

# Fair Trading Regulation 2007

[2007-413]



New South Wales

## Status Information

### Currency of version

Repealed version for 1 January 2011 to 31 August 2012 (accessed 27 July 2024 at 22:50)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Regulation was repealed by sec 10 (2) of the [Subordinate Legislation Act 1989 No 146](#) with effect from 1.9.2012.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Fair Trading Regulation 2007



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Fair Trading Regulation 2007*.

**Note—**

This Regulation replaces the *Fair Trading (General) Regulation 2002* which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 2 Commencement

This Regulation commences on 1 September 2007.

### 3 Definition

(1) In this Regulation:

**the Act** means the *Fair Trading Act 1987*.

(2) Notes included in this Regulation do not form part of this Regulation.

### 4 Compliance with specification

For the purposes of this Regulation, goods do not fail to comply with a standard referred to in a Division relating to those goods merely because they do not comply with a provision of the standard:

- (a) that is expressed to be a recommendation, or
- (b) in relation to which the word “should” or “preferably” is used to indicate that the provision is of an advisory nature only.

## Part 2

### 5-87L (Repealed)

## Part 3 Product information standards

### Division 1 Preliminary

#### 88 Information standards

The standards set out in the other Divisions of this Part are prescribed under section 38 of the Act as product information standards for the goods to which those Divisions apply.

**Note—**

The consequences of failing to comply with a product information standard are set out in section 39 of the Act.

### Division 2 Fibre content labelling of textile products

#### 89 Definitions

In this Division:

**AS/NZS 2392** means the Australian/New Zealand Standard entitled AS/NZS 2392:1999, *Textiles—Labelling of clothing, household textiles and furnishings*, as published jointly by Standards Australia and Standards New Zealand on 5 July 1999.

**AS/NZS 2450** means the Australian/New Zealand Standard entitled AS/NZS 2450:1994, *Textiles—Natural and man-made fibres—Generic names*, as published jointly by Standards Australia and Standards New Zealand on 17 October 1994.

**AS/NZS 2622** means the Australian/New Zealand Standard entitled AS/NZS 2622:1996, *Textile products—Fibre content labelling*, as published jointly by Standards Australia and Standards New Zealand on 5 September 1996.

**textile product** has the same meaning as it has in Clause 5.3 of AS/NZS 2622.

#### 90 Product information standard

The product information standard for textile products is that they must comply with AS/NZS 2622.

#### 91 Form of information

The label in which is contained any statement required for a textile product by AS/NZS 2622 must comply with AS/NZS 2392 and AS/NZS 2450.

### Division 3

#### 92-97 (Repealed)

## Division 4 Petrol price signs

### 98 Definitions

In this Division:

**consent authority**, **development application** and **development consent** have the same meanings as they have in the [Environmental Planning and Assessment Act 1979](#).

**petrol station** means a building or place used for the fuelling of motor vehicles involving the sale by retail of petrol, whether or not any other fuel or other product is sold there and whether or not the building or place is used for any other purpose, but does not include a place where the primary business is the hiring, leasing or sale of motor vehicles.

### 99 Product information standard

The product information standard for regular unleaded petrol supplied at a petrol station is that the price at which that petrol is supplied to retail customers at the petrol station must be disclosed by being displayed at the petrol station on one or more signs (**petrol price signs**) that comply with the following requirements:

- (a) a petrol price sign must be so positioned and lit that any price and other matter that it displays will be readily seen by motorists approaching the petrol station at any time that the petrol station is open for business for the supply of petrol,
- (b) a price displayed on a petrol price sign must be a price per litre of petrol.

### 100 Planning restriction not affected

The product information standard specified in clause 99 does not apply to the extent of any inconsistency with:

- (a) a requirement or prohibition imposed by or under the [Environmental Planning and Assessment Act 1979](#) or the [Local Government Act 1993](#) (other than a requirement that development consent be obtained), or
- (b) a requirement under the [Environmental Planning and Assessment Act 1979](#) that development consent be obtained, but only if that development consent has been applied for and refused.

## Part 4 Other information standards

### Division 1 Employment placement services

#### 101 Information standard for employment placement services

- (1) For the purposes of section 50 of the Act, the requirements of this clause are prescribed as an information standard for employment placement services.

- (2) A person who provides employment placement services must, before providing those services to a person seeking employment (**a job seeker**), give the job seeker a written notice that sets out the following statements:
- (a) A person who provides employment placement services must not charge a job seeker a fee for the purpose of finding the job seeker employment.
  - (b) A person who provides employment placement services must not engage in misleading or deceptive conduct (such as advertising a position as being available when the person knows no such position exists or knowingly giving misleading information to a job seeker about the nature of a position).
  - (c) If a job seeker believes that a person has acted inappropriately in the course of providing employment placement services, the job seeker may contact the Office of Fair Trading for information on possible action that may be taken.

## **Division 2 Funeral goods and services**

### **101A Information standard for funeral goods and services**

For the purposes of section 55 of the Act, the requirements of this Division are prescribed as an information standard for funeral goods and services.

### **101B Application of Division**

This Division applies to the supply of funeral goods and services for the arrangement and conduct of a funeral service, including:

- (a) the supply of goods to a consumer in connection with the burial or cremation of a body, and
- (b) the care, transport and preparation of the body prior to burial or cremation.

### **101C Definitions**

In this Division:

**basic funeral** means a funeral comprising only the following funeral goods and services:

- (a) the arrangement and conduct of a funeral service, at either the premises of the supplier or at the place of burial or cremation of a body, to take place between the hours of 8 am and 5 pm on a weekday,
- (b) the transport of the body to any of the following places as required where no individual journey is further than 30 kilometres:
  - (i) the premises of a supplier of funeral goods and services,
  - (ii) a mortuary,

- (iii) the place at which the body is to be buried or cremated,
- (c) the storage of the body at a mortuary or holding room,
- (d) the preparation at a mortuary for burial or cremation of the body, not including preparation for the viewing or embalming of the body,
- (e) the supply of the least expensive coffin that the supplier of funeral goods or services has available,
- (f) the collection of certificates or permits provided by a medical practitioner in relation to the body,
- (g) the burial or cremation of the body.

**basic funeral notice** means a written statement listing the following:

- (a) each of the funeral goods and services that comprise the basic funeral and the cost of each,
- (b) each of the necessary disbursements and a reasonable estimate of the amount of each.

**body** means the body of a dead person.

**mortuary** means premises that are used, or intended to be used, for the preparation or storage of bodies as part of the arrangements for their burial or cremation, but does not include any premises (such as a hospital) in which bodies may be temporarily stored pending their transfer to a mortuary.

**necessary disbursements** means disbursements in relation to:

- (a) any fees charged by a medical practitioner in respect of certificates or permits provided by the practitioner, and
- (b) any fees charged by a cemetery or crematorium,

in relation to a burial or cremation.

**prospective consumer** means a person who indicates to a supplier of funeral goods and services that he or she is, or might be, interested in purchasing funeral goods and services from the supplier.

#### **101D Information to prospective consumers**

- (1) Before entering into an agreement for the supply of funeral goods and services, a supplier of funeral goods and services that ordinarily offers a basic funeral to consumers must give a basic funeral notice to each prospective consumer and to any other person that requests a copy of the notice.

- (2) Before entering into an agreement for the supply of funeral goods and services to a consumer (other than an agreement for the provision of a basic funeral) the supplier of the funeral goods and services must give to the consumer a written statement listing the following:
- (a) each of the funeral goods and services that are to be supplied to the consumer under the agreement and the cost of each,
  - (b) each of the necessary disbursements and a reasonable estimate of the amount of each,
  - (c) any other disbursements that are likely to be made by the supplier and a reasonable estimate of the amount of each.

#### **101E Information on final account**

Before accepting final payment under an agreement for the supply of funeral goods and services to a consumer, the supplier of the funeral goods and services must give to the consumer a written statement listing the following:

- (a) each of the funeral goods and services supplied to the consumer under the agreement and the cost of each,
- (b) each of the necessary disbursements and the amount of each,
- (c) any other disbursements made by the supplier and the amount of each,
- (d) the total amount payable for the supply of the funeral goods and services under the agreement.

#### **101F Transitional provision**

Clause 101E applies only in relation to contracts entered into after the commencement of this Division.

### **Part 5 Penalty notice offences**

#### **102 Penalty notice offences**

For the purposes of section 67 of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 1 is a prescribed offence, and
- (b) the prescribed penalty for such an offence is the amount specified in Column 2 of Schedule 1.

### **Part 6**

#### **103-107 (Repealed)**

## **Part 7 Industry code for motor vehicle insurers and repairers**

### **108 Declaration of industry code of conduct in relation to motor vehicle insurers and repairers**

- (1) For the purpose of section 53 (1) of the Act, the code published in Gazette No 127 on 27 October 2006 at pages 9139–9168 (referred to in this Part as the ***published code***) is declared to be an applicable industry code of conduct.
- (2) For the purpose of section 53 (2) (a) of the Act, the following classes of motor vehicles are excluded from the application of the provisions of the applicable industry code of conduct relating to the repair of any such motor vehicles that are or may be damaged:
  - (a) motor vehicles owned or used by the repairer,
  - (b) motor vehicles not registered in New South Wales, except when repaired in New South Wales.
- (3) For the purpose of section 53 (2) (b) of the Act, any provisions of the published code in so far as they relate to:
  - (a) the code or its application being voluntary, or
  - (b) the signatories to the code and the process by which the signatories are bound, or
  - (c) any other incidental matters,are excluded and the declaration under subclause (1) does not apply to those provisions.

### **109 Savings and transitional provisions**

- (1) The applicable industry code of conduct applies to a dispute between an insurer and repairer with respect to a motor vehicle insurance policy, even if the policy was entered into before the relevant provisions of the code took effect.
- (2) The applicable industry code of conduct applies to damage to a motor vehicle covered by a motor vehicle insurance policy, even if the policy was entered into before the relevant provisions of the code took effect.

## **Part 8 Miscellaneous**

### **110 Delegation by Director-General**

For the purposes of section 8 (1) (i) of the Act, section 83A of the [Gas Supply Act 1996](#) is a prescribed provision of a prescribed Act.

### **111 Savings**

Any act, matter or thing that, immediately before the repeal of the [Fair Trading \(General\)](#)

*Regulation 2002*, had effect under that Regulation continues to have effect under this Regulation.

## Schedule 1 Penalty notice offences

(Clause 102)

| Column 1  | Column 2 |
|---|----------|
| <b>Offences under the ACL</b>   |          |
| Section 165 of the ACL  | \$550    |
| Section 194 (1), (2), (3) or (5) of the ACL                                 | \$550    |
| Section 197 (1), (2), (3) or (5) of the ACL                                 | \$550    |
| Section 201 (1) of the ACL  | \$550    |
| Section 203 (1), (2) or (3) of the ACL                                      | \$550    |
| <b>Offences under the <i>Fair Trading Act 1987</i> (other than the ACL)</b> |          |
| Section 45  | \$550    |
| Section 49 (1)  | \$550    |
| Section 50 (3)  | \$550    |
| Section 56 (1)  | \$550    |