

Risk Alert

APRIL 2023



Sale of Second-hand Goods

Buying second-hand goods has never been more popular. This has been helped by the increased use of technology and growth of online marketplaces, such as eBay, Gumtree etc. Many organisations and groups are involved in selling these goods as a way of raising funds. This can be through charity shops, 'bring and buy' events, fairs and other sales activities.

A not-for-profit Opportunity Shop can provide a good way to generate some extra income and benefit the local community at the same time. Depending on your organisation, your OP Shop could be used to raise funds for programs, projects, or for other charitable purposes.

Frequently, goods are donated by well-meaning members of the public and can include a wide variety of items. Examples include electrical goods, toys, bicycles, furniture, clothing and other home wear. In many cases, it is your responsibility to make sure these goods are checked and are safe to sell onwards.

Not all donated items will be suitable for resale – second-hand bike helmets, child car seats and baby capsules for example.

Certain other items will need to meet 'mandatory safety standards' before they can be sold. The Australian Competition and Consumer Commission has more information on product safety laws (see links below).

LEGAL REQUIREMENTS

There is a wide range of legislation that could apply where second-hand goods are sold to a consumer.

Australian Consumer Law sets out certain statutory guarantees that you provide to consumers and which cannot be excluded. Consumer guarantees are often associated with the supply of new products. However, these guarantees also extend to second-hand products. Therefore, if you sell second-hand goods through a shop or online, you need to be aware of consumer guarantees and how they apply to your organisation.

If you are in any doubt about your responsibilities when selling second-hand goods, you should contact your local your state and territory consumer protection agency (sometimes called consumer affairs).

Specific requirements may apply depending on what you are selling. Here are just some of the more common items you are likely to come across:



ELECTRICAL GOODS

If you sell or supply second-hand electrical equipment, you must attach a label stating that the equipment is second-hand.

If you are unsure whether the goods are safe, it is recommended that you get them examined by a competent person. Usually, they will issue a test report and label each item to show that it has passed with the date and their initials. All failed equipment should be destroyed or safely disposed of, if it cannot be properly repaired. It is good practice to make sure no electrical goods are sold unless the test label is attached

If the equipment has been tested, your business or charity must also attach a label stating that it:

- is second-hand
- has been inspected and tested, and
- complies with Australian/New Zealand Standard (AS/NZS) 3760



CHILDREN'S TOYS

Children's toys in Australia are subject to five mandatory safety standards to reduce the risk of serious injuries. These standards are derived from AS/NZS ISO 8124

Standard #1 (Mandatory Safety):

Toys for children up to and including 36 months of age

This standard addresses concerns about choking hazards caused by small parts - small either by design or as the result of a toy broken under reasonable use and expected wear and tear.

Examples of toys held to this standard include: rattles, teething toys, toy cars, dolls, bath toys, push and pull toys, games and puzzles; as well as "toys for attaching to cots, playpens, prams and strollers." A more comprehensive list can be found on the ACCC's product safety website.



CHILDREN'S TOYS (continued)

Standard #2: Children's projectile toys

This standard addresses potential eye injuries, choking hazards and flesh wounds. Examples include toy guns, slingshots, bow and arrow sets, and art guns. Suction cup projectile tips can pose potential choking hazards if the small suction cup breaks off of the projectile shaft through repeated bending and pulling.

Standard #3: Children's toys containing magnets

The ingestion of hazardous magnets has the potential to cause choking and infection. When swallowed in pairs, they can cause severe intestinal blockage and perforation, which can be fatal.

Standard #4: Floatation and aquatic toys

The safety focus for children's floatation devices intended for children up to 14 years of age is on prominent warning labels. Australian safety standards demand that aquatic toy manufacturers make it clear that their product is not a safety device, and that children should never be left unaccompanied while using these products.

All floatation devices and aquatic toys must visibly bear the following statement:

“WARNING AQUATIC TOY USE ONLY UNDER SUPERVISION”

Standard #5: Lead and other elements in children's toys

The nature of a child's play involves sustained contact with toys, including contact with the skin and mouth, this addresses the hazards of heavy metal ingestion and absorption through the skin, which can cause both immediate illness and long-term developmental disorders.



CHILDREN'S CLOTHES

The Consumer Goods (Children's Nightwear and Limited Daywear and Paper Patterns for Children's Nightwear) Safety Standard 2017 sets out the mandatory requirements for children's nightwear.

The mandatory standard is based on the voluntary standard Australian and New Zealand Standard, AS/NZS 1249:2014, Children's nightwear and limited daywear having reduced fire hazard.

More broadly, under the Australia's copy-write and trademark laws it is an offence to sell counterfeit goods, such as DVDs, CDs, T-shirts, bags and perfumes.



HAZARDS TO LOOK OUT FOR

Some typical hazards include:

- protective headgear where it is impossible to determine if it has been damaged
- toys with loose facial features, sharp edges, finger-trapping or choking hazards
- furniture without a 'fire' label
- damaged prams or pushchairs without a 'fire' label
- electrical equipment without a CE mark
- damaged plugs, cables and casings to electrical equipment
- children's raincoats, overcoats, anoraks, tracksuit tops or other clothes fitted with a hood cord.

* Note: this list is not exhaustive

WHAT TO ASK

Don't sell a second-hand product unless you can answer these questions.

QUESTION	GUIDANCE
Does it meet a mandatory safety standard?	<p>We recommend that all electrical goods are tested and tagged before sale</p> <p>Even second-hand goods must meet a mandatory safety standard, if one applies.</p>
Is it missing any safety instructions or warnings?	<p>This information will help you use the goods safely, especially for:</p> <ul style="list-style-type: none"> • cots • electrical items • car jacks, trolley jacks and vehicle stands • motor vehicle recovery straps • child restraints for motor vehicles.

WHAT TO ASK (continued)

Don't sell a second-hand product unless you can answer these questions.

QUESTION	GUIDANCE
Is it obviously damaged or are parts missing?	Goods might not be safe to use if they've been in an accident. This especially applies to: <ul style="list-style-type: none">• bikes• child restraints• helmets (for bikes or motorbikes).
Does it need special tools?	Special tools might be hard to get. Without them, the product might not be useable. For example, most cots need a special type of tool to join the parts together.
Has it had a safety recall in the past?	Check the Product Safety Recalls website to see if any current or previous recalls apply to the product.
Have you checked that that all equipment is complete?	Are all necessary safeguards fitted, and free from obvious defects?
Do you have all the important information?	Do you have information such as <ul style="list-style-type: none">• such as the age range of the product,• Is it suitable for children under 36 months (due to choking hazards)?• Do you have all the safety warnings
Has a qualified person checked the electrical goods?	Are all electrical item tested and tagged?
Make sure the items are clean	Ensure all toys are washed and cleaned prior to sale.

*Note: this list is not exhaustive



WHAT TO LOOK FOR

Ask yourself the following four questions whenever you're thinking about a second-hand product.

QUESTION	GUIDANCE
Do electrical products have a safety tag?	Safety tags show whether the product has had a safety test.
Has a metal product started to corrode?	Metal corrosion could indicate a larger problem. This may affect the product immediately or in the near future.
Are spare parts available if you need them?	Some second-hand goods are so old that spare parts are no longer available. This is a problem for goods with moving parts. These parts can become unsafe as they wear out. Be careful about items like: <ul style="list-style-type: none">• prams and strollers• portable cots• electrical items
Are any of the safety features missing?	Check that a product has all of its safety features, and that they all work. These features can include: <ul style="list-style-type: none">• safety guards• a cut-off switch (or 'dead man's switch')• brakes• safety instructions.



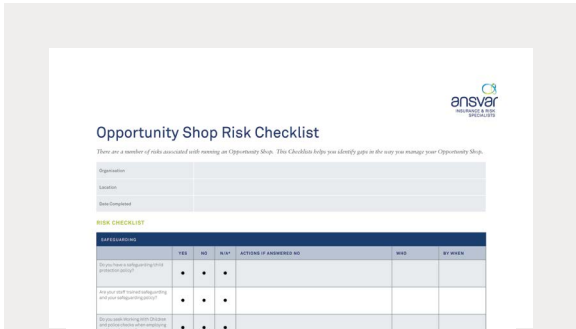
MAKING A START

ACTION	GUIDANCE
<p>When planning a sale, set out some basic rules about what you can and cannot accept.</p>	<p>It may not be obvious to members of the public what items cannot be re-sold. By making this clear when you ask for donations, you can reduce the amount of items donated that are inappropriate or unsafe. This will save you time in checking items, and disposing of those that you cannot sell.</p>
<p>Set aside an appropriate place to store and check donations.</p> <p>All items must be checked thoroughly to ensure that they are safe before they can be sold.</p> <p>Make a note of any checks or inspections made or training provided</p>	<p>The checks required will depend on the item donated. Some of the checks that might be required are set out above.</p> <p>If you find any defects or other problems, these must be corrected to bring items up to a suitable standard. If this is not possible, the items must be safely disposed of.</p> <p>Remember, if you are asking employees or others (such as volunteers) to carry out the checks, they may need some basic instruction on how to do these properly and what to do if they have any doubts.</p> <p>It is a good idea to keep appropriate records of the checks that you make. This will help to demonstrate that you have the necessary procedures in place to help prevent you offering unsafe items for sale.</p>
<p>Obtain any important information relating to the goods being sold that you may need to pass on to buyers.</p>	<p>A good example, is the information for second-hand toys. These are often missing their instructions, which could include important information (such as, the age range of the product, particularly whether it is suitable for children under 36 months due to choking hazards) and other safety warnings.</p> <p>These days, information for goods, including any necessary safety information, can usually be downloaded from the manufacturer's website.</p>
<p>Document your arrangements and responsibilities for the sale of second hand goods.</p>	<p>Depending upon your own circumstances, you may want to record your arrangements for checking and selling second-hand goods. If you have prepared a health and safety policy, you could record these as part of it.</p>

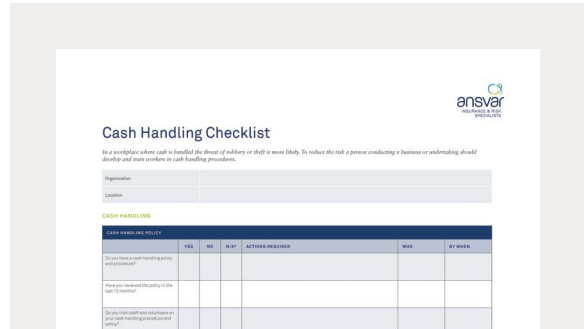
RESOURCES AND TOOLS

Ansvar Risk has developed a series of tools to provide guidance in the governance and management of your Opportunity Shop.

Click arrow to download 



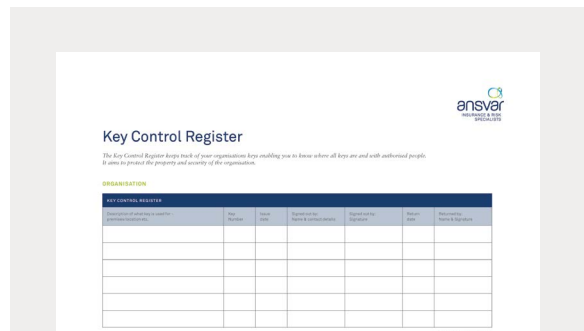
Opportunity Shop Risk Checklist 




Cash Handling Checklist 



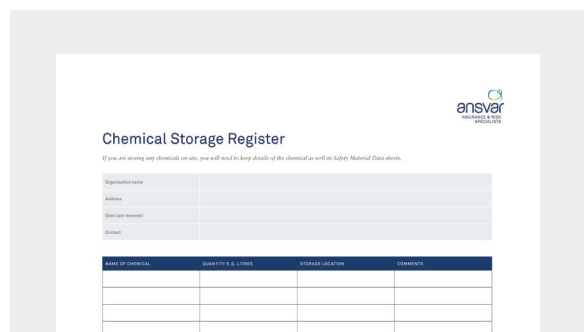
Cash Recognition Checklist 




Key Control Register 



Selling Secondhand Electrical Appliances 



Chemical Storage Register 

WANT TO KNOW MORE?

Other useful information can be found at

QIMA

<https://www.qima.com/lab-testing/toys-australian-safety-standards>

ACCC – Nightwear for Children

<https://www.productsafety.gov.au/product-safety-laws/safety-standards-bans/mandatory-standards/nightwear-for-children>

Consumer Goods (Children's Nightwear and Limited Daywear and Paper Patterns for Children's Nightwear) Safety Standard 2017

Product Safety Australia

- <https://www.productsafety.gov.au/product-safety-laws/safety-standards-bans/mandatory-standards>
- <https://www.productsafety.gov.au/product-safety-laws/safety-standards-bans/product-bans>
- <https://esv.vic.gov.au/technical-information/electrical-appliances-and-equipment/>
- <https://esv.vic.gov.au/technical-information/electrical-appliances-and-equipment/selling-safe-electrical-equipment/>

NEED TO CONTACT US?

If you would like to speak to someone about risk management for your Opportunity Shop email us at info@ansvarrisk.com.au



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As Ansva Risks' ERM Product Development Consultant, David works to support Ansva's clients to help management and executives build governance and risk management capability and develop effective approaches that supports decision making, advance performance and optimise objectives.

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