

South Australia

Fair Trading (General) Regulations 1999

under the *Fair Trading Act 1987*

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Legislative history

1—Short title

These regulations may be cited as the *Fair Trading (General) Regulations 1999*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Revocation

The *Fair Trading Regulations 1987* (see *Gazette 24.9.1987 p946*), as varied, are revoked.

4—Interpretation

In these regulations—

Act means the *Fair Trading Act 1987*.

5—Related Acts

For the purposes of paragraph (b) of the definition of *related Act* in section 3(1) of the Act, each of the following is prescribed as a *related Act*:

- (a) the *Hairdressers Act 1988*;
- (aa) the *Land and Business (Sale and Conveyancing) Act 1994*;
- (b) Part 4¹ of the *Landlord and Tenant Act 1936*;
- (c) sections 22, 29, 32 and 34 of the *Trade Standards Act 1979*.

Note—

- 1 Part 4 of the *Landlord and Tenant Act 1936* was repealed by section 81 of the *Retail and Commercial Leases Act 1995*. However, it continues to apply (subject to modifications prescribed by regulation under the *Retail and Commercial Leases Act 1995*) to a retail shop lease entered into before the commencement of the *Retail and Commercial Leases Act 1995*.

6—Door-to-door trading (Part 3 of Act)

- (1) Pursuant to section 14(3) of the Act, Part 3 of the Act does not apply to a ***contract of life insurance*** within the meaning of the *Insurance Contracts Act 1984* of the Commonwealth, as in force from time to time.
- (2) For the purposes of—
- (a) section 17(1)(a)(ii) of the Act—
 - (i) ***building work*** within the meaning of the *Building Work Contractors Act 1995* is work of a prescribed nature; and
 - (ii) if the supplier holds a building work contractor's licence under that Act, the particulars required to be set out in full in the prescribed contract relating to such work are—
 - (A) the supplier's name as it appears in the licence or the business or trading name under which the supplier carries on business; and
 - (B) the supplier's licence number and, where the supplier carries on business as a building work contractor in partnership, the licence number of each partner; and
 - (b) section 17(1)(g)(i) of the Act—the prescribed form of the notice is as set out in Form 1 of the Schedule; and
 - (c) sections 17(1)(g)(ii) and 23(2)(a) of the Act—the prescribed form of the notice is as set out in Form 2 of the Schedule; and
 - (d) section 17(1)(i) of the Act—the printing or typewriting of the prescribed contract and the notices referred to in section 17(1)(g) of the Act must not be smaller than 10-point type.

Schedule—Forms

Form 1

Fair Trading Regulations 1999

Notice of right to rescind door-to-door contract

(Fair Trading Act 1987 section 17(1)(g)(i))

TO..... *(insert name of consumer)*.

You are entitled to rescind (ie cancel) the contract you made

on*(insert date)*

relating to the supply of.....

.....
(insert a concise description of the goods or services to be supplied)

by sending a **Rescission notice** *(see Form 2 attached)*

to*(insert full name of supplier)*

at

.....
(insert full postal address of place of business of supplier of goods or services)

at any time within the **10-day cooling-off period** which begins on the day on which the contract was made *(see above)*.

You may be entitled to cancel the contract within **6 months** if—

- (a) the contract contains provisions which exclude or restrict the operation of South Australian laws; or
- (b) the contract is not properly filled out or is not signed and copies of the contract and associated documents are not given to you; or
- (c) the dealer called on you—
 - at any time on a Sunday or public holiday; or
 - before 9.00 a.m. or after 5.00 p.m. on a Saturday; or
 - before 9.00 a.m. or after 8.00 p.m. on any other day; or
- (d) the dealer—
 - failed to leave when you asked; or
 - failed to give you an identity card; or
 - harassed you.

If you think you have a right to cancel the contract for one of these reasons you should first seek legal advice from your solicitor or check with the Consumer Affairs Branch of the Office of Consumer and Business Affairs.

Form 2

Fair Trading Regulations 1999

Rescission notice

(Fair Trading Act 1987 sections 17(1)(g)(ii) & 23)

TO.....
.....

(insert name and address of supplier—see section 23(4) of the Act)

I rescind the contract made by me on.....*(insert date)*
relating to the supply of.....
.....

(insert a brief description of the goods or services which were to be supplied).

I am exercising my right to rescind the contract—

- *before the expiration of the 10-day cooling-off period; or
- *because (briefly describe reason for rescission)

.....
.....

which is contrary to—

- *section 15(1)
 - *section 17
 - *Division 3 of Part 3
- of the *Fair Trading Act 1987*.

I require that you repay immediately all money due to me under or with respect to that contract.

Dated:.....

Signed by the consumer:

**Strike out whichever is not applicable.*

Instructions

This notice must be given by delivering it personally to the supplier or sending it by post in an envelope addressed to the supplier—

- within 10-days of the date on which the contract was made (in the case of a rescission made before the expiration of the cooling-off period); or
- within 6 months of the date on which the contract was made (in the case of a rescission for a contravention of, or failure to comply with, section 15(1), section 17 or Division 3 or Part 3 of the *Fair Trading Act 1987*).

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.

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
1999	169	<i>Gazette 19.8.1999 p934</i>	19.8.1999: r 2
2003	177	<i>Gazette 21.8.2003 p3333</i>	21.8.2003: r 2

Provisions varied

New entries appear in bold.

Provision	How varied	Commencement
r 5	varied by 177/2003 r 4	21.8.2003