

South Australia

## **Fair Trading (Health and Fitness Industry Code of Practice) Regulations 1992**

under the *Fair Trading Act 1987*

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### Legislative history

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#### **1—Short title**

These regulations may be cited as the *Fair Trading (Health and Fitness Industry Code of Practice) Regulations 1992*.

#### **2—Commencement**

These regulations will come into operation on 1 March 1992.

#### **3—Compliance with code of practice**

A trader to whom the code of practice prescribed by the Schedule applies must not contravene or fail to comply with the code of practice.

Penalty: \$1 000.

### **Schedule—*Fair Trading (Health and Fitness Industry) Code of Practice***

#### **1—Citation**

This code may be cited as the *Fair Trading (Health and Fitness Industry) Code of Practice 1992*.

#### **2—Interpretation**

In this code, unless the contrary intention appears—

*aerobic fitness programme* includes aerobic exercise, aquarobics and cardio-vascular training but does not include instruction in martial arts;

***individualised exercise programme*** includes information or advice given to a consumer (whether orally or in writing) with respect to a new or existing exercise programme;

***membership agreement*** means an agreement entered into between a trader and a consumer for the supply of prescribed goods or prescribed services but does not include an agreement under which payments by the consumer for such goods or services are required to be made only at the time of visits by the consumer when the goods or services are supplied by the trader;

***pre-exercise evaluations*** includes information about flexibility and strength, weight and body composition or diet, leading to advice or a recommendation with respect to fitness training;

***prescribed goods*** means goods referred to in clause 3(1);

***prescribed service*** means a service referred to in clause 3(1);

***supervised fitness programme*** includes advice given during an individualised exercise programme (whether to an individual or a group of persons) and includes super circuit workouts;

***visit*** means a visit by a consumer, for the purpose of obtaining prescribed goods or prescribed services, to premises occupied by the trader at which such goods or services are supplied.

### **3—Application**

- (1) Subject to subclause (2), this code applies to a trader who supplies or offers to supply any one or more of the following goods or services:
  - (a) the use of fitness equipment at premises occupied by the trader; or
  - (b) a physical fitness programme that is to be undertaken at premises occupied by the trader and includes any one or more of the following services;
    - (i) pre-exercise evaluations; or
    - (ii) individualised exercise programmes; or
    - (iii) supervised fitness programmes; or
    - (iv) aerobic fitness programmes; or
  - (c) the use of fitness facilities at premises occupied by the trader.
- (2) This code does not apply to—
  - (a) a sporting club; or
  - (b) a person engaged in the business of providing only the use of a spa or sauna bath, solarium, swimming pool or other similar facility; or
  - (c) a medical practitioner registered under the *Medical Practitioners Act 1983*, in the practice of his or her profession; or
  - (d) a physiotherapist registered under the *Physiotherapists Act 1945*, in the practice of his or her profession.

(3) In this clause—

*sporting club* means a sporting club or organisation that is not established for the purpose of securing pecuniary profit for its members.

#### **4—Membership agreements**

- (1) A trader must not enter into a membership agreement with a consumer unless the agreement—
- (a) is in writing; and
  - (b) is signed by the consumer; and
  - (c) sets out the following particulars;
    - (i) the full name and address of the trader; and
    - (ii) the prescribed goods or prescribed services to be supplied under the agreement; and
    - (iii) the address of the premises at which those goods or services are to be supplied; and
    - (iv) all fees payable in respect of the prescribed goods or prescribed services to be supplied under the agreement or otherwise payable under the agreement by the consumer, including any joining fee and the total membership fee.
- (2) A trader must not enter into, or offer to enter into, a membership agreement under which prescribed goods or prescribed services are to be supplied—
- (a) for more than 12 months from the signing of the agreement; or
  - (b) at a time later than 12 months from the signing of the agreement.
- (3) A trader who enters into a membership agreement with a consumer must not—
- (a) extend or offer to extend the period during which prescribed goods or prescribed services are to be supplied; or
  - (b) offer to supply prescribed goods or prescribed services for a further period commencing on or after the expiry of the agreement,
- unless the agreement has less than three months to run to expiry.

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Revocation of regulations

The *Fair Trading (Health and Fitness Industry Code of Practice) Regulations 1992* were revoked by Sch 2 of the *Fair Trading (Health and Fitness Industry Code of Practice) Regulations 2007* on 1.9.2007.

### Principal regulations and variations

Year	No	Reference	Commencement
1992	17	<i>Gazette 27.2.1992 p578</i>	1.4.1992: r 2
1995	24	<i>Gazette 23.3.1995 p1006</i>	23.3.1995: r 2
1996	39	<i>Gazette 21.3.1996 p1727</i>	21.3.1996: r 2

### Provisions varied

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 4</i>	<i>varied by 24/1995 r 3</i>	<i>23.3.1995</i>
	<i>deleted by 39/1996 r 3</i>	<i>21.3.1996</i>