

EXPOSURE DRAFT



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Competition and Consumer (Industry Codes— Franchising) Amendment (Fairness in Franchising) Regulations 2020

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2020

David Hurley
Governor-General

By His Excellency's Command

Michaelia Cash [**DRAFT ONLY—NOT FOR SIGNATURE**]
Minister for Employment, Skills, Small and Family Business
for the Treasurer

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1 Name

This instrument is the *Competition and Consumer (Industry Codes—Franchising) Amendment (Fairness in Franchising) Regulations 2020*.

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. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	
2. Schedule 1	The day after this instrument is registered.	
3. Schedules 2 to 9	1 July 2021.	1 July 2021
4. Schedule 10	The day after this instrument is registered.	
5. Schedule 11	The later of: (a) immediately after the commencement of the provisions covered by table item 3; and (b) the commencement of [<i>provision of Act to amend subsection 51AE(2) of the Competition and Consumer Act 2010 to allow regulations to provide for civil penalties of 600 penalty units</i>].	

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Schedule 1 Dispute resolution

Schedule 1—Dispute resolution

Competition and Consumer (Industry Codes—Franchising) Regulation 2014

1 After section 4

Insert:

4A Functions of Australian Small Business and Family Enterprise Ombudsman relating to Franchising Code of Conduct

The Australian Small Business and Family Enterprise Ombudsman has the following functions:

- (a) keeping lists of persons who can provide services of arbitration, conciliation or mediation for the purposes of the code set out in Schedule 1 or of a franchise agreement as defined in that code;
- (b) in accordance with that code, appointing persons who can provide services of arbitration, conciliation or mediation of disputes for the purposes of that code or a complaint handling procedure of a franchise agreement (as defined in that code), on request by one or more of the parties;
- (c) receiving information about disputes that are being, or have been, dealt with under that code or a complaint handling procedure of a franchise agreement as defined in that code;
- (d) regularly providing to the Minister statistical information relating to disputes that have been or are being dealt with under that code or a complaint handling procedure of a franchise agreement as defined in that code.

2 Subclause 4(1) of Schedule 1

Insert:

ADR practitioner means a conciliator or mediator.

ADR process means conciliation or mediation.

complainant has the meaning given by clause 35.

Ombudsman means the Australian Small Business and Family Enterprise Ombudsman.

respondent has the meaning given by clause 35.

3 Paragraph 21(1)(b) of Schedule 1

Omit “mediation, requires the mediation”, substitute “an ADR process, requires the process”.

4 Paragraph 21(2)(b) of Schedule 1

Omit “the mediation of”, substitute “an ADR process for”.

5 Clause 34 of Schedule 1

Omit “complies with Division 2 of this Part”, substitute “has the same effect as subclauses 40A(1) to (4) and clause 41A except for providing for imposition of a civil penalty”.

6 Clause 35 of Schedule 1

After “the franchise agreement”, insert “(the *respondent*)”.

7 Paragraph 36(1)(d) of Schedule 1

Omit “a mediation”, substitute “an ADR”.

8 Subclause 36(2) of Schedule 1

Omit “a mediation”, substitute “an ADR”.

9 Subclause 36(2) of Schedule 1

Omit “the mediation”, substitute “the process”.

10 Divisions 2, 3 and 4 of Part 4 of Schedule 1

Repeal the Divisions, substitute:

Division 3—Code complaint handling procedure

Subdivision A—Notification of dispute

40A Notification of dispute

- (1) The complainant must tell the respondent in writing:
 - (a) the nature of the dispute; and
 - (b) what outcome the complainant wants; and
 - (c) what action the complainant thinks will resolve the dispute.
- (2) The parties must then try to agree how to resolve the dispute.

Note: Arbitration could be one way the parties agree to resolve the dispute. In that case, Subdivision C will apply.
- (3) If the parties cannot agree how to resolve the dispute within 21 days, any party may refer the matter to an ADR practitioner for an ADR process under:
 - (a) a franchise agreement; or
 - (b) this code.
- (4) If the parties cannot agree on who should be the ADR practitioner, any party may request the Ombudsman to appoint an ADR practitioner.
- (5) The Ombudsman must appoint an ADR practitioner within 14 days of the request, or a corresponding request under a provision of the franchise agreement corresponding to subclause (4).

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Schedule 1 Dispute resolution

40B Common disputes between 2 or more franchisees and one franchisor

- (1) This clause applies if 2 or more franchisees have corresponding disputes under their franchise agreements with the same franchisor.
- (2) To avoid doubt, the franchisees and the franchisor may agree to resolve their disputes in the same way.
- (3) To avoid doubt, if any of the franchisees and the franchisor cannot agree how to resolve their disputes, all of the franchisees (who cannot agree) or the franchisor may refer the matter to a single ADR practitioner in accordance with subclause 40A(3) for a single ADR process for all of their disputes.

Note: Each of the disputes remains separate, even if there is a single ADR process dealing with all of them.

- (4) To avoid doubt, if any of the franchisees and the franchisor cannot agree on who should be the ADR practitioner, all of the franchisees (who cannot agree) or the franchisor may request the Ombudsman in accordance with subclause 40A(4) to appoint a single ADR practitioner for a single ADR process for all of their disputes.
- (5) If:
 - (a) under subclause (3), all of the franchisees refer the matter to a single ADR practitioner for a single ADR process for all of their disputes; or
 - (b) under subclause (4), all of the franchisees request the appointment of a single ADR practitioner for a single ADR process for all their disputes and the appointment is made;

but the franchisor does not agree that there should be a single ADR process for all the disputes or does not agree to the appointment of the ADR practitioner, the ADR practitioner may conduct the process despite the franchisor's disagreement.

Note: If the ADR practitioner does conduct the process despite the franchisor's disagreement, the franchisor is required to attend the process and to try to resolve the dispute (see subclauses 41A(3) and (5)).

Subdivision B—ADR process

41A ADR process

- (1) An ADR practitioner appointed for a dispute may decide the time and place for the ADR process for the dispute (subject to subclause (2)).
- (2) The ADR process must be conducted in Australia.
- (3) Each party to the dispute must attend the ADR process.

Civil penalty: 300 penalty units.

- (4) For the purposes of subclause (3), a party is taken to attend an ADR process if the party is represented in the process by a person who has the authority to enter an agreement to settle the dispute on behalf of the party.
- (5) The parties must try to resolve the dispute.

Note: For when a party is taken to be trying to resolve a dispute, see clause 36.

- (6) After the ADR process has started, the ADR practitioner must advise the Ombudsman, within 28 days, of that fact.

41B Termination of ADR process

- (1) This clause applies to an ADR process for a dispute if:
 - (a) at least 30 days have elapsed after the day the process began; and
 - (b) the dispute has not been resolved.
- (2) The ADR practitioner for the ADR process may terminate the ADR process at any time unless satisfied that a resolution of the dispute is imminent.
- (3) However, if a party asks the ADR practitioner to terminate the process for the dispute, the ADR practitioner must do so.
- (4) If the ADR practitioner terminates the ADR process for a dispute under this clause, the ADR practitioner must issue a certificate stating:
 - (a) the names of the parties; and
 - (b) the nature of the dispute; and
 - (c) that the process has finished; and
 - (d) that the dispute has not been resolved.
- (5) The ADR practitioner must give a copy of the certificate to:
 - (a) the Ombudsman; and
 - (b) each of the parties to the dispute.

41C Costs of ADR process

- (1) The parties to a dispute are equally liable for the costs of an ADR process under this Subdivision for the dispute (including the cost of the ADR practitioner, the cost of room hire and the cost of any additional input (including expert reports) agreed by the parties to be necessary to conduct the process), unless they agree otherwise.

Note: If a single ADR process is conducted under this Subdivision for multiple disputes, this clause applies separately to each of the disputes, and the costs of the process for each dispute will be the part of the overall cost of the process that is attributable to that dispute.

- (2) The parties must pay for their own costs of attending the ADR process.

Subdivision C—Arbitration

43A Arbitration by agreement for dispute resolution

The dispute between the complainant and the respondent may, by written agreement, be resolved in whole or part by arbitration. The agreement may be the franchise agreement or a separate agreement.

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Schedule 1 Dispute resolution

43B Arbitration procedure

- (1) This clause applies if the complainant and the respondent agree, in writing, to have a dispute resolved by arbitration conducted in accordance with this Subdivision.

Appointment of arbitrator

- (2) The parties must request the Ombudsman to appoint an arbitrator for the dispute.
- (3) The Ombudsman:
 - (a) must appoint an arbitrator within 14 days after receiving the request unless the Ombudsman is satisfied that the complaint giving rise to the dispute:
 - (i) is frivolous or vexatious; or
 - (ii) has previously been the subject of another arbitration; and
 - (b) must give the parties to the dispute, in writing, details of the arbitrator appointed.

Conduct of arbitration

- (4) Subject to subclause (5), the arbitrator must decide:
 - (a) how the arbitration is to be conducted (for example, by telephone or in meetings); and
 - (b) the time and place for the arbitration; and
 - (c) the day the arbitration commences for the purposes of this Subdivision.
- (5) The arbitration must be conducted in Australia.

Arbitrator must notify Ombudsman that arbitration has commenced

- (6) Within 14 days after the arbitration has commenced, the arbitrator must notify the Ombudsman, in writing, that the arbitration has commenced and of the nature of the dispute.

Note: The arbitrator decides under paragraph (4)(c) when an arbitration commences.

Attendance at arbitration

- (7) Each party to the dispute must attend the arbitration.

Civil penalty: 300 penalty units.

- (8) For the purposes of subclause (7), a party is taken to attend an arbitration if the party is represented at the arbitration by a person who has the authority to enter into an agreement to settle the dispute on behalf of the party.

Arbitrator must give notice of successful arbitration

- (9) If the dispute is resolved, the arbitrator must, within 14 days after the dispute is resolved:
 - (a) set out, in writing, the terms of the resolution; and
 - (b) give a copy of the terms to each party to the dispute; and
 - (c) notify the Ombudsman that the dispute has been resolved.

43C Termination of arbitration

- (1) The arbitrator conducting an arbitration of a dispute in accordance with this Subdivision must terminate the arbitration if the complainant requests the arbitrator to do so.
- (2) If the arbitrator terminates an arbitration under subclause (1), the arbitrator must issue a certificate stating:
 - (a) the names of the parties to the arbitration; and
 - (b) the nature of the dispute that was the subject of the arbitration; and
 - (c) that the arbitration has been terminated; and
 - (d) that the dispute has not been resolved.
- (3) The arbitrator must give a copy of the certificate to:
 - (a) the Ombudsman; and
 - (b) each party to the dispute.

43D Costs of arbitration

- (1) Each party to a dispute that was the subject of an arbitration in accordance with this Subdivision must pay half of all reasonable costs (if any) associated with the conduct of the arbitration, unless the parties to the arbitration agree otherwise.
- (2) However, each party to a dispute that was the subject of an arbitration in accordance with this Subdivision must pay that party's costs of attending the arbitration, unless the parties agree otherwise.

Subdivision D—Confidentiality

44A Confidentiality requirements

The complainant and respondent must observe any confidentiality requirements relating to information disclosed or obtained in dealing with or resolving the dispute by an ADR process or arbitration.

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Schedule 2 Disclosure before entry into franchising agreements

Schedule 2—Disclosure before entry into franchising agreements

Competition and Consumer (Industry Codes—Franchising) Regulation 2014

1 Subclause 4(1) of Schedule 1

Insert:

key facts sheet has the meaning given by paragraph 9(1)(c).

2 Subclause 9(1) of Schedule 1

Repeal the subclause, substitute:

- (1) At least 14 days before a franchisor and prospective franchisee enter into a franchise agreement, the franchisor must give the prospective franchisee the following:
 - (a) a copy of the franchise agreement, in the form in which it is to be executed;
 - (b) a copy of the disclosure document:
 - (i) as updated under subclause 8(6); or
 - (ii) if subclause 8(7) applies—updated to reflect the position of the franchise as at the end of the financial year before the financial year in which the copy of the disclosure document is given;
 - (c) a copy of a document (the *key facts sheet*) that meets the requirements of clause 9A;
 - (d) a copy of this code;
 - (e) if:
 - (i) premises are leased to the franchisor or an associate of the franchisor; and
 - (ii) the franchisor or associate proposes to sublease the premises to the prospective franchisee for the purposes of a franchised business, or to permit the prospective franchisee to occupy the premises for those purposes without a lease;
a copy of:
 - (iii) the lease of the premises to the franchisor or associate; and
 - (iv) if the lessor of the premises to the franchisor or associate complies with a requirement by or under a law of a State or Territory to disclose to the franchisor or associate (as lessee) written information relating to the lease—that information.

Note: If it is proposed that the prospective franchisee lease premises from, or occupy premises under another right granted by, the franchisor or an associate, clause 26 lets the franchisee terminate the franchise agreement up to 14 days after being given a document setting out the terms of the lease or right to occupy the premises.

Civil penalty: 300 penalty units.

3 After subclause 9(2) of Schedule 1

Insert:

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Disclosure before entry into franchising agreements **Schedule 2**

(2A) If a request is made under clause 24 that a franchisor consent to the transfer of a franchise agreement to a person, the franchisor must, at least 14 days before giving the consent, give the person:

- (a) if the transfer does not involve executing another franchise agreement—a copy of the franchise agreement; and
- (b) the documents mentioned in paragraph (1)(b), (c), (d) and (e).

Civil penalty: 300 penalty units.

(2B) However, subclause (2A) does not apply to a transfer that involves entry into a new franchise agreement.

Note: Subclause (1) applies to such a transfer.

(2C) If the person to whom documents must be given under subclause (1), (2) or (2A) requests the documents in printed form, electronic form or both, the franchisor must comply with the request. However, if the documents have been given in one of those forms (whether requested by the person or not) by the time required by that subclause, a later request for the documents in the other form (or both forms) does not require the franchisor to comply with the subclause again.

4 After clause 9 of Schedule 1

Insert:

9A Requirements for key facts sheet

[The content of this clause will depend on the outcome of consultation on the exposure draft.]

5 Subclause 11(2) of Schedule 1

Omit “size 11 font”, substitute “at least 11 point type”.

6 At the end of subclause 11(3) of Schedule 1

Add “and before the franchisor gives the prospective franchisee any of the documents described in clause 9”.

7 After subclause 16(1) of Schedule 1

Insert:

(1A) If the request is for the document in printed form, electronic form or both, the franchisor must give the document in the form or forms requested.

8 Subclause 16(2) of Schedule 1

After “subclause (1)”, insert “or (1A)”.

9 Paragraph 1.1(e) of Annexure 1 of Schedule 1

After “It should be read together with”, insert “the key facts sheet and”.

10 Paragraph 1.1(e) of Annexure 1 of Schedule 1

After “You are entitled to a waiting period of 14 days”, insert “(not 14 business days)”.

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Schedule 2 Disclosure before entry into franchising agreements

11 At the end of paragraph 1.1(e) of Annexure 1 of Schedule 1

Add:

If you request the franchisor to give you this disclosure document, any attachments to it, the key facts sheet, the proposed franchise agreement and the Franchising Code of Conduct in printed form, electronic form or both, the franchisor must comply with your request.

12 Paragraphs 10.1(j) and (k) of Annexure 1 of Schedule 1

Repeal the paragraphs, substitute:

- (j) whether the franchisor, a master franchisor (if different from the franchisor), or an associate of the franchisor or master franchisor, will receive a benefit (whether pecuniary or not) from the supply of goods or services to the franchisee (apart from the price paid by the franchisee or a share of that price); and
- (k) if the franchisor, master franchisor or associate will receive such a benefit:
 - (i) the nature of the benefit; and
 - (ii) the name of the business providing the benefit; and
 - (iii) the method by which the benefit is worked out (which may be described as the percentage of the price paid by a franchisee for a specific quantity of goods or services the franchisor requires the franchisee to buy); and
- (l) whether such a benefit described in paragraph (j) is shared, directly or indirectly, with the franchisee; and
- (m) if the benefit is shared in that way:
 - (i) the method for working out how much of the benefit is retained by the franchisor, master franchisor or associate, and how much is shared, directly or indirectly, with the franchisee, described by reference to a percentage of the benefit or another method for working out how much is retained and how much is shared with the franchisee; and
 - (ii) if the benefit is shared indirectly with the franchisee, what benefit the franchisee derives from the sharing.

13 After item 17 of Annexure 1 of Schedule 1

Insert:

17A Arbitration of disputes

17A.1 Whether the franchise agreement provides for arbitration of disputes in a manner consistent with Subdivision C of Division 3 of Part 4.

17B Ways of ending the franchise agreement early

17B.1 What rights the franchisor has to terminate the franchise agreement before it expires, and the circumstances in which those rights may be exercised.

17B.2 What rights the franchisee has to terminate the franchise agreement before it expires, and the circumstances in which those rights may be exercised.

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Disclosure before entry into franchising agreements **Schedule 2**

17B.3 The right of a franchisee to give the franchisor at any time a written proposal for termination of the franchise agreement, and the obligation of the franchisor to respond to the proposal, under clause 26B of this code.

14 After paragraph 18.1(f) of Annexure 1 of Schedule 1

Insert:

(fa) the prospective franchisee’s rights (if any) relating to any goodwill generated by the franchisee; and

15 Subitems 18.3, 18.4 and 18.5 of Annexure 1 of Schedule 1

Omit “size 12 font and bold”, substitute “bold 12 point type”.

16 After subitem 20.2 of Annexure 1 of Schedule 1

Insert:

20.2A If earnings information is given in the disclosure document or an attachment to it—the following statement:

To the best of the franchisor’s knowledge, the earnings information given is accurate, except particular pieces of earnings information specified in the document containing the earnings information as pieces that the franchisor knows are not accurate.

17 Subitem 20.3 of Annexure 1 of Schedule 1

After “given”, insert “by the franchisor (either in the disclosure document or an attachment to it) and has not been given by the franchisor before the disclosure document is given”.

18 Annexure 2 of Schedule 1

Repeal the Annexure, substitute:

Annexure 2—Information statement for prospective franchisee

Note: See subclause 11(1).

INFORMATION STATEMENT FOR PROSPECTIVE FRANCHISEES

This Information Statement sets out some of the things you should think about **before** signing a franchise agreement.

You should still get your own independent legal, accounting or business advice and carefully read the disclosure document and any other documents you get from the franchisor.

Additional sources of information about franchising are listed at the end of this document.

THINKING OF BECOMING A FRANCHISEE?

IT IS IMPORTANT TO CONSIDER THE RISKS AND THE REWARDS OF FRANCHISING

Entering a franchise is a big decision. Before you do so, you should:

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Schedule 2 Disclosure before entry into franchising agreements

- **Conduct due diligence**—Research the franchise system and study the disclosure document, the franchise agreement and any other documents provided by the franchisor thoroughly to make sure that it is the right business for you.
- **Get advice**—It is strongly recommended that even people with a lot of business experience should get legal, accounting and/or business advice from professionals with expertise in franchising and take a specialist franchising course before entering a franchise agreement.
- **Consider other options**—You should look at more than one franchise business before signing an agreement.

What is franchising?

It is important that you understand what franchising is before you enter a franchise agreement.

Franchising is a way of doing business based on a set brand name and business system. Usually the franchisor controls the model closely. The franchisor grants you the right to operate a business in line with its system, normally for a set period of time.

As a result, you may be limited in the changes you can make in the business without the agreement of the franchisor.

So in some ways your franchise is your business and in some ways it is not your business.

Another way to look at it is that franchising is a relational arrangement. To be successful, you need to have a good relationship with the franchisor.

You will usually also be bound by confidentiality obligations. This may include limits on your rights to discuss the franchise business with third parties or to use the franchisor's intellectual property or business system outside the franchise.

As the franchise adjusts to meet changes in the market, the franchisor might make want to changes to the franchise system. With some exceptions, a franchisor cannot make retrospective changes to the agreement without the agreement of franchisees.

Why consider franchising?

Franchising can offer benefits other types of businesses cannot. Franchises usually have an established product or service and an existing reputation and image.

Good franchisors give you the benefits of their experience and knowledge. Most franchisees are part of a group that can pool its resources to fund advertising and get economies of scale when purchasing supplies.

The risks of franchising

Even with a well-established brand, franchising is not risk-free.

One major warning sign about a franchise system is the turnover of sites. A high turnover of one site (known as churning) could mean it is not a suitable location. A high turnover across a system might indicate the system has expanded too quickly or without a plan to make existing businesses successful (known as burning).

In franchising, as in any business, unexpected expenses may arise. The franchise can be affected by things like a change in tastes in the market or the need to upgrade equipment. With some exceptions, a franchisor must not require a franchisee to undertake significant

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Disclosure before entry into franchising agreements **Schedule 2**

capital expenditure during the term of the franchise agreement, without the franchisee's agreement.

Some franchise agreements contain 'no agent' and 'entire agreement' clauses. No agent clauses aim to prevent a franchisor being responsible for statements by a broker; entire agreement clauses say that the parties' rights and obligations are only those in the franchise agreement. In most cases these clauses cannot be enforced. Still, it is recommended you get all statements about turnover, costs and profitability in writing and obtain advice before entering the franchise agreement.

What you should find out

Some of the things you should know before you sign an agreement are:

- How long the franchise system has been operating and what success has it had and where
- What experience the franchisor and the franchisor's key staff have in managing a business
- How much working capital or extra funds you need to get the business established
- How long it will take you to get back that outlay and make a profit from the business
- Whether you will have an exclusive territory in which to operate the business
- Whether you can only get products from an approved supplier, whether the franchisor receives rebates from suppliers and how that rebate is used
- Whether the franchisor can terminate the agreement before it expires, even if you have not breached the agreement
- How many staff you will need to operate the business and the labour costs of a new business
 - Note: Labour costs can be hard to estimate
 - It is up to you to know what employment laws apply and to comply with them
- Whether you will be entitled to a share of any cooperative funds you have been paying into, such as marketing funds, if the franchisor becomes insolvent
- What the dispute resolution procedures are, including arbitration, in the franchise agreement

You should also think about what happens at the end of each term of the agreement and get answers to the following questions:

- What are my rights and responsibilities when it comes to renewing the agreement?
- What rules apply if I want to sell the business before the end of the term?
- Are there any restrictions on me starting a similar business if the agreement is not renewed?
- Do I have any goodwill in the business and, if so, how is it worked out?

More information about franchising

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Schedule 2 Disclosure before entry into franchising agreements

The Australian Government's franchising website includes information to warn and educate prospective franchisees about the risks with estimating labour costs, particularly for greenfield sites. It can be found at [URL to be inserted when known].

business.gov.au offers information about running a small business at <https://business.gov.au/>

The **Australian Competition and Consumer Commission** publishes a Franchisee Manual and information on topics such as what is franchising, your rights and obligations and how to read a disclosure document. Information and publications are online at <https://www.accc.gov.au/business/industry-codes/franchising-code-of-conduct/franchising-code> or you can call the ACCC Small Business Helpline on 1300 302 021.

Free online education courses for prospective franchisees can be found at <https://www.franchise-ed.org.au/online-courses/>.

Schedule 3—Termination of franchise agreements

Competition and Consumer (Industry Codes—Franchising) Regulation 2014

1 Clause 26 of Schedule 1 (heading)

Omit “period”, substitute “after entering into new franchise agreement”.

2 Subclause 26(1) of Schedule 1

Repeal the subclause, substitute:

- (1) A franchisee may terminate a franchise agreement within 14 days after the later of the following events:
 - (a) the franchise agreement is entered into;
 - (b) a payment is made by the franchisee to the franchisor in relation to the agreement.
- (1A) Subclauses (1B) and (1C) apply if, immediately before the franchise agreement is entered into:
 - (a) there is a proposal that the franchisor, or an associate of the franchisor:
 - (i) lease premises for the franchised business to the franchisee; or
 - (ii) allow the franchisee to occupy premises for the franchised business under a right other than a lease; and
 - (b) the lease or right is not in force.
- (1B) The franchisee may terminate the franchise agreement within 14 days after receiving from the franchisor or associate a document setting out the terms of the proposed lease or right.
- (1C) The franchisee may terminate the franchise agreement within 14 days after entering into the lease or being granted the right if, before entering into the lease or being granted the right, the franchisee did not receive from the franchisor or associate a document setting out terms of the proposed lease or right substantially identical to the actual terms of the lease or right.
- (1D) Subclauses (1), (1B) and (1C) do not limit one another.

Note: Those subclauses do not provide for the franchisee to terminate another agreement with the franchisor (such as a lease of premises from the franchisor) or an agreement with anyone else.

3 Subclause 26(2) of Schedule 1

Omit “Subclause (1) does”, substitute “Subclauses (1), (1B) and (1C) do”.

4 Paragraph 26(2)(a) of Schedule 1

Omit “transfer or”.

5 At the end of subclause 26(2) of Schedule 1

Add:

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Schedule 3 Termination of franchise agreements

; or (c) the transfer of a franchise agreement that does not involve entry into a new franchise agreement between the transferee and the franchisor.

Note: Clause 26A deals with cooling off after such a transfer.

6 Subclause 26(3) of Schedule 1

After “subclause (1)”, insert “, (1B) or (1C)”.

7 Subclause 26(3) of Schedule 1

Omit “under the agreement”, substitute “connected with the agreement”.

8 After clause 26 of Schedule 1

Insert:

26A Termination—cooling off after transferring franchise agreement

- (1) This clause applies if a franchise agreement is transferred between a person (the *old franchisee*) who was the franchisee under the agreement and a person (the *new franchisee*) who becomes the franchisee for the purposes of the agreement without a new franchise agreement being entered into by the new franchisee and the franchisor.

Note: Clause 26 deals with a transfer that involves a new franchise agreement being entered into by the franchisor and the person to whom the transfer was made by the old franchisee.

- (2) The new franchisee may, by written notice given to the old franchisee and the franchisor within 14 days after becoming the franchisee for the purposes of the franchise agreement, do all of the following:
- (a) cease to be the franchisee for those purposes;
 - (b) if the old franchisee can become the franchisee for those purposes again—cause the old franchisee to do so;
 - (c) if there was an agreement (the *transfer agreement*) between the new franchisee and the old franchisee for the purposes of the transfer—terminate the transfer agreement.

Refunds from franchisor to new franchisee

- (3) If, under paragraph (2)(a), the new franchisee ceases to be the franchisee for the purposes of the franchise agreement, the franchisor must, within 14 days, repay all payments (whether of money or of other valuable consideration) made by the new franchisee to the franchisor under the franchise agreement.

Civil penalty: 300 penalty units.

- (4) However, the franchisor may deduct from the amount repaid under subclause (3) the franchisor’s reasonable expenses if the expenses or their method of calculation have been set out in the franchise agreement.

Refunds from old franchisee to new franchisee

- (5) If, under paragraph (2)(c), the new franchisee terminates the transfer agreement, the old franchisee must, within 14 days, repay all payments (whether of money

or of other valuable consideration) made by the new franchisee to the old franchisee under the transfer agreement.

Civil penalty: 300 penalty units.

- (6) However, the old franchisee may deduct from the amount repaid under subclause (5) the old franchisee's reasonable expenses if the expenses or their method of calculation have been set out in the transfer agreement.

26B Franchisee may propose termination at any time

- (1) At any time a franchisee may give the franchisor a written proposal for termination of their franchise agreement on the terms specified in the proposal, despite the agreement.
- (2) If the franchisee gives the franchisor the proposal, the franchisor must give the franchisee a substantive written response to the proposal within 28 days.

Note: If the response is not to terminate, or agree to terminate, the agreement on the terms proposed, a dispute may arise. Under clause 35, the dispute can be dealt with under Division 3 of Part 4.

- (3) If the response is to refuse to terminate, or to refuse to agree to terminate, the franchise agreement on the terms proposed, the response must include the reasons for the refusal.

9 After subclause 27(4) of Schedule 1

Insert:

- (4A) Subclauses (2) and (4) do not prevent the franchisor from exercising a power under the agreement to terminate the agreement if, at the time of the termination, the franchisor and franchisee agree to the termination.

10 Clause 29 of Schedule 1

Repeal the clause, substitute:

29 Notice of termination by franchisor on particular grounds

- (1) This clause applies if a franchise agreement gives the franchisor power to terminate the agreement on any of the following grounds:
- (a) the franchisee no longer holds a licence that the franchisee must hold to carry on the franchised business;
 - (b) the franchisee becomes bankrupt, an insolvent under administration or a Chapter 5 body corporate;
 - (c) the franchisee is a company that is deregistered by the Australian Securities and Investments Commission;
 - (d) the franchisee voluntarily abandons the franchised business or the franchise relationship;
 - (e) the franchisee is convicted of a serious offence;
 - (f) the franchisee operates the franchised business in a way that endangers public health or safety;
 - (g) the franchisee acts fraudulently in connection with the operation of the franchised business.

EXPOSURE DRAFT

Schedule 3 Termination of franchise agreements

Franchisor must give 7 days' notice of proposed termination

- (2) The franchisor must not terminate the agreement on any of those grounds unless the franchisor has given the franchisee 7 days' written notice of the proposed termination and the ground for it.
- (3) However, clauses 27 and 28 do not prevent the franchisor from exercising the power if the franchisor has not met the requirements of subclause 27(2) or subclause 28(3).

Note: Those requirements include giving reasonable written notice of the termination to the franchisee.

Rapid appointment of ADR practitioner or arbitrator for dispute over proposed termination

- (4) If the franchisor gives the franchisee written notice of the proposed termination and the franchisee tells the franchisor, under subclause 40A(1) or a corresponding provision of the franchise agreement, about a dispute relating to the proposed termination then:
 - (a) despite subclauses 40A(3), (4) and (5) or corresponding provisions of the franchise agreement:
 - (i) the franchisee may refer the matter to an ADR practitioner for an ADR process if the franchisee and franchisor do not agree promptly how to resolve the dispute; and
 - (ii) either the franchisee or the franchisor may request the Ombudsman to appoint an ADR practitioner for the ADR process relating to the dispute if the franchisee and franchisor do not agree promptly on who should be the ADR practitioner; and
 - (iii) if requested, the Ombudsman must appoint an ADR practitioner as soon as practicable; and
 - (b) despite paragraph 43B(3)(a), the Ombudsman must appoint an arbitrator for the dispute as soon as practicable after receiving a request from the parties to the franchise agreement to do so.

ADR practitioner or arbitrator may direct franchisor to delay termination

- (5) If satisfied in accordance with subclause (6), an ADR practitioner for an ADR process for a dispute over the proposed termination, or an arbitrator for such a dispute, may direct the franchisor not to terminate the franchise agreement on the ground specified in the notice of proposed termination until after the end of 7 days after the notice was given, not counting:
 - (a) the day the direction is given; or
 - (b) the day the ADR process ends; or
 - (c) any days in between.

This subclause applies whether the ADR practitioner or arbitrator was appointed by the Ombudsman or not.

- (6) The ADR practitioner or arbitrator may give a direction under subclause (5) only if satisfied that doing so is fair to the parties to the franchise agreement, having regard to:
 - (a) the likely effect on the reputation of the franchise system; and

EXPOSURE DRAFT

Termination of franchise agreements **Schedule 3**

(b) the risk of hardship to either or both of the parties.

(7) The franchisor must comply with a direction under subclause (5).

Example: On 2 May, the franchisor gives the franchisee 7 days' notice of proposed termination of the franchise agreement on 10 May. The franchisee gives notice of a dispute about the proposed termination and on 5 May an ADR practitioner is appointed for an ADR process for the dispute. On 6 May, the ADR practitioner directs the franchisor not to terminate the agreement until after the end of the notice period. The ADR process ends on 8 May, with the franchisor still intending to terminate the agreement. The franchisor must not terminate the agreement until after 12 May (when the 7 days, not counting 6, 7 and 8 May, will end).

Requiring franchisee to cease franchised business on grounds of public health or safety or fraud

(8) If the franchise agreement provides for the franchisor to take, on a ground described in paragraph (1)(f) or (g), action to cause or require the franchisee not to operate all or part of the franchised business in a way described in that paragraph, the franchisor may, by written notice given to the franchisee, require the franchisee not to operate that business or part in that way.

(9) Subclause (8) has effect despite subclause (7) if the action provided for by the franchise agreement to cause the franchisee not to operate all or part of the franchised business in a way described in paragraph (1)(f) or (g) would involve termination of the agreement by the franchisor.

Note: In this case, while the direction of the ADR practitioner or arbitrator prevents the franchisor from terminating the agreement, the franchisor is empowered by subclause (8) to require the franchisee not to operate all or part of the franchised business in a way described in paragraph (1)(f) or (g).

11 Paragraph 1.1(e) of Annexure 1 of Schedule 1

Omit "transfer or".

12 Paragraph 1.1(e) of Annexure 1 of Schedule 1

Omit "7 day 'cooling off' period", substitute "'cooling off' period of 14 days (not 14 business days)".

13 Paragraph 1.1(e) of Annexure 1 of Schedule 1

After "during which you may terminate the agreement.", insert "(In some circumstances a 'cooling off' period may end later.)".

EXPOSURE DRAFT

Schedule 4 Capital expenditure

Schedule 4—Capital expenditure

Competition and Consumer (Industry Codes—Franchising) Regulation 2014

1 Subclause 4(1) of Schedule 1 (definition of *significant capital expenditure*)

Repeal the definition, substitute:

significant capital expenditure has a meaning affected by subclause 30(2).

2 Clause 30 of Schedule 1

Repeal the clause, substitute:

30 Significant capital expenditure not to be required

- (1) A franchisor must not require a franchisee to undertake significant capital expenditure in relation to a franchised business during the term of the franchise agreement.
- (2) For the purposes of subclause (1), *significant capital expenditure* excludes the following:
 - (a) expenditure that is disclosed to the franchisee in the disclosure document that is given to the franchisee before:
 - (i) entering into or renewing the agreement; or
 - (ii) extending the term or scope of the agreement;
 - (b) if expenditure is to be incurred by all or a majority of franchisees—expenditure approved by a majority of those franchisees;
 - (c) expenditure incurred by the franchisee to comply with legislative obligations;
 - (d) expenditure agreed by the franchisee.

30A Information and discussion about capital expenditure

- (1) This clause applies if a disclosure document for an agreement discloses expenditure of the kind mentioned in paragraph 30(2)(a).
- (2) The franchisor must include in the disclosure document as much information as practicable about the expenditure, including the following:
 - (a) the rationale for the expenditure;
 - (b) the amount, timing and nature of the expenditure;
 - (c) the anticipated outcomes and benefits of the expenditure;
 - (d) the expected risks associated with the expenditure.

Example: The information could include the type of any upgrades to facilities or premises, any planned changes to the corporate identity of the franchisor's brand and indicative costs for any building materials.

- (3) Before entering into, renewing or extending the term or scope of the agreement, the franchisor and the franchisee or prospective franchisee must discuss the expenditure.
- (4) The discussion must include a discussion of the circumstances under which the franchisee or prospective franchisee considers that the franchisee or prospective franchisee is likely to recoup the expenditure, having regard to the geographical area of operations of the franchisee or prospective franchisee.

3 Division 3 of Part 5 of Schedule 1

Repeal the Division.

EXPOSURE DRAFT

Schedule 5 Marketing funds and other cooperative funds

Schedule 5—Marketing funds and other cooperative funds

Competition and Consumer (Industry Codes—Franchising) Regulation 2014

1 Paragraph 5(1)(c) of Schedule 1

Omit “advertising”, substitute “marketing”.

2 Clause 12 of Schedule 1

Before “A master”, insert “(1)”.

3 At the end of clause 12 of Schedule 1

Add:

- (2) This clause does not limit the effect of clauses 15 and 31.

4 Clause 15 of Schedule 1

Repeal the clause, substitute:

15 Financial statements for marketing funds and other cooperative funds administered by franchisor or master franchisor

- (1) This clause applies if a franchise agreement provides that the franchisee must pay money to a marketing fund or other cooperative fund controlled or administered by or for a person (the *fund administrator*) who is the franchisor or a master franchisor.

Preparing and auditing financial statements for fund

- (2) The fund administrator must:
- (a) within 4 months after the end of the last financial year, prepare an annual financial statement detailing all of the fund’s receipts and expenses for the last financial year; and
 - (b) ensure that the statement includes sufficient detail of the fund’s receipts and expenses so as to give meaningful information about:
 - (i) sources of income; and
 - (ii) items of expenditure, particularly with respect to marketing (however described); and
 - (c) have the statement audited by a registered company auditor within 4 months after the end of the financial year to which it relates.

Civil penalty: 300 penalty units.

- (3) The fund administrator does not have to comply with paragraph (2)(c) in respect of a financial year if, within 3 months after the end of the year, 75% of the franchisees (whether franchisees or subfranchisees of the fund administrator) in Australia who contribute to the fund have voted to agree that the fund administrator does not have to comply with the paragraph in respect of the year.

EXPOSURE DRAFT

Marketing funds and other cooperative funds **Schedule 5**

Giving copies of statements and audit reports to contributors to fund

- (4) The fund administrator must:
 - (a) give the franchisee a copy of the statement within 30 days of preparing it; and
 - (b) if an audit of the statement is required—give the franchisee a copy of the auditor’s report within 30 days of receiving it.

Costs of administering and auditing fund

- (5) The reasonable costs of administering and auditing the fund must be paid from the fund.

5 Clause 31 of Schedule 1

Repeal the clause, substitute:

31 Franchisees’ payments to marketing funds

- (1) This clause applies in relation to a marketing fund that is controlled or administered by or for a person (the *fund administrator*) who is a franchisor or master franchisor if a franchise agreement requires the franchisee to pay money to the fund (whether the franchisee is a franchisee or subfranchisee of the fund administrator).
- (2) The fund administrator must maintain a separate account with a financial institution for payments to the fund by franchisees.

Civil penalty: 300 penalty units.

- (3) If the fund administrator operates one or more units of a franchised business, the fund administrator must make payments to the fund on behalf of each unit on the same basis as franchisees of other units of the business.

Civil penalty: 300 penalty units.

- (4) Despite any terms of a franchise agreement, the fund administrator must use payments to the fund only to:

- (a) meet expenses that:
 - (i) have been disclosed to franchisees in the disclosure document in accordance with paragraph 15.1(f) of Annexure 1; or
 - (ii) are legitimate expenses for marketing (however described); or
 - (iii) have been agreed to by a majority of franchisees that are required to make payments to the fund; or
- (b) pay the reasonable costs of administering and auditing the fund.

Civil penalty: 300 penalty units.

6 Item 15 of Annexure 1 of Schedule 1 (heading)

After “**Marketing**”, insert “**fund**”.

7 Subitem 15.1 of Annexure 1 of Schedule 1

After “each marketing”, insert “fund”.

EXPOSURE DRAFT

Schedule 5 Marketing funds and other cooperative funds

8 Subitem 15.1 of Annexure 1 of Schedule 1

After “by or for the franchisor”, insert “or a master franchisor”.

9 Paragraph 15.1(g) of Annexure 1 of Schedule 1

Omit “advertising,”, substitute “marketing,”.

10 Paragraph 15.1(h) of Annexure 1 of Schedule 1

Omit “or its associates”, substitute “, master franchisor or an associate of either of them”.

11 Paragraph 15.1(i) of Annexure 1 of Schedule 1

Omit “must spend part of the fund on marketing, advertising”, substitute “or master franchisor must spend part of the fund on marketing”.

EXPOSURE DRAFT

Franchisor's legal costs relating to franchise agreement **Schedule 6**

Schedule 6—Franchisor's legal costs relating to franchise agreement

Competition and Consumer (Industry Codes—Franchising) Regulation 2014

1 Before clause 20 of Schedule 1

Insert:

19A Franchisor's legal costs relating to franchise agreement

- (1) A franchisor must not agree to a franchise agreement that has the effect of:
 - (a) requiring the franchisee to pay all or part of the franchisor's costs of legal services relating to preparing, negotiating or executing the agreement or documents relating to the agreement; or
 - (b) allowing the franchisor or an associate of the franchisor to require the franchisee to pay all or part of those costs.

Civil penalty: 300 penalty units.

- (2) Subclause (1) does not prevent the franchisor from agreeing to a franchise agreement that requires the franchisee to make a payment, before the franchisee starts the franchised business, of a particular amount that:
 - (a) is specified in the agreement as a number of dollars; and
 - (b) is stated in the agreement as being for the franchisor's costs of legal services relating to preparing, negotiating or executing the agreement; and
 - (c) is stated in the agreement not to include any amount for the franchisor's costs of legal services that will or may be provided, after the agreement is entered into, in relation to preparing, negotiating or executing other documents.

EXPOSURE DRAFT

Schedule 7 Retrospective unilateral variation of franchise agreements by franchisors

Schedule 7—Retrospective unilateral variation of franchise agreements by franchisors

Competition and Consumer (Industry Codes—Franchising) Regulation 2014

1 After clause 31 of Schedule 1

Insert:

31A Franchisor not to vary franchise agreement retrospectively and unilaterally

- (1) A franchisor must not vary a franchise agreement with retrospective effect without the consent of the franchisee.
- (2) Subclause (1) does not apply to a variation if:
 - (a) 3 or more franchise agreements, including the agreement, each allow the franchisor to make the variation as described in subclause (1); and
 - (b) a majority of the franchisees under those agreements consent to the making of the variation.

Schedule 8—Leasing of premises

Competition and Consumer (Industry Codes—Franchising) Regulation 2014

1 After subclause 13(2) of Schedule 1

Insert:

(2A) If:

- (a) a franchisee subleases, or a prospective franchisee proposes to sublease, premises from the franchisor or an associate of the franchisor for the purposes of a franchised business; and
- (b) the lessor of the premises to the franchisor or associate complies with a requirement by or under a law of a State or Territory to disclose to the franchisor or associate (as lessee) written information relating to the lease;

the franchisor or associate must give the franchisee or prospective franchisee a copy of that information on request.

Note: A copy must also be given by the franchisor to a prospective franchisee before entering into a franchise agreement (see subclause 9(1)).

Civil penalty: 300 penalty units.

(2B) The copy must be given within 7 days after the request is made.

Civil penalty: 300 penalty units.

2 Subparagraph 13(3)(a)(ii) of Schedule 1

Omit “or” (last occurring), substitute “and”.

3 After subclause 13(4) of Schedule 1

Insert:

(4A) If:

- (a) a franchisee occupies, or a prospective franchisee proposes to occupy, without a lease, premises for the purposes of a franchised business under a right given or to be given by the franchisor or an associate of the franchisor; and
- (b) the premises are leased to the franchisor or associate; and
- (c) the lessor of the premises to the franchisor or associate complies with a requirement by or under a law of a State or Territory to disclose to the franchisor or associate (as lessee) written information relating to the lease;

the franchisor or associate must give to the franchisee or prospective franchisee a copy of that information on request.

Note: A copy must also be given by the franchisor to a prospective franchisee before entering into a franchise agreement (see subclause 9(1)).

Civil penalty: 300 penalty units.

(4B) The copy must be given within 7 days after the request is made.

EXPOSURE DRAFT

Schedule 8 Leasing of premises

Civil penalty: 300 penalty units.

Schedule 9—Restraint of trade

Competition and Consumer (Industry Codes—Franchising) Regulation 2014

1 Paragraph 23(1)(b) of Schedule 1

Omit “the franchisee was not in”, substitute “immediately before the expiry, the franchisee was not in serious”.

EXPOSURE DRAFT

Schedule 10 Application, saving and transitional provisions

Schedule 10—Application, saving and transitional provisions

Competition and Consumer (Industry Codes—Franchising) Regulation 2014

1 In the appropriate position in Part 6 of Schedule 1

Insert:

Division 2—Amendments made by the Competition and Consumer (Industry Codes—Franchising) Amendment (Fairness in Franchising) Regulations 2020

59 Definitions

In this Division:

amending regulations means the *Competition and Consumer (Industry Codes—Franchising) Amendment (Fairness in Franchising) Regulations 2020*.

60 Application of amendments relating to dispute resolution

- (1) The amendments made by Schedule 1 (about dispute resolution) to the amending regulations apply in relation to disputes arising on or after the day this clause commences (whether the franchise agreements to which the disputes related were entered into, extended or renewed before, on or after that day).
- (2) However, the amendment of clause 34 and the repeal of Division 2 of Part 4 apply in relation to:
 - (a) franchise agreements entered into on or after 1 July 2021; and
 - (b) franchise agreements extended or renewed on or after 1 July 2021.
- (3) So far as Divisions 2 and 3 of Part 4 and clause 45, as in force immediately before the commencement of Schedule 1 to the amending regulations, have effect after that commencement, they have effect as if:
 - (a) the Ombudsman were the mediation adviser; and
 - (b) anything done before that commencement by or in relation to the mediation adviser had been done by or in relation to the Ombudsman.

61 Application of provisions about leasing or other occupation of premises

- (1) Subclauses 13(2A), (2B), (4A) and (4B) apply in relation to requests made on or after 1 July 2021, whether the information was disclosed to the franchisor or associate before, on or after that day.
- (2) Subclause 13(3), as in force immediately after the start of 1 July 2021, applies in relation to occupation of premises starting on or after that day.

EXPOSURE DRAFT

Application, saving and transitional provisions **Schedule 10**

62 Application of provisions about marketing funds and other cooperative funds

Subclauses 15(2), (3) and (4), as in force immediately after the start of 1 July 2021, apply in relation to financial statements prepared on or after 1 July 2021 for financial years ending on or after 30 June 2021.

63 Application of provisions about franchisor's costs

Clause 19A applies to franchise agreements entered into, extended or renewed on or after 1 July 2021.

64 Application of amendment relating to restraint of trade

The amendment of clause 23 by the amending regulations applies in relation to franchise agreements entered into, extended or renewed on or after 1 July 2021.

65 Application of provisions about termination

- (1) Subclauses 26(1), (1A), (1B), (1C) and (1D), as in force immediately after the start of 1 July 2021, apply to franchise agreements entered into on or after that day.
- (2) Clause 26A applies to transfers of franchise agreements entered into on or after 1 July 2021.
- (3) Clause 29, as in force immediately after the start of 1 July 2021, applies to franchise agreements entered into on or after that day.

66 Application of provisions about capital expenditure

- (1) Clause 30, as in force immediately after the start of 1 July 2021, applies to:
 - (a) franchise agreements entered into, renewed or extended on or after 1 July 2021; and
 - (b) new vehicle dealership agreements to which clause 50 applied immediately before 1 July 2021.

Note: For the application of clause 50 immediately before 1 July 2021, see clause 56.

- (2) Clause 30, as in force immediately before 1 July 2021, continues to apply to franchise agreements, except new vehicle dealership agreements, to which that clause applied immediately before 1 July 2021.
- (3) Subclauses 30(1) and (2), as in force immediately before 1 June 2020, continue to apply to new vehicle dealership agreements to which clause 30, as in force immediately before 1 June 2020, applied immediately before 1 July 2021 because of subclause 56(2) or (3).
- (4) Clause 30A applies in relation to franchise agreements entered into, renewed or extended on or after 1 July 2021.

EXPOSURE DRAFT

Schedule 10 Application, saving and transitional provisions

67 Application of provisions about retrospective variation of franchise agreements by franchisors

Clause 31A applies in relation to franchise agreements entered into, extended or renewed on or after 1 July 2021.

68 Application of amendments of Annexure 1 of Schedule 1 (about disclosure documents)

The amendments of Annexure 1 of Schedule 1 made by the amending regulations apply to disclosure documents that are given, or copies of which are given, under this code on or after 1 July 2021.

69 Application of amendments relating to penalty increases

The amendments made by Schedule 11 (about penalty increases) to the amending regulations apply in relation to contraventions occurring on or after the commencement of that Schedule.

Schedule 11—Penalty increases

Competition and Consumer (Industry Codes—Franchising) Regulation 2014

1 Subclause 6(1) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

2 Subclause 8(1) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

3 Subclause 8(6) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

4 Subclause 8(8) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

5 Subclause 9(1) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

6 Subclause 9(2) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

7 Subclause 9(2A) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

8 Subclause 13(1) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

9 Subclause 13(2) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

10 Subclause 13(2A) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

11 Subclause 13(2B) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

12 Subclause 13(3) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

13 Subclause 13(4) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

14 Subclause 13(4A) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

EXPOSURE DRAFT

Schedule 11 Penalty increases

15 Subclause 13(4B) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

16 Subclause 14(1) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

17 Subclause 15(2) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

18 Subclause 16(1) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

19 Subclause 17(1) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

20 Subclause 17(2) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

21 Subclause 18(2) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

22 Subclause 18(3) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

23 Subclause 19A(1) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

24 Subclause 26(3) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

25 Subclause 26A(3) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

26 Subclause 26A(5) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

27 Subclause 27(2) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

28 Subclause 28(3) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

29 Subclause 31(2) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

30 Subclause 31(3) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

31 Subclause 31(4) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

32 Subclause 32(3) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

33 Clause 33 of Schedule 1 (penalty)

Omit “300”, substitute “600”.

34 Subclause 41A(3) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

35 Subclause 43B(7) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

36 Subclause 47(2) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

37 Subclause 47(3) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

38 Subclause 47(4) of Schedule 1 (penalty)

Omit “300”, substitute “600”.

39 Subclause 47(5) of Schedule 1 (penalty)

Omit “300”, substitute “600”.