels may place children at risk of injury or death from fire hazards.

You will also have breached the regulations. It is an offence under section 30 of the Fair Trading Act to supply children's nightwear without a proper fire hazard label.

The Commerce Commission, which enforces the Fair Trading Act, may take a prosecution against you in court. Companies can be fined up to \$200,000 for each breach of the Act. Individuals can be fined up to \$60,000. For more information on the range of enforcement actions, from warnings through to prosecutions, see the Commission's website at www.comcom.govt.nz/enforcement-of-the-fair-trading-act

In addition to any action taken by the Commerce Commission, you may have to conduct a recall of any children's nightwear that you have supplied which does not carry the correct fire danger labels. Information on carrying out a product recall is available from www.consumeraffairs.govt.nz/for-business/compliance/productsafety

EXAMPLE

A retailer had a range of nightgowns and pyjamas which were labelled as low fire danger fabric. This was not the case. The business was told by the Commission that the night clothes had failed the flammability tests and the business agreed to tighten its quality controls. However, one month later a romper suit, being sold in the nightwear section of the shop, was purchased and it had no fire warning label sewn into it. The retailer was convicted and fined.

CAN I REPLACE INCORRECT FIRE RISK LABELS WITH THE CORRECT ONES?

Yes, you can replace an incorrect label with a new label stating the correct fire hazard warning. Any new labels must comply with the standard and regulations.

WHERE CAN I GET MORE INFORMATION ON THE STANDARDS AND THE REGULATIONS?

The standards AS/NZS 1249:2003 *Children's Nightwear and Limited Daywear having Reduced Fire Hazard* (with NZ only Amendment A) and AS1182:1997 *Size Coding Scheme for Infants' and Children's Clothing – underwear and outerwear* are available for purchase from Standards New Zealand by calling 0800 782 632 or via its website www.standards.co.nz (enter the number of the standard as keyword).

You can access the regulations and the Fair Trading Act online at the government's legislation website www.legislation.govt.nz. The information on this website is free.

You can buy copies of the regulations and the Fair Trading Act from selected bookshops.

For further information on the Fair Trading Act, you can visit the Commission's website at www.comcom.govt.nz/fair-trading

WHAT OTHER PRODUCTS ARE COVERED BY PRODUCT SAFETY STANDARDS?

There are five other product safety standards covering:

- children's toys;
- pedal bicycles;
- cigarette lighters;
- cots; and
- baby walkers.

Fact sheets for all these product safety standards are available on the Commission's website at www.comcom.govt.nz/product-safety-standards

USEFUL TERMS

- Breach – to break the law or not comply with an Act or regulations
- Comply – to meet obligations and rules
- Consumer – a person who buys from a retailer, an end-user
- In trade – a person who runs a business selling goods or services such as a retailer, manufacturer or importer
- Mandatory – compulsory, a set of rules or guidelines that must be followed
- Regulations – legislation made under an Act, in this case under the Fair Trading Act
- Supply – supply by gifting, sale (including online sales), exchange, lease, hire or hire purchase.

To check for updates to this fact sheet visit:

www.comcom.govt.nz/product-safety-standards

This fact sheet is part of a series looking at the Fair Trading Act. Other fact sheets can be downloaded from

www.comcom.govt.nz/fair-trading

CONTACT

Contact the Commerce Commission with information about false or misleading trading practices.

TELEPHONE

Our Contact Centre during office hours on 0800 943 600

WRITE

To us at Contact Centre, PO Box 2351, Wellington 6140

EMAIL

Us at contact@comcom.govt.nz

This fact sheet is a guideline only, and reflects the Commerce Commission's view. The publication is not intended to be definitive, and should not be used instead of legal advice. It is a traders' responsibility to remain up to date with legislation.

The Commerce Commission enforces legislation that promotes competition in New Zealand markets and prohibits misleading and deceptive conduct by traders.

Only the courts can make an authoritative ruling on breaches of the Fair Trading Act. Courts may fine companies found guilty of breaching provisions of the Fair Trading Act up to \$200,000 and individuals up to \$60,000.