

## Sunscreen and Cosmetics Products with SPF Regulation in New Zealand

This document is intended to provide Cosmetics New Zealand guidance on what regulatory compliance is required for sunscreens and cosmetic products that include SPF for New Zealand.

### Primary Legislation

The Sunscreen (Product Safety Standard) Act 2022 provides mandatory compliance with the Joint Standard AS/NZS 2604:2012 with some exclusions. Those exclusions are aligned with excluded products set out in the Joint Standard.

The Act sets up a mandatory standard requirement under the Fair Trading Act that all captured products in the market must be in compliance with fully, from 8 September 2023. This follows a transition period that set out when new products had to be compliant and allowance for sell through of existing products in stock.

### Secondary Legislation

The Sunscreen (Product Safety Standard) Act provided for regulations to be written to update the compliance to the later Joint Standard AS/NZS 2604:2021 once that standard had been adopted in Australia by the Therapeutic Goods Authority. This has not yet occurred and therefore there is no secondary legislation that establishes this requirement.

### Interpretation

Within the Act there is a section called Interpretation which sets out which sunscreen and cosmetic products are or are not required to be compliant with the Joint Standard AS/NZS 2604:2012.

The wording is as follows:

*sunscreen product means a product that both—*

- (a) contains, or is represented as containing, any component able to absorb, reflect, or scatter ultraviolet rays and that is intended to be on the surface of human skin with the purpose of protecting against reddening of the skin caused by ultraviolet radiation and other ultraviolet-induced damage; and*
- (b) is 1 or more of the following:*

- (i) a product that is represented as being primarily to protect the skin from ultraviolet radiation:*
- (ii) an insect repellent with a labelled SPF of 4 or more:*
- (iii) a product that is represented as a skin care (within the meaning of AS/NZS 2604:2012) with a labelled SPF greater than 15 (other than a product intended for application to the lips, or a product that is represented primarily as a tinted base or foundation).*

It is critical to note that under (b) (iii) this is an exception for lip products, tinted base (makeup) or foundations where these are not required to be compliant other than set out in the Joint Standard. This means products that are for lips or tinted and claim SPF15 are exempt from compliance with The Act. (think we need a statement to this effect here and is this one correct?)

All other aspects of the Joint Standard apply with regard to water resistance claims and prohibited wording such as Sunblock and Waterproof.

### The Joint Standard AS/NZS 2604:2012

The Joint Standard sets out what is a primary sunscreen, a secondary sunscreen and what are colour cosmetics and lip products. This wording is mostly repeated in the Sunscreen Act 2022.

The Joint Standard provides the testing requirements for Primary Sunscreens and Skin Care products claiming SPF. It sets out prohibited wording and specific wording for water resistance claims along with required wording in relation to water resistance claims.

With the Joint Standard Table 1 under labelled SPF sets out the requirements for broad spectrum labelling.

**Table 1**

SPF	Labelled SPF	Category description	Broad spectrum		
			Primary	Secondary	
				Skin care	Colour/Lip
1 – 3	Not allowed	Not allowed	Not allowed	Not allowed	Not allowed
4 – 14	4, 6, 8, 10	Low	Compulsory	Compulsory	Optional
15 – 29	15, 20, 25	Medium or moderate	Compulsory	Compulsory	Optional
30 – 59	30, 40, 50	High	Compulsory	Compulsory	Compulsory
60 or higher	50+	Very high	Compulsory	Compulsory	Compulsory

This means that for Colour and Lip products labelling for Broad spectrum is optional up to and including SPF 29 but once the product states it is above this level it must meet the Broad Spectrum requirement of testing to ISO 24444 and ISO 24443. This is not a requirement when the Colour and Lip product is SPF 29 or below.

Section 6.3.2.3 of the Joint Standard sets out that secondary sunscreens “may be labelled as broad spectrum where they meet the performance requirements”. This is specifically aimed at Colour/Lip products in regard to the optional settings in Table 1.

Any SPF claim made however must still be true and the manufacturer or supplier must hold evidence of that under the Fair Trading Act Unsubstantiated Claims section 12A

#### Summary of Requirements under the Sunscreen (Product Safety Standard) Act

- **Primary sunscreens** above SPF4 and above must meet the Standard (Note below 4 no claim is permitted)
- **Insect repellents SPF4** and above must meeting the Standard.
- **Secondary Sunscreen products** such as Skincare with SPF 4 and above must meet the Standard
- **Makeup, Foundation and Lip products** are not mandated to meet the Standard however once above SPF29 must meet the broad spectrum requirements for labelling and therefore would need testing for both SPF and UVA to prove they meet the broad spectrum claim.
- In New Zealand **Makeup, Foundation and Lip products** with an SPF29 or below are exempt from complying as they are specifically excluded from The Sunscreen Act.