



ANALYSIS

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1977, No. 87

An Act to make provision for the prevention or reduction of the risk of death and personal injury through the use of certain fabrics and designs in the manufacture of children's night clothes
[16 December 1977]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—(1) This Act may be cited as the Safety of Children's Night Clothes Act 1977.

(2) This Act shall come into force on the 1st day of January 1979.

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Examiner” means the Examiner of Commercial Practices within the meaning of the Commerce Act 1975:

“Fabric that melts” means thermoplastic fabric that, when tested by the method described in Part 2 of the Standard Specification for Methods of Test for

Combustion Characteristics of Textile Materials (NZS 8703), shows any tendency to melt or to allow molten material to drip:

“Garment” means a pair of pyjamas, an over-garment of pyjama style, a nightdress, or a dressing gown, which, under Standard Specification for Children's Night Clothes Having Low Fire Risk (NZS 8705), is suitable for children aged 12 months to 14 years inclusive:

“Marking” means a trade description, instruction, or warning prescribed by this Act:

“Package” has the same meaning as in section 2 of the Consumer Information Act 1969:

“Piece”, in relation to a garment, does not include belts, cords, sashes, or other trimmings or attachments:

“Sale” includes barter; and also includes offering or attempting to sell, or exposing for sale, or sending or delivering for sale, or causing or allowing to be sold, offered, or exposed for sale.

(2) A reference in this Act to a garment shall, in the case of a garment having more than 1 piece, be construed as a reference to each piece of the garment.

3. Classification of garments—For the purposes of this Act, garments shall be classified as follows:

(a) Class I garments, comprising garments—

(i) Made wholly of fabric which complies with the Standard Specification for Low Fire Risk Fabrics for Children's Night Clothes (NZS 8704); and

(ii) Which comply with the provisions relating to trimmings and attachments contained in Part I of the Standard Specification for Children's Night Clothes Having Low Fire Risk (NZS 8705):

(b) Class II garments, comprising garments which are not Class I garments but the design of which complies with Part 2 of the Standard Specification for Children's Night Clothes Having Low Fire Risk (NZS 8705).

4. Description of garments—(1) Every description, statement, or other indication, whether direct or indirect, given or made by a person in the course of selling a Class I garment and which in any way relates to the fire risk of the fabric of the garment shall include the words “low fire risk garment”.

(2) Every description, statement, or other indication, whether direct or indirect, given or made by a person in the course of selling a Class II garment and which in any way relates to the fire risk of the fabric of the garment shall not include the words "low fire risk" or any words implying that the fabric of the garment has a low fire risk.

5. Instructions and warnings to be affixed to garments—Subject to the provisions of this Act, garments shall have affixed to them a marking with the following instructions and warnings:

- (a) Where the garment is a Class II garment, the words "designed to reduce fire risk, keep away from fire":
- (b) Where the garment is a Class I garment or a Class II garment which is made of or contains any fabric that melts, the words "warning, do not wear under any fabric that burns":
- (c) Where the garment is a Class I garment and is made of or contains any fabric that has been treated by chemical or other means to reduce fire risk, and the effect of the treatment would or might be lessened—
 - (i) By the use of soap in washing the garment, the words "do not use soap, wash in synthetic detergent":
 - (ii) By boiling the garment, the words "do not boil":
 - (iii) By cleaning the garment by the use of any other material or method in ordinary use for cleaning garments, a warning against cleaning the garment by the use of that other material or method.

6. Method of marking—(1) Every marking required by this Act to be affixed to a garment shall be in easily legible lettering of a height of not less than 3 millimetres and shall be—

- (a) Marked in indelible ink on the garment to which it relates; or
- (b) Stitched into the fabric of the garment by means of thread of a colour contrasting with the colour of the garment; or
- (c) Marked or stitched in the manner prescribed by paragraph (a) or paragraph (b) of this subsection or into a permanently affixed label which shall be

legible after testing by the test method described in the Standard Specification for Children's Night Clothes Having Low Fire Risk (NZS 8705).

(2) Where more than one marking is prescribed by this Act in respect of a garment, the markings shall be in close proximity to each other.

(3) A required marking shall not be combined with or accompanied by any other matter if that other matter would, by illustration, by wording, or by size of lettering, tend to contradict or obscure the required marking.

(4) Where a garment which is required to be marked in accordance with section 5 of this Act is exposed for sale at retail in a package, and the prescribed marking on the garment is not readily visible, the package shall be prominently marked with the instructions and warnings prescribed under this Act in respect of that garment.

7. Certificates of compliance—(1) The Minister of Trade and Industry may from time to time, by notice in the *Gazette*, authorise any person to issue certificates of compliance under subsection (2) of this section.

(2) Any such person may issue a certificate—

(a) Certifying, in respect of any garment, that it is a Class I garment or a Class II garment:

(b) Certifying, in respect of any fabric, that it complies with the Standard Specification for Low Fire Risk Fabrics for Children's Night Clothes (NZS 8704)—
if, after carrying out sufficient tests, he is satisfied that the garment is a Class I garment or a Class II garment or that the fabric complies with the said Standard Specification, as the case may be.

(3) Any such certificate issued in respect of a garment or a fabric shall, in the absence of proof to the contrary, be sufficient evidence that the garment is a Class I garment or a Class II garment, as the case may be, or that the fabric complies with the said Standard Specification.

8. Investigations—(1) For the purposes of this Act the Examiner may conduct such investigations as he thinks fit.

(2) For the purposes of any investigation conducted under subsection (1) of this section, any person authorised either generally or specially in writing by the Examiner may require any person to produce any books or documents in his possession or control or to furnish any information or particulars in

a form approved by, or acceptable to, the Examiner that may be required by the Examiner, and allow the authorised person to inspect such books or documents and to take copies of or extracts from them.

(3) For the purposes of any investigation conducted by the Examiner to ascertain whether an offence against this Act has been committed, the Examiner may require any person in the business of selling goods to make available, free of charge, to a person nominated by the Examiner, specified garments or samples of garments in his possession or under his control for inspection, testing, or examination.

9. Offences—(1) Every person commits an offence against this Act who—

- (a) Sells a garment which is not a Class I garment or a Class II garment; or
- (b) Sells a Class I garment or a Class II garment which is not marked in accordance with the requirements of this Act; or
- (c) Acts in contravention of or fails to comply with any provision of this Act.

(2) It shall be a sufficient defence to a prosecution for an offence against this Act by reason of a contravention of, or a failure to comply with, any requirement imposed by this Act, if the person charged proves that he had reasonable cause to believe that all such requirements were satisfied.

10. Penalties—(1) Every person who commits an offence against this Act shall be liable on summary conviction—

- (a) In the case of an individual, to a fine not exceeding \$1,000, and, if the offence is a continuing one, to a further fine not exceeding \$100 for every day or part of a day during which the offence has continued;
- (b) In the case of a body corporate, to a fine not exceeding \$5,000, and, if the offence is a continuing one, to a further fine not exceeding \$500 for every day or part of a day during which the offence has continued.

(2) If any body corporate is convicted of an offence against this Act, every director, and every officer concerned in the management of the body corporate, shall be guilty of the offence if it is proved that the act or omission that constituted the offence took place with his authority, permission, or consent.

11. Exemption—Nothing in this Act shall, before the 1st day of January 1980, apply to or in relation to any garment manufactured in or imported into New Zealand on or before the 1st day of January 1979.

This Act is administered in the Department of Trade and Industry.
