



**Asia-Pacific
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Recalls, Market Surveillance and Border Inspection in New Zealand

Submitted by: New Zealand



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Recalls, Market
Surveillance and Border
Inspection in New Zealand

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Overview of Presentation

- Background – Enforcement in New Zealand
- Managing Product Recalls
- Market Surveillance
- Border Inspections

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A New Zealand Perspective...

- Small, open economy
- High expectations in relation to health and safety
- An appetite for innovation
- A relatively low tolerance for risk
- No dedicated product liability law as such but has instead a statutory no-fault insurance scheme - ACC
- Heavily reliant on voluntary standards
- See responsibility for product safety laying with producers (from design stage onwards) and with consumers (making informed active choices)
- Risk based approach to regulation

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The Role of Regulators & Policy Makers

Regulators should only pursue intervention when:

- There are hidden risks and consumers would have difficulty observing potential effects that could arise in the longer term
- In order to create the right incentives and ensure the right information is provided
- Deal with the non-compliant fringe that are not responsive to alternative interventions

Need to strike the right balance between:

Well-informed / Well-intentioned businesses	A 'light' touch based around information provision
Well-intentioned / Ill-informed businesses	Guidance and information from Government – warning instructions
Ill-intentioned / Ill-informed businesses	Robust, regulatory action

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New Zealand's Approach to Consumer Product Safety

- Promote consumer and business awareness
- Encourage research to improve safety
- Facilitate solutions between consumers and suppliers, including:
 - talking to the shopkeeper or supplier
 - talking to the manufacturer
 - suggesting modifications to make the product safe
 - negotiate the removal of unsafe products from sale
 - assist companies to recall unsafe products
 - help develop voluntary standards
- In more serious cases MCA can
 - recall unsafe products
 - ban unsafe products
 - make mandatory standards

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Enforcement Infrastructure in New Zealand

3 key agencies involved in Consumer Product Safety:

Agency	Area of Operation	Roles
NZ Customs Service	Pre-market	Enforcement of mandatory standards and regulations at the border
Ministry of Consumer Affairs	Post Market	Surveillance and monitoring of products Coordination of recalls and bans
Commerce Commission	Post Market	Enforcement of consumer information standards, mandatory standards and unsafe goods notices

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Toy Safety – Other Stakeholders

The Ministry works with a number of other stakeholder agencies in relation to the safety of children's products:

- 'Community of Interest' - Safekids NZ, Plunket and Barnardos
- Environmental Risk Management Authority (ERMA)
- Accident Compensation Commission
- Ministry of Health / Health Specialists
- Universities
- NZ Toy Retailers Association

Consumer Product Safety Legislation

There are two primary pieces of legislation in New Zealand that address product safety:

- Consumer Guarantees Act 2003
- Fair Trading Act 1986

Consumer Guarantees Act 2003

- The CGA sets out guarantees that goods and services must meet when sold by a retailer or supplier.
- In relation to goods, the CGA gives consumers rights that goods must:
 - be of acceptable quality
 - be fit for the purpose they are made for
 - be **safe**, durable (last for a reasonable time), have no minor defects and are acceptable in look and finish
 - match the description given
 - be of reasonable price
 - have spare parts and repair facilities available

Consumer Guarantees Act 2003

In terms of product safety enforcement and compliance, the CGA:

- provides minimum standards for the quality of goods and services
- establishes a broad expectation that all consumer products on sale are safe (fit for purpose)
- relies on consumer seeking redress from suppliers and if needs be via the Disputes Tribunal

Fair Trading Act 1986

- The Fair Trading Act prohibits misleading and deceptive conduct, false representations and unfair practices by people in trade
- The Act provides the Minister of Consumer Affairs with powers to undertake specific measures in response to the detection of unsafe products:
 - Mandatory Product safety Standards
 - Product Bans (Unsafe Goods Notices)
 - Compulsory product recalls
- These measures are in effect regulations

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Fair Trading Act – Regulated Products

The product safety regulatory regime in New Zealand is built around encouraging voluntary compliance and adoption of best practice.

However there are some factors and issues that have driven the development of more formal arrangements:

- Vulnerable Consumers – infants and children
- Specific Incidents – children’s nightwear labelling
 - hot water bottles
- Alignment to International Standards – AS/NZS ISO 8124
 - Part 1 – small parts

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Fair Trading Act 1986

Product	Relevant Standard
Baby Walkers	ASTM F977-03
Bicycles	AS/NZS 1927:1998
Children's Nightwear	AS/NZS 1249:2003 as amended
Cigarette Lighters	ISO 9994
Household Cots	AS/NZS 2172:2003
Toys for children up to 3 years of age	AS/NZS 8124 Part 1

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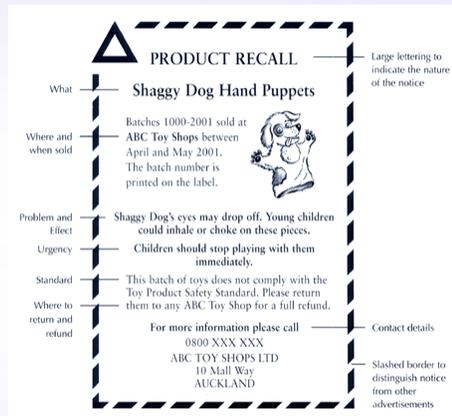
Fair Trading Act 1986 – Unsafe Goods Notices

Product	Issue	Length of Ban
Children's water colour paint set	Excess lead in children's paint set	Indefinite
Rubber and PVC hot water bottles	Serious failure – need to comply with BS 1970	Indefinite
Candles and candlewicks	Excess lead	Indefinite
Lead in children's toys	Ban of excess lead as per AS/NZS ISO 8124 Part 3 (to be extended)	Indefinite
Pistol Crossbows	2 specific brands and any with safety catches	Indefinite

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Product Recalls

- Vast majority are voluntary
- Triggered by a range of different factors
- 'Big ticket' items v other types of goods
- Assessing efficacy
- Use of networks



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Market Surveillance

Currently Product Safety mainly reactive:-

- Complaints from the public
- Contacts from Traders
- Information from other agencies – both within NZ and overseas - both government / non government

Proactive work:

- Project Focussed - Noisy Toys
- Major Marketplace Survey - Focus on chemical / hidden hazards in toys and clothing
- Building Capacity – develop screen testing capability
- Monitoring developments – working closely with other agencies and scanning media etc.

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Border Inspection

- The majority of consumer products on sale in New Zealand are imported
- Close working relationship with New Zealand Customs Service – Customs face a range of pressures
- Customs focussed on products which are banned (via unsafe goods notices) or for which there are mandatory standards
- Border controls important but New Zealand keen to work right through the supply chain – from designers through to retailers to help ensure that only safe goods are placed on the market

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Key Issues and Challenges for the Future

- Increasingly difficult to determine / identify hazards
- Risk assessment – ensuring a proportionate / appropriate response
- Increase in cross border trade
- Better informed consumers – higher demands and expectations – lower risk tolerance
- New products and technology - nanotechnology
- New scientific knowledge - we now know lead and asbestos are harmful but in the past seen great materials and the ability to detect chemicals and compounds at much lower levels
- Communication & Cooperation - back through the supply chain

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Thank you for your attention

**I would be pleased to answer
any questions you might have**

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