

## Unsafe Goods (Inclined Infant Sleep Products) Indefinite Prohibition Notice 2022

This notice is issued pursuant to section 31 of the Fair Trading Act 1986 and declares inclined infant sleep products to be unsafe goods.

### Notice

#### 1. Title

This notice is the Unsafe Goods (Inclined Infant Sleep Products) Indefinite Prohibition Notice 2022.

#### 2. Purpose

The purpose of this notice is to mitigate the risk of infant deaths attributed to the use of inclined infant sleep products.

#### 3. Commencement

(1) This notice comes into force on the date of publication in the *New Zealand Gazette*.

(2) This notice may be amended or revoked by notice in the *New Zealand Gazette*.

#### 4. Application

(1) This notice applies to the supply of, or offer to supply, or advertisement to supply, inclined infant sleep products.

(2) For the avoidance of doubt, this notice does not apply to—

- a. child restraints such as car seats or capsules, being products designed for the transport of children and that comply with the Land Transport (Road User) Rule 2004;
- b. wheeled products designed to transport children, such as prams or strollers;
- c. products that are designed to carry an infant on the body of another person, such as slings and baby carriers;
- d. products with an adjustable incline, where every angle designed, intended or marketed for sleep is equal to or less than seven degrees from the horizontal;
- e. products that are:
  - i. designed, intended and marketed only for play and/or the amusement of infants and young children, such as bouncers and play seats; and
  - ii. not designed, intended, marketed, or containing any representation that they are suitable for sleep.

(3) For the purposes of paragraph 4(2)(e)(ii), the warning statements set out in the European Standard EN 12790:2009 Child use and care articles - Reclined cradles, or warning statements that include the phrase or part phrase “not for prolonged periods of sleeping”, do not constitute a representation that a product is suitable for sleep when:

- a. marked on the product; and/or
- b. included in the instructions for use.

#### 5. Interpretation

In this notice, unless the context requires otherwise,—

**infant** means a child under one year of age

**inclined infant sleep product** means any product—

- a. which is intended to contain an infant; and
- b. which is designed, intended, marketed, or contains any representation that it is suitable for an infant to sleep in; and
- c. which is freestanding, or designed to be attached to another structure; and
- d. which has a sleep surface angled more than seven degrees from the horizontal when—
  - i. the product is unladen; and
  - ii. at any angle designed, intended or marketed for sleep; and
  - iii. the product is at rest, in the case of products that rock or swing; and
- e. excluding medical devices; and
- f. excluding hammocks, being products constructed from a flexible material and suspended from above or either side

**medical device** has the meaning given in section 3A of the Medicines Act 1981

**sleep** means any form of sleep, including but not limited to napping

**sleep surface** means the surface which supports an infant's head and back.

#### **6. Unsafe Goods**

Inclined infant sleep products are unsafe goods.

#### **7. Revocation**

The Unsafe Goods (Inclined Infant Sleep Products) Amendment Notice 2020, published in the [New Zealand Gazette, 11 August 2020, Notice No. 2020-go3525](#), is revoked.

Dated at Wellington this 8th day of February 2022.

HON DR DAVID CLARK, Minister of Commerce and Consumer Affairs.

#### **Explanatory Note**

*This note is not part of the notice but is intended to indicate its general effect and consequences.*

Inclined infant sleep products have been implicated in at least 73 infant deaths in the United States of America. Products implicated in the United States, and those with similar design and risk characteristics, have been identified as being for sale in New Zealand.

This unsafe goods notice recognises and responds to the risks posed to infants in New Zealand by banning the further supply of new or second-hand inclined infant sleep products. It also recognises that inclined infant sleep products do not align with internationally recognised guidelines for a safe infant sleep environment, which recommend a firm and flat sleep surface.

This notice declares inclined infant sleep products to be unsafe goods and prohibits the supply of the goods indefinitely from the date of publication of the notice in the *New Zealand Gazette*.

Under section 31(5) of the Fair Trading Act 1986, it is prohibited in New Zealand to supply, or offer to supply, or advertise to supply, goods which are declared to be unsafe goods.

Under section 33 of the Fair Trading Act and section 96 of the Customs and Excise Act 2018, it is prohibited to import into New Zealand goods which are declared to be unsafe goods under clause 6 of this notice.