



WESTERN
AUSTRALIAN
GOVERNMENT
Gazette

ISSN 1448-949X (print)

ISSN 2204-4264 (online)

PRINT POST APPROVED PP665002/00041

2489



PERTH, FRIDAY, 29 JUNE 2018 No. 103

SPECIAL

PUBLISHED BY AUTHORITY KEVIN J. McRAE, GOVERNMENT PRINTER AT 1.00 PM

© STATE OF WESTERN AUSTRALIA

FAIR TRADING ACT 2010

The following instrument is published under the *Fair Trading Act* Section 21
COMMONWEALTH OF AUSTRALIA

COMPETITION AND CONSUMER ACT 2010



**Competition and Consumer Amendment
(Australian Consumer Law Review)
Regulations 2018**

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 07 June 2018

Peter Cosgrove
Governor-General

By His Excellency's Command

Michael Sukkar
Assistant Minister to the Treasurer
Parliamentary Secretary to the Treasurer

Contents

- 1 Name
- 2 Commencement
- 3 Authority
- 4 Schedules

Schedule 1—Unsolicited consumer agreements

Competition and Consumer Regulations 2010

Schedule 2—Warranties against defects

Competition and Consumer Regulations 2010

1 Name

This instrument is the *Competition and Consumer Amendment (Australian Consumer Law Review) Regulations 2018*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	9 June 2018

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Competition and Consumer Act 2010*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1— Unsolicited consumer agreements

Competition and Consumer Regulations 2010

1 Regulation 83

Before “For”, insert “(1)”.

2 At the end of regulation 83

Add:

- (2) However, subregulation (1) does not apply if section 86 of the Australian Consumer Law does not apply to, or in relation to, the unsolicited consumer agreement.

Note: Section 86 of the Australian Consumer Law may not apply to an unsolicited consumer agreement because of regulations made under section 94 of the Australian Consumer Law. For example, section 86 of the Australian Consumer Law does not apply to, or in relation to, agreements of a kind specified in regulation 89 and circumstances of a kind specified in regulations 88 and 95 of these Regulations.

3 In the appropriate position in Part 8

Insert:

Division 2—Application of amendments made by the Competition and Consumer Amendment (Australian Consumer Law Review) Regulations 2018

98 Application—unsolicited consumer agreements

The amendments made by Schedule 1 to the *Competition and Consumer Amendment (Australian Consumer Law Review) Regulations 2018* apply in relation to agreements entered into on or after the commencement of that Schedule.

Schedule 2— Warranties against defects

Competition and Consumer Regulations 2010

1 Paragraph 90(1)(c)

Repeal the paragraph, substitute:

- (c) a warranty against defects must include:
- (i) in relation to the supply of goods only—the text mentioned in subregulation (2); or
 - (ii) in relation to the supply of services only—the text mentioned in subregulation (3); or
 - (iii) in relation to the supply of goods and services—the text mentioned in subregulation (4);

2 After subregulation 90(1)

Insert:

- (1A) Paragraph (1)(c) does not apply in relation to:
- (a) services mentioned in section 63 of the Australian Consumer Law; and
 - (b) supplies mentioned in section 65 of the Australian Consumer Law.

3 Subregulation 90(2)

Omit “For paragraph (1)(c)”, substitute “For the purposes of subparagraph (1)(c)(i)”.

4 After subregulation 90(2)

Insert:

- (3) For the purposes of subparagraph (1)(c)(ii), the text is ‘Our services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:
- to cancel your service contract with us; and
 - to a refund for the unused portion, or to compensation for its reduced value.
- You are also entitled to be compensated for any other reasonably foreseeable loss or damage. If the failure does not amount to a major failure you are entitled to have problems with the service rectified in a reasonable time and, if this is not done, to cancel your contract and obtain a refund for the unused portion of the contract’.
- (4) For the purposes of subparagraph (1)(c)(iii), the text is ‘Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:
- to cancel your service contract with us; and
 - to a refund for the unused portion, or to compensation for its reduced value.
- You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service’.

5 In the appropriate position in Part 8

Insert:

99 Application—warranties against defects

The amendments made by Schedule 2 to the *Competition and Consumer Amendment (Australian Consumer Law Review) Regulations 2018* apply in relation to warranties against defects issued on or after the day that is 12 months after the day that Schedule commences.
