



Western Australia

Fair Trading Act 2010

# **Fair Trading (Infringement Notices) Regulations 2012**

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# Fair Trading (Infringement Notices) Regulations 2012

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### **Defined terms**



## **Fair Trading (Infringement Notices) Regulations 2012**

### **1. Citation**

These regulations are the *Fair Trading (Infringement Notices) Regulations 2012*.

### **2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

### **3. Term used: Commissioner**

In these regulations —

*Commissioner* has the meaning given in the *Fair Trading Act 2010*.

### **4. Prescribed offences under *Fair Trading Act 2010* and *Australian Consumer Law (WA)* and modified penalties**

- (1) The offences under the *Fair Trading Act 2010* that are specified in Schedule 1 are offences for which an infringement notice may be issued under the *Criminal Procedure Act 2004* Part 2.
- (2) The offences under the *Australian Consumer Law (WA)* that are specified in Schedule 2 are offences for which an infringement notice may be issued under the *Criminal Procedure Act 2004* Part 2.

- (3) The modified penalty specified opposite an offence in Schedule 1 or 2 is the modified penalty for that offence for the purposes of the *Criminal Procedure Act 2004* section 5(3).

**5. Authorised officers and approved officers**

- (1) The Commissioner may, in writing, appoint persons or classes of persons to be authorised officers or approved officers for the purposes of the *Criminal Procedure Act 2004* Part 2.
- (2) The Commissioner must issue to each authorised officer a certificate, badge or identity card identifying the officer as a person authorised to issue infringement notices.

**6. Forms**

For the purposes of the *Criminal Procedure Act 2004* Part 2, the forms set out in Schedule 3 are prescribed in relation to the matters specified in those forms.

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**Schedule 1 — Prescribed offences under *Fair Trading Act 2010* and modified penalties**

[r. 4(1) and (3)]

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<b>Offences under <i>Fair Trading Act 2010</i></b>	<b>Modified penalty \$</b>
s. 62(2) Publishing advertisement that implies approval by consumer affairs authority .....	1 000
s. 88(1) Failure to cooperate with investigation .....	1 000
s. 89(1) Preventing or attempting to prevent authorised person from entering premises or motor vehicle .....	200
s. 89(2A) Preventing or attempting to prevent authorised person from entering business premises .....	200
s. 89(2) Obstructing or impeding authorised person in exercise of powers under section 69 or 88E .....	200
s. 89(3) Failure to comply with requirement to assist authorised person to execute warrant .....	200
s. 89(4) Failure to comply with requirement to furnish access to place or motor vehicle or give other reasonable assistance to authorised person .....	200
s. 89(5A) Failure to comply with requirement to furnish access to business premises or give other reasonable assistance to authorised person .....	200

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**Schedule 2 — Prescribed offences under *Australian Consumer Law (WA)* and modified penalties**

[r. 4(2) and (3)]

<b>Offences under <i>Australian Consumer Law (WA)</i></b>	<b>Modified penalty</b>	
	<b>\$</b>	
	<b>For body corporate</b>	<b>For person that is not body corporate</b>
s. 164(1) Participating in pyramid scheme .....	6 600	1 320
s. 165(1) Multiple pricing .....	1 000	200
s. 166(1) Failure to specify single price for goods or services .....	6 600	1 320
s. 174(1) Failure to give copy of unsolicited consumer agreement not negotiated by telephone .....	6 600	1 320
s. 174(2) Failure to give agreement document for unsolicited consumer agreement negotiated by telephone .....	6 600	1 320
s. 175(1) Failure to comply with requirements for all unsolicited consumer agreements .....	6 600	1 320
s. 176(1) Failure to comply with additional requirements for unsolicited consumer agreements not negotiated by telephone .....	6 600	1 320
s. 177(1) Failure to comply with requirements for amendments to unsolicited consumer agreements .....	6 600	1 320
s. 182(1) Supplier including void provision in unsolicited consumer agreement .....	6 600	1 320
s. 188(1) Failure to comply with requirements in relation to lay-by agreements .....	6 000	1 200
s. 189(1) Supplier of consumer goods being party to lay-by agreement requiring consumer to pay termination charge .....	6 000	1 200
s. 192(1) Failure to comply with prescribed requirements for warranties against defects	6 600	1 320



**Fair Trading (Infringement Notices) Regulations 2012**

Prescribed offences under Australian Consumer Law (WA) **Schedule 2**  
and modified penalties

<b>Offences under Australian Consumer Law (WA)</b>	<b>Modified penalty</b>	
	<b>For body corporate</b>	<b>For person that is not body corporate</b>
s. 193(1) Failure to give notice complying with prescribed requirements in connection with repair of goods .....	6 600	1 320
s. 194(1) Supplying consumer goods that do not comply with safety standards .....	6 600	1 320
s. 194(2) Offering for supply consumer goods that do not comply with safety standards .....	6 600	1 320
s. 194(3) Manufacturing, possessing or having control of consumer goods that do not comply with safety standards .....	6 600	1 320
s. 194(5) Exporting consumer goods that do not comply with safety standards .....	6 600	1 320
s. 195(1) Supplying product related services that do not comply with safety standards .....	6 600	1 320
s. 197(1) Supplying consumer goods covered by ban	6 600	1 320
s. 197(2) Offering for supply consumer goods covered by ban .....	6 600	1 320
s. 197(3) Manufacturing, possessing or having control of consumer goods covered by ban	6 600	1 320
s. 197(5) Exporting consumer goods covered by ban	6 600	1 320
s. 198(1) Supplying product related services covered by ban .....	6 600	1 320
s. 198(2) Offering for supply product related services covered by ban .....	6 600	1 320
s. 199(1) Refusal or failure to comply with recall notice .....	6 600	1 320
s. 199(2) Supplying consumer goods in contravention of recall notice .....	6 600	1 320
s. 203(1) Supplying goods without complying with information standards .....	6 600	1 320

**Fair Trading (Infringement Notices) Regulations 2012**

**Schedule 2** Prescribed offences under Australian Consumer Law (WA)  
and modified penalties

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<b>Offences under <i>Australian Consumer Law (WA)</i></b>	<b>Modified penalty</b>	
	<b>\$</b>	
	<b>For body corporate</b>	<b>For person that is not body corporate</b>
s. 203(2) Offering for supply goods without complying with information standards .....	6 600	1 320
s. 203(3) Manufacturing, possessing or having control of goods without complying with information standards .....	6 600	1 320
s. 204(1) Supplying services without complying with information standards .....	6 600	1 320
s. 204(2) Offering for supply services without complying with information standards .....	6 600	1 320
s. 205(1) Refusal or failure to comply with substantiation notice .....	3 300	660

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### Schedule 3 — Forms

[r. 6]

**Form 1 — Infringement notice relating to offence under *Fair Trading Act 2010***

<i>Fair Trading Act 2010</i>		Infringement notice no.	
<b>INFRINGEMENT NOTICE</b>			
<b>Alleged offender</b>	Name		
	Address		
<b>Details of alleged offence</b>	Date or period		
	Place		
	Written law contravened	Section        of the <i>Fair Trading Act 2010</i>	
	Details of offence		
<b>Date</b>	Date of notice		
<b>Issuing officer</b>	Name		
	Office		
	Signature		
<b>Modified penalty</b>	\$_____		
<b>Penalty</b>	Individual	\$_____	You do not have to pay this amount. This is the maximum fine that can be imposed if you are prosecuted in a court and convicted of this offence.
	Body corporate	\$_____	

<b>TAKE NOTICE</b>	<p>It is alleged that you have committed the above offence.</p> <p><b>If you do not want to be prosecuted in court for the offence</b>, pay the modified penalty to the Approved Officer within 28 days after the date of this notice.</p> <p><b>If you do not pay</b> the modified penalty within 28 days, you may be prosecuted or enforcement action may be taken under the <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i>. Under that Act, some or all of the following action may be taken — your driver’s licence may be suspended, your vehicle licence may be suspended or cancelled, you may be disqualified from holding or obtaining a driver’s licence or vehicle licence, your vehicle may be immobilised or have its number plates removed, your details may be published on a website, your earnings or bank accounts may be garnished, and your property may be seized and sold.</p> <p><b>If you need more time</b> to pay the modified penalty, you should contact the Approved Officer at the address below.</p> <p>Paying the modified penalty will not be regarded as an admission for the purposes of any civil or criminal court case.</p> <p><b>If you want this matter to be dealt with by prosecution in court</b>, sign and date here:</p> <p>_____ / /20</p> <p>and post this notice to the Approved Officer at the address below within 28 days after the date of this notice.</p> <p>If you consider that you have good reason to have this notice withdrawn, you can write to the Approved Officer at the address below requesting that this notice be withdrawn and setting out the reasons why you consider that this notice should be withdrawn. Your letter must be received not later than 28 days after the date of this notice.</p>
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**Form 2 — Withdrawal of infringement notice relating to offence under  
*Fair Trading Act 2010***

<i>Fair Trading Act 2010</i>		Withdrawal no.
<b>WITHDRAWAL OF INFRINGEMENT NOTICE</b>		
<b>Alleged offender</b>	Name	
	Address	
<b>Details of infringement notice</b>	Infringement notice no.	
	Date of issue	
<b>Details of alleged offence</b>	Date or period	
	Place	
	Written law contravened	Section            of the <i>Fair Trading Act 2010</i>
	Details of offence	
<b>Approved Officer withdrawing notice</b>	Name	
	Office	
	Signature	
<b>Date</b>	Date of withdrawal	

<p><b>Withdrawal of infringement notice</b></p> <p><i>[*Delete whichever is not applicable]</i></p>	<p>The above infringement notice issued against you for the above alleged offence has been withdrawn.</p> <p>If you have already paid the modified penalty for the alleged offence, you are entitled to a refund.</p> <p style="padding-left: 40px;">* Your refund is enclosed</p> <p align="center"><i>or</i></p> <p style="padding-left: 40px;">* If you have paid the modified penalty but a refund is not enclosed, you may claim your refund by signing and dating this notice and posting it to:</p> <p align="center">Approved Officer — <i>Fair Trading Act 2010</i>                  Department of Commerce                  Locked Bag 14                  CLOISTERS SQUARE WA 6850</p>		
<p><b>Your signature</b></p>		<p align="center"><b>Date</b></p>	

**Form 3 — Infringement notice relating to offence under *Australian Consumer Law (WA)***

<i>Australian Consumer Law (WA)</i>		<b>INFRINGEMENT NOTICE</b>		Infringement notice no.
<b>Alleged offender</b>	Name			
	Address			
<b>Details of alleged offence</b>	Date or period			
	Place			
	Written law contravened	Section	of the <i>Australian Consumer Law (WA)</i>	
	Details of offence			
<b>Date</b>	Date of notice			
<b>Issuing officer</b>	Name			
	Office			
	Signature			
<b>Modified penalty</b>	\$_____			
<b>Penalty</b>	Body corporate	\$_____	You do not have to pay this amount. This is the maximum fine that can be imposed if you are prosecuted in a court and convicted of this offence.	
	Person that is not body corporate	\$_____		



**TAKE  
NOTICE**

It is alleged that you have committed the above offence.

**If you do not want to be prosecuted in court for the offence**, pay the modified penalty to the Approved Officer within 28 days after the date of this notice.

**If you do not pay** the modified penalty within 28 days, you may be prosecuted or enforcement action may be taken under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*. Under that Act, some or all of the following action may be taken — your driver's licence may be suspended, your vehicle licence may be suspended or cancelled, you may be disqualified from holding or obtaining a driver's licence or vehicle licence, your vehicle may be immobilised or have its number plates removed, your details may be published on a website, your earnings or bank accounts may be garnished, and your property may be seized and sold.

**If you need more time** to pay the modified penalty, you should contact the Approved Officer at the address below.

Paying the modified penalty will not be regarded as an admission for the purposes of any civil or criminal court case.

**If you want this matter to be dealt with by prosecution in court**, sign and date here:

\_\_\_\_\_ / /20  
and post this notice to the Approved Officer at the address below within 28 days after the date of this notice.

If you consider that you have good reason to have this notice withdrawn, you can write to the Approved Officer at the address below requesting that this notice be withdrawn and setting out the reasons why you consider that this notice should be withdrawn. Your letter must be received not later than 28 days after the date of this notice.



**Form 4 — Withdrawal of infringement notice relating to offence under  
Australian Consumer Law (WA)**

<i>Australian Consumer Law (WA)</i>		Withdrawal no.
<b>WITHDRAWAL OF INFRINGEMENT NOTICE</b>		
<b>Alleged offender</b>	Name	
	Address	
<b>Details of infringement notice</b>	Infringement notice no.	
	Date of issue	
<b>Details of alleged offence</b>	Date or period	
	Place	
	Written law contravened	Section        of the <i>Australian Consumer Law (WA)</i>
	Details of offence	
<b>Approved Officer withdrawing notice</b>	Name	
	Office	
	Signature	
<b>Date</b>	Date of withdrawal	

<p><b>Withdrawal of infringement notice</b></p> <p><i>[*Delete whichever is not applicable]</i></p>	<p>The above infringement notice issued against you for the above alleged offence has been withdrawn.</p> <p>If you have already paid the modified penalty for the alleged offence, you are entitled to a refund.</p> <p>* Your refund is enclosed</p> <p><i>or</i></p> <p>* If you have paid the modified penalty but a refund is not enclosed, you may claim your refund by signing and dating this notice and posting it to:</p> <p style="text-align: center;">Approved Officer — <i>Fair Trading Act 2010</i> Department of Commerce Locked Bag 14 CLOISTERS SQUARE WA 6850</p>		
<p><b>Your signature</b></p>		<p><b>Date</b></p>	



## Notes

This is a compilation of the *Fair Trading (Infringement Notices) Regulations 2012* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table.

### Compilation table

<b>Citation</b>	<b>Published</b>	<b>Commencement</b>
<i>Fair Trading (Infringement Notices) Regulations 2012</i>	24 Apr 2012 p. 1745-61	r. 1 and 2: 24 Apr 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 25 Apr 2012 (see r. 2(b))
<i>Fair Trading (Infringement Notices) Amendment Regulations 2013</i>	20 Aug 2013 p. 3833	r. 1 and 2: 20 Aug 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 21 Aug 2013 (see r. 2(b) and <i>Gazette</i> 20 Aug 2013 p. 3815)
<i>Commerce Regulations Amendment (Infringement Notices) Regulations 2020 Pt. 15</i>	SL 2020/163 25 Sep 2020	29 Sep 2020 (see r. 2(b) and SL 2020/159 cl. 2(a))

Defined terms

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## **Defined terms**

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
Commissioner .....	3