

A separate, more detailed, brochure is available in respect of product recall.

#### **Conference with the Commission**

There is an opportunity for suppliers of goods that are subject to an interim ban, permanent ban or compulsory product recall to call a conference with the Commission.

However, where there is imminent risk of or serious illness or injury, the Commission may give the opportunity for a conference after an 'interim' ban on the supply of the product has been imposed. After the conference the Commission must publish its decision on the 'interim' ban and decide if the ban should remain in force, be varied or be revoked.

#### **Enforcement and penalties**

The Commission may prosecute all offences under the Act.

*General penalties* – unless otherwise specified the Act provides substantial penalties and imprisonment for an offence. In addition, the Court may order the forfeiture of any money or goods in respect of which an offence has been committed.

In the case of a conviction for an offence under the Act any person who was a director or officer of the corporation at the time shall also be deemed guilty unless he/she can prove it was committed without his/her knowledge or he/she used due diligence to prevent the commission of the offence.



PAPUA NEW GUINEA'S CONSUMER WATCHDOG AND  
ECONOMIC REGULATOR



INDEPENDENT CONSUMER AND  
COMPETITION COMMISSION

## Product Safety

***A short guide for consumers and business,  
under the Independent Consumer and  
Competition Commission Act 2002***

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## Background

The Independent Consumer and Competition Commission (Commission) is responsible for administering the ICCC Act as well as a number of other pieces of legislation. The law is designed to enhance the welfare of the people of PNG by encouraging competition, fair trading and efficiency in business as well as preventing anti-competitive behaviour.

The Commission has specific wide ranging powers in relation to consumer product safety. It takes its responsibility under these provisions seriously and will take immediate action when it becomes aware of a product that can affect the health or safety of consumers.

Failure to comply with these requirement may result in a heavy fine or imprisonment.

Its powers include:-

- warning consumers of the possible danger of particular goods and conducting an assessment of the risks involved
- recommending to the Minister to declare a standard that suppliers of the product must meet or for the provision of information in relation to such a product
- issuing interim bans where the Commission is of the view that such goods will or may cause injury
- issuing of permanent bans on unsafe goods; and
- requiring compulsory recall of products that are unsafe, or not compliant with a product or information standard.

The Act provides that the Commission may in certain circumstances hold a conference with any supplier who may be adversely affected by its actions.

## About this guide

This guide has been developed by the Commission, PNG's consumer protection agency, to assist consumers and business to understand their rights and responsibilities under the law.

This guide explains the law in simple language but is not a substitute for the legislation; and gives information on the scope of the law but does not provide legal advice.

Parties should refer to the provisions of the law or seek professional legal advice as necessary.

## Your responsibilities

A supplier must make sure that products supplied do not breach our product safety laws.

If you sell unsafe products you risk:-

- these products harming your customers
- having those products seized
- being fined or taken to court
- getting a bad reputation.

## How can I make sure my products are safe?

Check the Commission's website.

Contact the Commission to check which products are banned or restricted and for any requirements.

## Testing

Some products have requirements that you can check yourself. For example, a warning label on the packaging or a simple measurement. However some products can only be checked by special testing laboratories. For instance, how much lead a product contains or whether it meets a particular level of strength and durability.

It is important to read the information provided in respect of products that have been declared unsafe and where necessary ask your suppliers for copies of test reports from an accredited testing laboratory. If they cannot provide these you may commission a laboratory to test the product for you.

## Frequently asked questions.

*Does the Commission approve products before they go on the market?*

NO. The Commission may test some products as part of product safety surveys but suppliers are responsible for ensuring that the products they sell comply with product safety laws.

*If a product has been imported into PNG does that mean it complies with product safety laws?*

NO. Imported products have not necessarily been checked for compliance with these laws, even if they have been cleared by PNG Customs. Suppliers are responsible for making sure that the products they sell comply with the product safety laws.

*If a product has a National Institute of Standards and Industrial Technology (NISIT) sticker or tag, does that mean it complies with product safety laws?*

NO. A sticker or tag means that the product meets the requirement of NISIT. Sometimes these requirements are the same as the product safety laws but not in all cases. You need to check the requirements of the product safety laws.

## The powers under the ICCC Act

### Warning notices

The Commission may issue a warning notice informing the public that it is conducting an investigation in respect of goods that would or may cause injury to a person. That notice can also set out the risks in using such goods.

When the investigation is completed and subject to request for a conference by the supplier(s) (see later for more detail), the Commission will as soon as possible announce the results of the investigation and it may at that time announce what action it proposes to take in respect of that good. For instance, it may recommend to the Minister that a product safety or information standard be declared or if there is imminent risk of injury the Commission may take action to prohibit the supply of the product. These and other options are discussed below.

## Product or information standards

The Minister may declare product safety or information standards after consulting with the Commission. A supplier cannot supply goods that do not comply with a product safety standard that has been declared by the Minister.

A product safety standard may specify performance, composition, contents, methods of manufacture, processing, design, construction, finish or packaging, testing, or the form and content of markings, warnings or instructions accompanying the goods.

When the Minister declares a product information standard the Commission will prepare a brochure that will provide information about the standard. It will be available for perusal on its website and hard copies will be available from the Commission.

The Commission is responsible to ensure that products comply with any such standards.

The Minister may also declare information standards. An information standard prescribes information to be given to consumers when they purchase the specified products.

Again a supplier that supplies goods that do not comply with a product information standard that has been declared by the Minister may be in breach of the law.

*'Interim' and permanent ban on the supply of unsafe goods*

Where, for a particular product, there is a risk of injury the Commission may declare the product unsafe – effectively an interim ban - and a supplier shall not supply the good.

After 18 months the Commission may declare a *permanent ban* on a product where there is an 'interim' ban in place unless a consumer product safety standard has been prescribed in the meantime. During the course of the 18 months the Commission may revoke the declaration. Once a permanent ban is in place a supplier shall not supply the product.

### Compulsory product recall

If a trader supplies a product that:

- does not comply with a prescribed consumer product safety standard, or
- is covered by an 'interim' or permanent ban

and it appears to the Commission that the supplier has not taken satisfactory steps to prevent the product causing harm, the Commission may require any of the following:-

- recall of the product
- disclosure to the public the nature of the defect, the circumstances in which it may be dangerous, or procedures for disposal of the product
- inform the public what the supplier undertakes to do — for instance, repair or replace the product or provide a refund.

A person shall not continue to supply a product the subject of a recall.

*Voluntary recalls* – if a person voluntarily decides to recall a product the Commission must be informed of the details within two days.