



Australian  
Competition &  
Consumer  
Commission

# baby bath aids



**product**  
**safety**

a mandatory standards guide

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Produced by the ACCC 12/07.



Under the *Trade Practices Act 1974*, mandatory consumer product safety standards can be introduced when they are deemed reasonably necessary to prevent the risk of injury.

Six babies under 13 months have drowned in a bath aid in Australia over 10 years and many more babies have come close to drowning. Baby bath aids are therefore subject to a mandatory consumer product safety standard that aims to reduce these risks by requiring specific warning labels be permanently attached to each baby bath aid.

Complying with consumer product safety standards is mandatory. This means that all suppliers of baby bath aids, including manufacturers, distributors, importers, retailers and hirers, must ensure their product complies with the mandatory requirements.

The purpose of this guide is to provide a summary of the mandatory requirements for the supply of baby bath aids.

This guide is aimed specifically at suppliers, including manufacturers, distributors, importers, retailers and hirers of baby bath aids.

The intent of this document is to increase understanding of the scope and application of the baby bath aid standard.

## The mandatory safety standard

Baby bath aids must be labelled in accordance with the Trade Practices (Consumer Product Safety Standard) (Baby Bath Aids) Regulations 2005 ([www.comlaw.gov.au](http://www.comlaw.gov.au)).

## Toys attached to baby bath aids

Toys attached to baby bath aids must comply with the mandatory product safety standard for toys for children 36 months and under, based on Australian/New Zealand AS/NZS ISO 8124.1: 2002, Safety of toys, Part 1 and made mandatory by Consumer Protection Notice No. 14 of 2003, as amended by Consumer Protection Notice No. 1 of 2005.

## Suppliers' responsibility

This guide summarises the mandatory requirements for baby bath aids. It aims to increase supplier understanding of the coverage and application of the mandatory safety standard.

As this guide is of a general nature it may not cover all important qualifications or exceptions to the mandatory standard. Therefore suppliers should always seek professional advice or other appropriate verification to ensure their product complies.

**Suppliers are legally responsible for ensuring their baby bath aids meet the mandatory safety standard.**

## Coverage of the mandatory standard

The mandatory standard for baby bath aids applies to all baby bath aids supplied from 12 May 2005.

A baby bath aid is a device that:

- > provides support for a child while leaving the carer's hands free to wash the child
- > comes in a range of styles, from bath rings and seats to bathing cradles.

## Requirements of the mandatory standard

### General

Mandatory labelling requirements must be:

- > permanently affixed to the baby bath aid and any packaging
- > prominently and conspicuously displayed
- > in a contrasting colour to the colour of the baby bath aid and packaging.

Paper labels or similar are not acceptable as they can be easily removed.

### Placement of the warning labels

There are specific requirements for the placement of the required warning statements. The label must:

- > be located on the upper surface of the baby bath aid
- > be visible to a person when the baby is in the baby bath aid
- > not run, fade or be removable as a result of being subjected to bathing conditions.



## Sample label

Below is a sample **ONLY** of the wording required on the warning label.  
Labelling must be in accordance with s. 5 of the Baby Bath Aids Regulation 2005.

The word **WARNING** must be in capital letters and 10 mm high.  
The words **DROWNED**, **NOT**, **ALWAYS** and **NEVER** must also be in capital letters and at least 5 mm high. The remaining words must be at least 2.5 mm high.

The safety alert symbol is an exclamation mark inside an equilateral triangle that has a base of at least 30mm.

## Packaging labels

If the baby bath aid is supplied in packaging that is colourless and transparent with the warning labels clearly legible through it, an additional warning label on the packaging is **NOT** required.



# WARNING

Children have **DROWNED** while using bath aids.  
This is **NOT** a safety device. **ALWAYS** keep baby  
within arm's reach. **NEVER** leave baby  
in care of children.



## Retailer information

Retailers are responsible for ensuring that the goods they stock meet mandatory safety standards. To help them comply, retailers should always:

- > stipulate when ordering that the goods meet the mandatory standard
- > undertake visual checks to ensure goods comply with the labelling requirements.

## The ACCC's role

The role of the ACCC is to enforce the mandatory consumer product safety and information standards.

Because preventing injury is better than cure, the ACCC believes it is very important to promote compliance with the mandatory safety provisions as well as to take remedial enforcement action when necessary.

Surveys of retail outlets are conducted throughout Australia to detect non-complying products. The aim is to assess the overall level of marketplace compliance, as well as liaising with suppliers to assist them on how to comply with the standards. The ACCC also investigates allegations from consumers and suppliers about goods that don't comply.

The ACCC frequently seeks the immediate withdrawal or recall of defective goods from sale. Other remedies include court enforceable undertakings, injunctions, damages, a requirement for corrective advertising and various ancillary orders.

## Penalties

Supplying goods that do not comply with a mandatory standard is an offence under the Trade Practices Act and may result in fines of up to \$1.1 million for companies and \$220 000 for individuals.

### 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. However, 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 through responsible and sensible business practices that could include:

- > regularly reviewing product design and production
- > implementing and reviewing quality assurance procedures
- > regular product testing, including batch testing, to relevant standards
- > appropriate marketing
- > providing clear and thorough user instructions
- > ability to recall product when necessary.

### Other legislation

A state or territory may have its own mandatory product safety standards. For information about state and territory laws, suppliers should contact the relevant consumer affairs or fair trading agency in your state or territory and/or the state or territory in which your product will be sold.

### ACCC website

Information on product safety and standards are available on the ACCC website: [www.accc.gov.au](http://www.accc.gov.au). The site is regularly updated with news on mandatory standards, bans and recalls. Product safety media releases and links to other useful websites are also available.

## Mandatory standards and bans under the Trade Practices Act as at December 2007

### Mandatory standards

- > 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 nightwear and paper patterns for children's nightwear
- > Cosmetics and toiletries—ingredient labelling
- > Cots for household use
- > Disposable cigarette lighters
- > Elastic luggage straps
- > Exercise cycles
- > Fire extinguishers (portable—aerosol)
- > Fire extinguishers (portable—non-aerosol)
- > Flotation toys and swimming aids for children
- > Jacks (trolley)
- > Jacks (vehicle)
- > Motorcycle helmets
- > Pedal bicycles
- > Portable ramps for motor vehicles
- > Support stands for motor vehicles
- > Prams and strollers
- > Sunglasses and fashion spectacles
- > Tobacco products—labelling
- > Toys for children 36 months and under



## Permanent bans

- > Candles and candle wicks containing greater than 0.06 per cent lead by weight
- > Children's dart gun sets
- > 'Diveman' underwater breathing apparatus
- > Gas masks which contain asbestos
- > Glucomannan in tablet form
- > Jelly cups containing konjac
- > 'Quickie' line release system
- > Seat belt accessories including 'Klunk Klip', 'Comfix', 'Auto Comfort'
- > Sun visors including 'Autotrend Sun Filter' and similar internal visors
- > Tinted headlight covers
- > Tobacco products (smokeless)
- > Victim toys

## Interim bans

- > Toxic seeds (*Abrus precatorius*) in toys, novelties, ornaments or similar items
- > 'Woofaz Pet Products' 3-metre retractable dog leashes
- > Toothpaste containing more than 0.25 per cent by weight of diethylene glycol (DEG)
- > Lead in children's toys

Further details on mandatory standards and bans can be obtained from the ACCC Infocentre on 1300 302 502.

Updates on product safety and mandatory standards can be obtained from the ACCC website: [www.accc.gov.au](http://www.accc.gov.au).



## Trade Practices (Consumer Product Safety Standard) (Baby Bath Aids) Regulations 2005<sup>1</sup>

### Select Legislative Instrument 2005 No. 83

I, JOHN LANDY, Administrator of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Trade Practices Act 1974*.

Dated 11 May 2005

JOHN LANDY  
Administrator

By the Administrator's Command

CHRIS PEARCE  
Parliamentary Secretary to the Treasurer

### Regulation 1

#### 1 Name of Regulations

These Regulations are the *Trade Practices (Consumer Product Safety Standard) (Baby Bath Aids) Regulations 2005*.

#### 2 Commencement

These Regulations commence on the day after they are registered.

#### 3 Interpretation

In these Regulations, unless the contrary intention appears:

*Act* means the *Trade Practices Act 1974*.

*baby bath aid* means a device designed to support a baby while the baby is being bathed.

*safety alert symbol* means a symbol consisting of an exclamation mark inside an equilateral triangle with a base of at least 30 millimetres, as depicted in Schedule 2 to the notice under paragraph 31 (1) (a) of the *Fair Trading Act 1987* (NSW) published in the New South Wales Government Gazette No. 63 on 26 March 2004, at page 1721.

#### 4 Purpose

For subsection 65C (2) of the Act, these Regulations set out the consumer product safety standard for baby bath aids.

#### 5 Form and content of warning

- (1) Subject to subregulation (4), a baby bath aid and any packaging in which the baby bath aid is supplied must bear a warning containing:
  - (a) a notice stating "WARNING — Children have DROWNED while using bath aids. This is NOT a safety device. ALWAYS keep baby within arm's reach. NEVER leave baby in care of children."; and
  - (b) 2 safety alert symbols, placed immediately to the left and right of the notice.

2 *Trade Practices (Consumer Product Safety Standard) (Baby Bath Aids) Regulations 2005* 2005, 83

### Regulation 5

- (2) On both a baby bath aid and any packaging in which the baby bath aid is supplied:
  - (a) that part of the warning consisting of the notice must include:
    - (i) the word "WARNING" in capital letters at least 10 mm high; and
    - (ii) the words "DROWNED", "NOT", "ALWAYS" and "NEVER" in capital letters at least 5 mm high; and
    - (iii) the remaining words in lower case letters at least 2.5 mm high; and
  - (b) the warning must be:
    - (i) permanently affixed to the baby bath aid and any packaging; and
    - (ii) prominently and conspicuously displayed; and
    - (iii) in a contrasting colour to the colour of the baby bath aid and of any packaging.
- (3) The warning on the baby bath aid must:
  - (a) be on the upper surface of the baby bath aid; and
  - (b) be visible to a person when a baby is in the baby bath aid; and
  - (c) not contain any ink, colouring or other material that may run or fade when the baby bath aid is subjected to bathing conditions.
- (4) If the packaging in which a baby bath aid is supplied is colourless and transparent, and the warning on the baby bath aid is clearly legible to a person through the packaging, the warning is not required on that packaging.

#### Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See [www.fli.gov.au](http://www.fli.gov.au).

2005, 83 *Trade Practices (Consumer Product Safety Standard) (Baby Bath Aids) Regulations 2005* 3

## Contacts

**ACCC Infocentre** | 1300 302 502 for all business and consumer inquiries

**ACCC website** | [www.accc.gov.au](http://www.accc.gov.au)

Callers who are deaf or have a hearing or speech impairment can contact the ACCC through the National Relay Service **[www.relayservice.com.au](http://www.relayservice.com.au)**

TTY or modem users—phone 133 677 and ask for 1300 302 502.

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

## Offices

### ACT (national office)

GPO Box 3131  
CANBERRA ACT 2601  
Tel: (02) 6243 1111  
Fax: (02) 6243 1199

### New South Wales

GPO Box 3648  
SYDNEY NSW 2001  
Tel: (02) 9230 9133  
Fax: (02) 9223 1092

### Victoria

GPO Box 520  
MELBOURNE Vic 3001  
Tel: (03) 9290 1800  
Fax: (03) 9663 3699

### South Australia

GPO Box 922  
ADELAIDE SA 5001  
Tel: (08) 8213 3444  
Fax: (08) 8410 4155

### Queensland

PO Box 10048  
Adelaide Street Post Office  
BRISBANE Qld 4000  
Tel: (07) 3835 4666  
Fax: (07) 3832 0372

### North Queensland

PO Box 2016  
TOWNSVILLE Qld 4810  
Tel: (07) 4729 2666  
Fax: (07) 4721 1538

### Western Australia

PO Box 6381  
EAST PERTH WA 6892  
Tel: (08) 9325 0600  
Fax: (08) 9325 5976

### Tasmania

GPO Box 1210  
HOBART Tas 7001  
Tel: (03) 6215 9333  
Fax: (03) 6234 7796

### Northern Territory

GPO Box 3056  
DARWIN NT 0801  
Tel: (08) 8946 9666  
Fax: (08) 8946 9600

baby bath aids

