

25 September 2026
Ministry of Business, Innovation & Employment
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Retail NZ submission: Consultation on draft Unsafe Goods (Consumer Sand Products) Notice 2026

Overview

1. Retail NZ is a membership organisation that represents the views and interests of New Zealand's retail sector. We are the peak body representing retailers across Aotearoa, with our membership accounting for nearly 70% of all domestic retail turnover. New Zealand's retail sector comprises approximately 30,000 businesses and employs around 222,000 Kiwis.
2. Retail NZ consulted our membership in the preparation of this submission.
3. Retail NZ members understand the need for testing certain consumer sand products to ensure their safety, following the recall of 23 consumer sand products since November 2025, due to the presence of asbestos. The safety of customers is a priority for retailers and we strongly support the underlying objective of this proposal.
4. We are broadly supportive of the intention to require all imported and New Zealand-manufactured toy products that contain sand, and all imported and New Zealand-manufactured decorative, artistic or craft products that are, or contain, sand to undergo testing for asbestos before being imported to, or sold in, New Zealand. However, we do believe there is further clarification required in some areas, to further strengthen the proposal and make sure it is workable for those who manufacture, import and sell these products.
5. We also hold concerns about the testing requirements, which we understand are currently unable to be conducted in New Zealand, and the short timeframe for implementation, which we don't believe is sufficient time for retailers to comply.

Coverage and application of Unsafe Goods Notice

6. Retail NZ Broadly supports the intention to include toys and decorative, artistic, or craft products that are, or contain, sand and sand-like granular materials in this notice.
7. However, the definition of "sand" as "*sand-like granular materials manufactured or processed from mineral sources*" is inherently subjective and could unintentionally capture a wide range of mineral-based granular products, such as ground silica, that would significantly broaden the scope of this unsafe goods notice. We recommend the definition be further refined to include particle size or other measurable physical characteristics to ensure clarity for retailers as to what products fall in scope of this notice.

8. We also believe there is need to further clarify what is meant by “decorative, artistic, or craft products that are sand or that include or contain accessible sand”. For example, are sand-filled draught stoppers considered “decorative goods” that contain accessible sand? Or sensory adult toys that contain sand-like materials, like a stress ball filled with a sand-like material? Having further clarification as to what products are covered by this notice would ensure consistent compliance and enforcement of the rules across the board.
9. We note paragraph 18 in the discussion document explicitly states the inclusion of toys *“containing sand sealed within the product, which reflects the possibility that toys may be damaged through foreseeable use or misuse, exposing consumers to sand contained within the toy”*. We agree that products containing sealed sand that could be exposed through the foreseeable use or misuse of the product be included, but sand sealed within some toys may only be able to be accessed through deliberate misuse or a high level of force. We ask MBIE consider whether it is appropriate toys with sealed sand that cannot be accessed through foreseeable use or misuse be included, or whether that is an overreach considering the low probability for harm.
10. We agree with the decision to exclude sand produced by natural geological processes that is intended to fill sand pits, playgrounds, or other recreational areas from this notice, as there has been no evidence of the presence of asbestos in this kind of sand.

Testing requirements

11. Retail NZ supports the intention that testing be of a high standard and capable of detecting very small asbestos fibres, to provide peace of mind for retailers and consumers alike.
12. However, since November 2025 many importers and manufacturers may have been undertaking voluntary asbestos testing to the AS 5370:2024 standard, which had been recommended in Australia. The proposed requirement to test to ISO 22262-2:2026 was only published this year, and Retail NZ understands there are currently no IANZ-accredited labs with the capability to test to the ISO 22262-2:2026 standard. This means there is no local testing option in New Zealand, which will require manufacturers and importers to undertake their testing offshore.
13. Further to that, we have had feedback from several members that they have been unable to identify laboratories holding appropriate accreditation for SEM- and TEM-based asbestos testing within the countries they import from - though there are labs that possess the necessary equipment and technical capability to perform the testing needed. It would be practical to remove the requirement for mandating accredited competence specifically for this test method, providing the laboratory still maintains overall accreditation. Otherwise, products covered under the Notice would potentially have to be shipped to another country for testing, which would be commercially impractical from both cost and lead-time perspectives.
14. Retail NZ is concerned that these factors will not only add delays to the importation of sand products to New Zealand, but it will also cost local manufacturers of these products more time and money to test to this standard, as they will have to send products offshore to meet the new requirements.

15. It is also not clear whether there will be lab capacity issues at offshore lab testing facilities as a result of this new testing requirement, which could cause bottlenecks and delays in getting tested products to market.
16. We recommend MBIE allow products to be tested to either the AS 5370:2024 or ISO 22262-2:2026 standard until there are IANZ-accredited labs that can undertake testing to the preferred ISO 22262-2:2026 standard. We ask the Government to expedite the licensing of labs so they can test to this new required standard.
17. We have also had a member identify that ISO 22262-1 determines the presence or absence of asbestos in a material, whereas ISO 22262-2 is applied after asbestos has been identified under ISO 22262-1. Therefore, it may be more appropriate that the draft notice refers to the ISO 22262-1 standard, rather than the ISO 22262-2 standard as outlined in the discussion document.
18. We support the proposal to test three units of each product or product variant, as it will give both retailers and consumers sufficient confidence in the safety of the sand products, and account for any variation of, and within, batches.
19. Retail NZ also supports the requirement for appropriate documentation to accompany the tested products before they are sold in stores. However, the draft notice requires that documentation to show “no asbestos was detected in the samples tested”. We are concerned there is no defined limit of detection (LOD) or quantitative reporting threshold, and to the knowledge of Retail NZ and our members, no comparable international standard imposes a zero-tolerance threshold for asbestos in consumer products of this nature.
20. Without a defined LOD, there is a risk that enforcement resources could be directed at trace-level detections that don’t pose a genuine consumer safety concern, rather than being focused on identifying and removing products that present a real risk of harm. We recommend MBIE adopt a defined LOD or reporting limit, to ensure consistency with international best practice, to ensure enforcement is focused on products that have a genuine risk of harm.
21. The draft notice does not specify how sand is to be extracted from a product for the purpose of testing, where the product in question is not wholly sand or sand-like material. This is particularly significant for toys where sand is sealed within the product, as the method of extraction could materially affect test results. Consistent sample preparation is important to ensure that test results are reliable and comparable, which ultimately protects consumers by ensuring the testing is meaningful and trustworthy.
22. We recommend the document outlines the required preparation procedures for samples of each product types covered by this notice to ensure testing and the results are reliable and comparable across the industry.
23. It is not clear whether the requirement to test the products within the 12 months prior to importation or manufacture is retrospective - i.e. applies to products already on the shelves - or only mandatory for products manufactured or imported after 20 January 2027. We request this be clarified, and note that if the requirement is retrospective, that that could cause severe bottlenecks at testing facilities and require retailers to write-off stock. This could be extremely cost-prohibitive to retailers, especially if the testing must meet the ISO 22262-2:2026 standard.

Transition and implementation

24. Retail NZ does not support the proposed implementation date of 20 January 2027, as it will only provide importers and manufacturers about three months to comply with the notice, if it is approved.
25. Three months is not sufficient time for importers and manufacturers to arrange for testing, particularly if it must be done offshore, and it is not clear how long the testing process will take, with demand on labs and logistical impacts currently unknown.
26. The condensed timeframe could create significant challenges for both suppliers and testing laboratories. There is likely to be a substantial volume of testing required across the Christmas and New Year period, which may impact laboratory capacity and suppliers' ability to obtain compliant test reports in time. In addition, with the Christmas period, being retail's busiest time of year, it will be exceptionally difficult for retailers to manage this transition at that time of year and ensure compliance.
27. We recommend the unsafe goods notice does not come into force for at least six full months after it is approved, to ensure importers and manufacturers have sufficient time to adjust their processes accordingly and sell through any non-compliant stock before implementation.

Conclusion

28. Thank you for the opportunity to make a submission.
29. Retail NZ is in support of the intention behind this proposal, but we ask MBIE to provide greater clarity over what products will be captured by this new unsafe goods notice, and we do not believe the three-month timeframe is sufficient to enable retailers, importers and manufacturers enough time to comply.
30. Retail NZ is happy to discuss any aspect of this submission further, including appearing before a hearing panel.
31. No part of this submission should be withheld under the OIA.

Sincerely,



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CHIEF EXECUTIVE

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