

EXPOSURE DRAFT

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Inserts for
**Treasury Laws Amendment Bill 2024:
Product Safety Regulation**

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details

1. Schedule 1	The day after this Act receives the Royal Assent	
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2.

3.

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Schedule 1—Regulation of consumer product standards

Competition and Consumer Act 2010

1 Paragraph 131E(1)(b)

Omit “or 105(1)”.

2 Paragraph 131E(1)(i)

Omit “or 135(1)”.

3 At the end of section 131E

Add:

(4) Subsections 104(1A) and 134(1A) of the Australian Consumer Law have effect despite subsection 14(2) of the *Legislation Act 2003*.

4 Subsection 2(1) of Schedule 2 (definition of *information standard*)

Omit “sections 134(1) and 135(1)”, substitute “section 134(1)”.

5 Subsection 2(1) of Schedule 2 (definition of *safety standard*)

Omit “sections 104(1) and 105(1)”, substitute “section 104(1)”.

6 Subsection 104(1) of Schedule 2

Omit “published on the internet”.

7 Subsection 104(2) of Schedule 2

Omit “A safety standard”, substitute “Without limiting subsection (1), a safety standard”.

8 At the end of subsection 104(2) of Schedule 2

Add:

; (e) the record-keeping requirements for consumer goods of that kind;

(f) the provision of information to any person, including the regulator, about consumer goods of that kind.

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9 Subsection 104(3) of Schedule 2

Omit “A safety standard”, substitute “Without limiting subsection (1), a safety standard”.

10 At the end of subsection 104(3) of Schedule 2

Add:

- ; (f) the record-keeping requirements for such services;
- (g) the provision of information to any person, including the regulator, about such services.

11 At the end of section 104 of Schedule 2

Add:

- (4) A safety standard may also deal with matters incidental or related to matters mentioned in subsection (2) or (3).
- (5) A safety standard may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in any other instrument or writing (an *incorporated instrument*):
 - (a) as in force or existing at a particular time; or
 - (b) as in force or existing from time to time.
- (6) If:
 - (a) a safety standard makes provision in relation to a matter in accordance with subsection (4); and
 - (b) the incorporated instrument is prepared or approved by an Australian or international standards body;the safety standard may also make provision in relation to any matter dealt with in the incorporated instrument.

12 Section 105 of Schedule 2

Repeal the section.

13 Section 108 of Schedule 2

Repeal the section, substitute:

108 Requirement to nominate and comply with safety standard

- (1) This section applies if:
 - (a) a safety standard for consumer goods, or product related services, of a particular kind is in force; and

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- 1 (b) a person:
- 2 (i) has supplied or manufactured goods or services of that
- 3 kind; or
- 4 (ii) is supplying or manufacturing goods or services of that
- 5 kind; or
- 6 (iii) intends to supply or manufacture goods or services of
- 7 that kind.
- 8 (2) If:
- 9 (a) the standard specifies, as alternative methods of complying
- 10 with the standard (or part of the standard), 2 or more sets of
- 11 requirements; and
- 12 (b) the regulator gives to the person a written request to
- 13 nominate which of those sets of requirements the person has
- 14 complied with, is complying with, or intends to comply with;
- 15 the person must, within the period specified in the request, give to
- 16 the regulator a written notice nominating one of those sets of
- 17 requirements.
- 18 Note 1: A pecuniary penalty may be imposed for a contravention of this
- 19 subsection.
- 20 Note 2: A contravention of this subsection is an offence (see section 196).
- 21 (3) If the regulator gives to the person a written request for
- 22 information or documents to determine whether a person has
- 23 complied, is complying, or will comply with the standard, the
- 24 person must, within the period specified in the request, give to the
- 25 regulator the requested information or documents.
- 26 Note: A pecuniary penalty may be imposed for a contravention of this
- 27 subsection.
- 28 (4) A person contravenes this subsection if all of the following apply:
- 29 (a) the standard specifies, as alternative methods of complying
- 30 with the standard (or part of the standard), 2 or more sets of
- 31 requirements;
- 32 (b) the person nominates a set of requirements, either by giving
- 33 to the regulator a written notice under subsection (2) of this
- 34 section or by other means;
- 35 (c) the person has not complied, is not complying, or will not be
- 36 able to comply with that set of requirements.
- 37 Note: A pecuniary penalty may be imposed for a contravention of this
- 38 subsection.
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14 Subsection 134(1) of Schedule 2

Omit “published on the internet”.

15 At the end of subsection 134(2) of Schedule 2

Add:

- ; (g) set record-keeping requirements in relation to goods or services of that kind;
- (h) set requirements for the provision of information to any person, including the regulator, in relation to goods or services of that kind.

16 At the end of section 134 of Schedule 2

Add:

- (3) An information standard may also deal with matters incidental or related to matters mentioned in subsection (2).
- (4) An information standard may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in any other instrument or writing (an *incorporated instrument*):
 - (a) as in force or existing at a particular time; or
 - (b) as in force or existing from time to time.
- (5) If:
 - (a) an information standard makes provision in relation to a matter in accordance with subsection (3); and
 - (b) the incorporated instrument is prepared or approved by an Australian or international standards body;the information standard may also make provision in relation to any matter dealt with in the incorporated instrument.

17 Section 135 of Schedule 2

Repeal the section.

18 At the end of Part 3-4 of Schedule 2

Add:

137B Compliance with information standard

If:

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- 1 (a) an information standard for goods or services of a particular
2 kind is in force; and
3 (b) a person:
4 (i) has supplied or manufactured goods or services of that
5 kind; or
6 (ii) is supplying or manufacturing goods or services of that
7 kind; or
8 (iii) intends to supply or manufacture goods or services of
9 that kind; and
10 (c) the regulator gives to the person a written request for
11 information or documents to determine whether the person
12 has complied, is complying, or will comply with the
13 standard;
14 the person must, within the period specified in the request, give to
15 the regulator the requested information or documents.
16 Note: A pecuniary penalty may be imposed for a contravention of this
17 subsection.

18 **19 Subsection 196(1) of Schedule 2**

19 Omit “section 108”, substitute “subsection 108(2)”.

20 **20 After subparagraph 224(1)(a)(viii)**

21 Insert:

- 22 (viiiia) section 108(2), (3) or (4) (which are about compliance
23 with safety standards);
24 (viiiib) section 137B (which is about compliance with
25 information standards);

26 **21 Subsection 224(3) of Schedule 2 (after table item 10)**

27 Insert:

28
10A section 108(2), (3) or (4) \$50,000 \$10,000

29 **22 Subsection 224(3) of Schedule 2 (after table item 14)**

30 Insert:

31
14A section 137B \$50,000 \$10,000

32 **23 In the appropriate position in Chapter 6 of Schedule 2**

33 Insert:

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1 **Part 8—Application and saving provisions relating** 2 **to Treasury Laws Amendment Act 2024:** 3 **Product Safety Regulation** 4

5 **306 Definitions**

6 In this Part:

7 *amending Schedule* means Schedule 1 to the *Treasury Laws*
8 *Amendment Act 2024: Product Safety Regulation*.

9 **307 Saving—safety standards declared by the Minister**

10 Despite the repeal of section 105 by the amending Schedule, a
11 safety standard that:

- 12 (a) was declared for the purposes of that section; and
- 13 (b) was in force immediately before the commencement of the
14 amending Schedule;

15 continues in force (and may be dealt with) on and after the
16 commencement of the amending Schedule as if it were made for
17 the purposes of section 104, as amended by the amending
18 Schedule.

19 **308 Application—nomination and compliance with safety standards**

20 The amendment of section 108 applies in relation to:

- 21 (a) requests given by the regulator on or after commencement of
22 the amending Schedule; and
- 23 (b) the supply or manufacture of goods or services on or after
24 commencement of the amending Schedule; and
- 25 (c) a person's compliance with the standard on or after
26 commencement of the amending Schedule;

27 regardless of whether the safety standard in relation to which the
28 request is given is made before, on or after commencement of the
29 amending Schedule.