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# **Product Safety Policy Statement – Button Batteries; safer products and packaging**

**Consultation Document 2017**

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## Information for submitters

The Ministry of Business, Innovation and Employment (MBIE) invites you to submit your thoughts in writing on the proposals outlined in this document.

To help you consider the issues, there are questions listed on page 4-5. You do not need to answer all questions; you may answer as many as you wish. Broader comment on these issues will also be welcomed.

Queries and submissions in response to this document should be sent to MBIE by email (preferably either as a Microsoft Word (.doc) or Acrobat (.pdf) document) or post, using the following addresses:

[tradingstandards@mbie.govt.nz](mailto:tradingstandards@mbie.govt.nz)

### Button Battery Policy Statement Submissions

Trading Standards,  
Ministry of Business, Innovation and Employment  
PO Box 1473  
Wellington 6140

The closing date for submissions is **5.00pm, Friday 20 October 2017**.

### Publication of submissions and the Official Information Act 1982

Other than submissions that may be defamatory, MBIE may publish submissions on its website. MBIE will not publish your submission on the internet if you have any objection to its publication. However, it will remain subject to the Official Information Act 1982 and may, therefore, be released in part or full.

When making your submission, please state if you have any objections to the release of any information contained in your submission. If so, please identify which parts of your submission you are requesting to be withheld and the grounds for doing so (e.g. commercial confidentiality).

### Privacy

The Privacy Act 1993 establishes certain principles with respect to the collection, use, and disclosure of information about individuals by various agencies including MBIE. It governs access by individuals to information about themselves held by agencies. Any personal information you supply to MBIE in the course of making a submission will be used by MBIE only in conjunction with the matters covered by this document. Please clearly indicate in your submission if you do not wish your name to be included in any summary of submissions that MBIE may publish.

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## Introduction

This consultation document has been prepared by MBIE to invite feedback on the proposal to introduce a product safety policy statement to help reduce the risks posed by button batteries in household products.

Under section 30A(3)(a) of the Fair Trading Act 1986, before issuing a product safety policy statement, the Minister of Commerce and Consumer Affairs must consult with people who could be substantially affected by a product safety policy statement, to give them an opportunity to make any comment, and to consider any comments.

This document sets out:

- safety risks with button batteries
- how the risks of button batteries can be reduced
- next steps following consultation
- questions we would like you to answer (you may answer some or all questions and/or provide other comments).

## Safety risks with button batteries

Button batteries are small, flat, coin shaped batteries found in a number of products. If button batteries are swallowed or inserted (e.g. in ears or noses), they can cause a chemical reaction that burns through tissue. This chemical reaction occurs quickly and can be fatal or cause serious lifelong medical complications if not treated appropriately. Button batteries pose a significant hazard to children, especially particularly young children (3 years and younger). Young children are particularly inclined to swallow small items, and are unable to convey if they have swallowed something. Besides the risk of chemical burns, button batteries pose a choking hazard for young children, like other objects of the same size and shape.

Although there are laws that cover children's toys, there are many household products that use button batteries which children could access. As consumers want more slim-line and light devices, so there are more button batteries in products, due to their small size and shape. Products that contain button batteries include hearing aids, kitchen and bathroom scales, remote controls, garage door openers, calculators and phones, thermometers, musical/talking books and birthday cards.

Button batteries pose a risk if they are accidentally released from household products, and when replacement batteries are kept to replace old/spent button batteries. In addition, even though a button battery may be old/spent, it still has the power to cause harm.

## How the risks of button batteries can be reduced

Button batteries are a risk to child safety. We want to make the storage and use of button batteries safer by ensuring children cannot easily access button batteries from battery packaging and the battery compartments in household products. The aim is to reduce the number of injuries due to children swallowing or inserting button batteries, within the next three years.

The type and number of products containing button batteries is increasing rapidly. Without any action, the number of children injured by button batteries is likely to continue and may well increase.

MBIE has proposed using a product safety policy statement to establish a voluntary safety threshold for industry to follow. This decision was made after considering the broad variety of products

involved and viability and effectiveness of other regulatory approaches, such as mandatory product safety standards. Other initiatives to raise consumer awareness of the risks and treatment approach in the medical fraternity are also critical to achieving improved safety outcomes.

### **Product Safety Standards Regulations**

Product safety standards identify safety-related requirements for particular types of products, typically in their final form as supplied for use. Regulations can be used to ensure suppliers' products achieve the standards by making those standards mandatory.

To make Product Safety Standard Regulations, an official standard needs to be cited for the specific product type. For button batteries themselves this is not an issue; however, given the variability of products containing button batteries currently, and continuing development of new products, it would be a near impossibility to maintain effective regulations to ensure all products types are captured. This could result in regulatory gaps and make it difficult for suppliers to know when it applies, and for regulators to enforce. The regulation would also need to be amended each time a new product that used button batteries as a component was available for sale.

There would be a high cost for suppliers to comply with the law. There would be risks that:

- not all products that use button batteries would be covered due to the time it takes to amend regulations, and
- businesses would not seek ways to increase product safety themselves due to a perception that the law is doing this already.

**Product Safety Information and Education** for consumers (parents and care-givers) and medical practitioners.

Information and Education is supported by MBIE and is already being used by consumer safety advocate groups and within the healthcare system. Information and education raises awareness of the hazards of button batteries and what parents and caregivers need to do if they suspect a child has swallowed or inserted a button battery.

These messages are important for helping consumers to store and use button batteries safely. However these messages are for consumers rather than manufacturers, suppliers or retailers and are unlikely to be an effective driver for industrywide development and sale of safer products within the next three years.

Information for the medical fraternity raises awareness of the risk and treatment options required. Button battery ingestion events cannot be treated like other foreign body ingestion incidents, requiring rapid identification and response, including potential surgical intervention.

### **MBIEs Proposed Product Safety Policy Statement**

A Product safety policy statement would help businesses to improve product safety through guidance that clearly sets out:

- the risks of button battery packaging, storage, and use in household products
- what industries can do to bring safer products to the market
- how industries can support consumers to store and use products safely.

This is expected to make household products which contain button batteries safer, have the broadest reach (to cover manufacturers, suppliers and retailers) and the lowest cost of compliance.

A product safety policy statement is made by the Minister of Commerce and Consumer Affairs under section 30A of the Fair Trading Act 1986. The policy statement sets out the risks of a class of products, and provides guidance to lessen those risks by helping to improve a product's safety.

A policy statement enables industries to lead on product safety by establishing an expected safety benchmark for products and setting a clear indication in the industry and with consumers about what a safe product is. A policy statement does not require businesses to follow the guidance or penalise businesses that do not. Instead, a product safety policy statement would reinforce industry initiatives, such as coating the batteries in dye to enable identification if swallowed, and raise awareness of the need to improve button battery product safety to a broad audience.

A policy statement also establishes a benchmark against which to assess the safety of products. This can be used in future to help target regulatory interventions for product types where industry has failed to appropriately address the identified risks.

## Next Steps

After consultation has closed, submissions will be reviewed, and the policy statement may be changed to take account of your comments. The aim is to submit the final policy statement to the Minister of Commerce and Consumer Affairs with a media release before the end of December 2017. The policy statement will be published on the MBIE website, along with guidance to support businesses to develop, source and supply safer products.

## Questions

### *General questions*

1. Do you agree that the risks posed by button batteries will be reduced if:
  - it is harder for children to get into button battery packaging and button battery compartments in products; and
  - there are warning statements about the risks of button batteries on button battery packaging and with consumer products containing button batteries?
2. What else could help make button batteries safer?
3. How much do you agree that manufacturers and sellers (suppliers and retailers) are likely to take action to make button batteries safer because of the policy statement?
4. What else could be done to encourage manufacturers and sellers (suppliers and retailers) to take action to make button batteries safer?
5. Do you agree the policy statement covers the right products? If you do not, what products should be included or excluded?

### *Questions about manufacture, supply and retail*

6. What test, if any, could replace or improve 'use and abuse' tests on the security of button battery packaging and compartments in products?
7. What could obstruct industry from making button battery packaging child safe or child resistant?

8. What could obstruct industry from including warning statements highlighting the risks of button batteries on products and packaging?
9. What could deter manufacturers, suppliers, and retailers from following policy statement guidance?
10. What investment (e.g. cost and time of changes) would manufacturers, suppliers, and retailers be making to follow the policy statement guidance?



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## ***Product Safety Policy Statement: Button Batteries; safer products and packaging***

### **Introduction**

This policy statement is intended to highlight the risks associated with button batteries in household goods. The aim is to provide guidance for manufacturers and suppliers of such goods to help mitigate those risks and contribute to improved safety outcomes.

A product safety policy statement is made by the Minister of Consumer Affairs under section 30A of the Fair Trading Act 1986. It highlights the risks related to a class of goods, and provides guidance for mitigating those risks to help improve a product's safety.

This policy statement sets the expectation suppliers of button batteries and of goods containing or supplied with button batteries:

- take reasonable steps to ensure that their products limit access by children to button batteries; and
- highlight the potential risks to parents and caregivers.

Detailed recommendations to achieve the policy intent are included.

### **Policy Statement approach**

A product safety policy statement enables industry to self-adjust, by establishing an expected safety benchmark for the goods that are the subject of the statement. The intention is that the policy statement will address the identified safety issue with those goods, without more formal regulatory intervention being required.

A policy statement allows the industry to voluntarily follow guidelines and create a positive change to help increase consumer safety. Policy statements are a new approach to product safety in New Zealand. The success of the approach will depend on the willingness of industry to respond to voluntary guidelines.

### **Safety issues with button batteries**

Button batteries pose a hazard to children. They are small, round and easily swallowed. Apart from a risk of choking, if a battery is swallowed it can cause severe burns, and the injuries can be fatal. Several cases of New Zealand children swallowing button batteries have been reported in recent years. SafeKids Aotearoa reports that 20 children are taken to Starship Hospital each year with button battery related injuries.

Household items that contain button batteries (such as bathroom scales and remote controls) are not subject to specific safety regulations. These types of items, commonly found around the home, pose a risk to children if the batteries are accessible.

Button batteries in toys designed for children under three are subject to the Product Safety Standards (Children's Toys) Regulations 2005. Manufacturers of toys subject to those regulations (applicable to children under three years of age) must ensure any small parts (including button batteries) are contained in compartments that are secure and not accessible by children under normal use and misuse (abuse) conditions. These regulations have worked



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as intended and toys with button batteries are generally considered to be safe for children. Toys designed for older children generally meet the requirements of the regulations as well, although not strictly mandatory. This demonstrates an interest in the industry to be proactive in taking steps to ensure the safety of their products.

It is best practice to make battery compartments in all children's toys and all household goods 'child resistant'.

### **What are button batteries?**

For the purpose of this policy statement, all flat, disc-shaped cells or batteries are included as button batteries, regardless of their size or chemistry (lithium, alkaline or other).

### **Scope**

This policy statement is intended to help mitigate the risks associated with button batteries to children. As such, it is products that can generally be found around the home that are the most likely to cause a problem and pose a safety risk. Items that consumers purchase for domestic use are the target.

Despite this, those involved in the supply of products containing button batteries (e.g. designers, manufacturers, retailers and sourcing agents) are encouraged to consider whether other products, even if not specifically intended for use in a domestic setting (e.g. medical and scientific equipment) could be treated with the same safety considerations in mind.

### **Design and manufacture**

Items that are designed to require button batteries should meet two simple criteria to be considered safe:

#### **1. Secure battery compartment**

Compartments for button batteries should have two mechanisms for release and both must be activated for the battery compartment to open.

#### **2. Use and abuse test**

Products should pass tests to help ensure that with expected everyday use, battery compartments cannot be accidentally opened or become insecure; or result in the release of the batteries.

Depending on the product, consideration should be given to use and abuse testing such as:

- Torque and tension tests
- Drop tests
- Battery compartment lid pressure tests
- Robustness tests on the mechanical fastener or compartment latch

To assist with the design, manufacture and sourcing of safer button battery containing goods, the standards listed below set out performance and test criteria for battery compartments and/or the release of small parts such as button batteries that may be helpful.

- AS/NZS ISO 8124.1 Safety of toys - Part 1: Safety aspects related to mechanical and physical properties





- ISO 8124 Safety of toys - Part 1: Safety aspects related to mechanical and physical properties
- EN 71-1 Safety of toys - Part 1: Mechanical and physical properties
- ASTM F963-11 - Standard Consumer Safety Specification for Toys Safety
- UL 4200A:2015 - Standard for Safety for Products Incorporating Button or Coin Cell Batteries of Lithium Technologies

To provide for product innovation and development, and safety improvement, it is recommended that the latest versions of the standards be used.

Batteries supplied with goods for user installation should be provided in child-resistant packaging. The goods should come with warnings to alert consumers to the hazards of button batteries.

#### **Battery Manufacturers**

Button batteries available for sale should be supplied in packaging that is child-resistant, and marked with warnings to alert consumers to the hazards of button batteries to children. Packaging should advise consumers to keep batteries out of reach of children, and to how to dispose of used button batteries safely.

#### **Suppliers and retailers**

Under the Consumer Guarantees Act 1993, goods supplied to a consumer must be of acceptable quality. This includes a requirement that they must be safe. Under the Fair Trading Act 1986, goods are unsafe if with reasonably foreseeable use (including misuse), the goods will, or may, cause injury to any person.

Suppliers of goods should check stock of products containing button batteries and take action to ensure that any goods supplied to consumers in the future are designed and manufactured in accordance with this policy statement.

Retailers should consider the placement of products in shops and the height at which such products are displayed. A proactive approach from retailers may also include ensuring that information for consumers about the risks of products with button batteries is available and clearly displayed.

#### **Monitoring and effectiveness**

This policy statement is intended to address concerns about the safety of button batteries in household products.

It is understood that it may take some time for redesigned products to become available to suppliers and consumers. Voluntary compliance with the policy statement will be monitored closely over the next two to three years, and feedback on its effectiveness will be sought from relevant interest groups.

If the policy statement is found to have been ineffective in reducing the number of accidents related to button batteries, other measures under the Fair Trading Act 1986 may be considered by the Minister, such as regulations requiring compliance with a mandatory product safety standard.