



WESTERN
AUSTRALIAN
GOVERNMENT

Gazette

ISSN 1448-949X

PRINT POST APPROVED PP665002/00041

1745



PERTH, TUESDAY, 24 APRIL 2012 No. 64

SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.30 PM

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FAIR TRADING ACT 2010

FAIR TRADING (INFRINGEMENT NOTICES) REGULATIONS 2012

Fair Trading Act 2010

Fair Trading (Infringement Notices) Regulations 2012

Made by the Governor in Executive Council.

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*.

Fair Trading (Infringement Notices) Regulations 2012**r. 4**

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.

Fair Trading (Infringement Notices) Regulations 2012

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

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

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

Offences under <i>Fair Trading Act 2010</i>		Modified penalty \$
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

Fair Trading (Infringement Notices) Regulations 2012**Schedule 2** Prescribed offences under Australian Consumer Law (WA) and modified penalties**Schedule 2 — Prescribed offences under *Australian Consumer Law (WA)* and modified penalties**

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

Offences under <i>Australian Consumer Law (WA)</i>	Modified penalty	
	\$	
	For body corporate	For person that is not body corporate
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) and **Schedule 2**
modified penalties

Offences under <i>Australian Consumer Law (WA)</i>	Modified penalty	
	\$	
	For body corporate	For person that is not body corporate
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

Offences under <i>Australian Consumer Law (WA)</i>	Modified penalty	
	\$	
	For body corporate	For person that is not body corporate
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

Fair Trading (Infringement Notices) Regulations 2012
Forms **Schedule 3**

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.	
INFRINGEMENT NOTICE			
Alleged offender	Name		
	Address		
Details of alleged offence	Date or period		
	Place		
	Written law contravened	Section	of the <i>Fair Trading Act 2010</i>
	Details of offence		
Date	Date of notice		
Issuing officer	Name		
	Office		
	Signature		
Modified penalty	\$ _____		
Penalty	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	\$ _____	

Fair Trading (Infringement Notices) Regulations 2012
Schedule 3 Forms

<p>TAKE NOTICE</p>	<p>It is alleged that you have committed the above offence.</p> <p>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.</p> <p>If you do not pay 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 your driver's licence or vehicle licence may be suspended.</p> <p>If you need more time 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>If you want this matter to be dealt with by prosecution in court, 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>	
<p>How to pay</p>	<p>By post</p>	<p>Tick the relevant box below and post this notice to:</p> <p>Approved Officer — <i>Fair Trading Act 2010</i> Department of Commerce Locked Bag 14 CLOISTERS SQUARE WA 6850</p> <p><input type="checkbox"/> I want to pay the modified penalty. A cheque or money order (payable to 'Approved Officer — <i>Fair Trading</i></p>

Fair Trading (Infringement Notices) Regulations 2012
Schedule 3 Forms

Details of infringement notice	Infringement notice no.	
	Date of issue	
Details of alleged offence	Date or period	
	Place	
	Written law contravened	Section of the <i>Fair Trading Act 2010</i>
	Details of offence	
Approved Officer withdrawing notice	Name	
	Office	
	Signature	
Date	Date of withdrawal	
Withdrawal of infringement notice <i>[*Delete whichever is not applicable]</i>	<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 style="padding-left: 40px;"><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 style="padding-left: 80px;">Approved Officer — <i>Fair Trading Act 2010</i> Department of Commerce Locked Bag 14 CLOISTERS SQUARE WA 6850</p>	
Your signature		Date

Fair Trading (Infringement Notices) Regulations 2012Forms **Schedule 3****Form 3 — Infringement notice relating to offence under *Australian Consumer Law (WA)***

<i>Australian Consumer Law (WA)</i>		INFRINGEMENT NOTICE		Infringement notice no.
Alleged offender	Name			
	Address			
Details of alleged offence	Date or period			
	Place			
	Written law contravened	Section	of the <i>Australian Consumer Law (WA)</i>	
	Details of offence			
Date	Date of notice			
Issuing officer	Name			
	Office			
	Signature			
Modified penalty	\$ _____			
Penalty	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	\$ _____		

Fair Trading (Infringement Notices) Regulations 2012
Schedule 3 Forms

<p>TAKE NOTICE</p>	<p>It is alleged that you have committed the above offence.</p> <p>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.</p> <p>If you do not pay 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 your driver's licence or vehicle licence may be suspended.</p> <p>If you need more time 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>If you want this matter to be dealt with by prosecution in court, 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>	
<p>How to pay</p>	<p>By post</p>	<p>Tick the relevant box below and post this notice to:</p> <p>Approved Officer — <i>Fair Trading Act 2010</i> Department of Commerce Locked Bag 14 CLOISTERS SQUARE WA 6850</p> <p><input type="checkbox"/> I want to pay the modified penalty. A cheque or money order (payable to 'Approved Officer — <i>Fair Trading</i></p>

Fair Trading (Infringement Notices) Regulations 2012
Schedule 3 Forms

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

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

Fair Trading (Infringement Notices) Regulations 2012Forms **Schedule 3**

<p>Withdrawal of infringement notice [*Delete whichever is not applicable]</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 style="text-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 style="text-align: center;">Approved Officer — <i>Fair Trading Act 2010</i> Department of Commerce Locked Bag 14 CLOISTERS SQUARE WA 6850</p>		
<p>Your signature</p>		<p>Date</p>	

By Command of the Governor,

R. KENNEDY, Clerk of the Executive Council.