South Australia

Fair Trading Regulations 2025

under the *Fair Trading Act 1987*

Contents

1—Short title

These regulations may be cited as the *Fair Trading Regulations 2025*.

2—Commencement

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

3—Interpretation

In these regulations—

Act means the *Fair Trading Act 1987*.

4—Related Acts (section 3 of Act)

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*;

(b) the *Land and Business (Sale and Conveyancing) Act 1994*;

(c) Part 4[1] of the *Landlord and Tenant Act 1936*;

(d) the *Residential Parks Act 2007*;

(e) the *Building and Construction Industry Security of Payment Act 2009*;

(f) the *Community Titles Act 1996*;

(g) the *Strata Titles Act 1988*.

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1 Part 4 of the *Landlord and Tenant Act 1936* was repealed by section 81 of the *Retail and Commercial Leases Act 1995*.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*.

5—Disclosure of relevant interest by insurer (section 28K(1) of Act)

(1) Subject to this regulation, for the purposes of section 28K(1) of the Act, an insurer must disclose any relevant interest held by the insurer in relation to a repairer in the manner set out in this regulation.

(2) An insurer must provide the holder of the policy of insurance with—

(a) a statement of relevant interest; and

(b) a statement advising the holder of the policy of the availability of all statements of relevant interest on the insurer's website in accordance with subregulation (4).

(3) A statement required to be provided by an insurer to the holder of a policy of insurance under subregulation (2) must—

(a) be given to the holder of the policy personally; or

(b) be read out to the holder of the policy over the telephone; or

(c) be posted in an envelope addressed to the holder of the policy—

(i) at the holder of the policy's last known address; or

(ii) at an address for service provided by the holder of the policy; or

(d) be provided by electronic means agreed by the insurer and the holder of the policy.

(4) An insurer must make available a list of all current statements of relevant interest on the insurer's website in a manner—

(a) that is easily accessible to holders of a policy of insurance; and

(b) that allows the holder of a policy of insurance to search the statements of relevant interest.

(5) Pursuant to section 97(2)(c) of the Act, an insurer is exempt from complying with the requirement in section 28K(1) of the Act in relation to a relevant interest of a kind described in paragraph (b) of the definition of ***relevant interest*** in subsection (3) of that section if the contract or arrangement under which the repairer is engaged or authorised to undertake repairs—

(a) facilitates the undertaking of repairs on a one-off basis; and

(b) does not establish an arrangement between the insurer and the repairer for undertaking repairs on behalf of the insurer on an ongoing basis.

(6) In this regulation—

statement of relevant interest means the name, address and contact details of the repairer in relation to whom the insurer holds a relevant interest.

6—Disclosure of choice of repairer by insurer (section 28K(2) of Act)

(1) For the purposes of section 28K(2) of the Act, an insurer must, at the time the holder of an insurance policy—

(a) enters into a contract of insurance; and

(b) renews a contract of insurance; and

(c) makes a claim against a contract of insurance,

provide to the holder of the policy—

(d) if the insurance policy contains a provision allowing the holder of an insurance policy to make a choice as to which repairer may be engaged to undertake repairs under the insurance policy—a statement of that fact; or

(e) if the insurance policy does not contain a provision allowing the holder of an insurance policy to make a choice as to which repairer may be engaged to undertake repairs under the insurance policy—a statement of that fact.

(2) A statement required to be provided by an insurer to the holder of an insurance policy under subregulation (1) must—

(a) be given to the holder of the policy personally; or

(b) be read out to the holder of the policy over the telephone; or

(c) be posted in an envelope addressed to the holder of the policy—

(i) at the holder of the policy's last known address; or

(ii) at an address for service provided by the holder of the policy; or

(d) be provided by electronic means agreed by the insurer and the holder of the policy.

7—Exempt transactions (section 28K of Act)

(1) Pursuant to section 97(2)(c) of the Act, an insurer is exempt from the requirement to make a disclosure to the holder of an insurance policy under section 28K of the Act if—

(a) the policy relates to a motor vehicle that is not a designated motor vehicle; or

(b) the holder of the policy is not the owner of the motor vehicle to which repairs are to be undertaken under the policy.

(2) In this regulation—

class C licence means a motor vehicle licence of class C prescribed for the purposes of section 72(1) of the *Motor Vehicles Act 1959*;

designated motor vehicle means a motor vehicle authorised to be driven by a class C licence, other than—

(a) a quad bike; or

(b) a special purpose vehicle within the meaning of the *Motor Vehicles (National Heavy Vehicles Registration Fees) Regulations 2008*.

8—Liability relating to supply of recreational services may be limited (section 42 of Act)

(1) Form 1 in Schedule 1 is prescribed for the purposes of section 42 of the Act.

(2) For the purposes of section 42(2)(b) of the Act, a term of a contract for the supply of recreational services that excludes, restricts or modifies the liability of the supplier for any personal injury suffered by the consumer or a third party consumer must be in the form prescribed by Form 1 and contain the particulars prescribed in that form.

(3) If a consumer agrees to a term that excludes, restricts or modifies the liability of the supplier (as specified in Form 1), the consumer must indicate their agreement by signing and dating the completed form.

(4) If the consumer requests a copy of the signed and completed Form 1, the supplier must give the consumer the copy within 7 days of the request.

9—Embargo notices (section 78C of Act)

For the purposes of section 78C of the Act, an embargo notice must contain the following details in addition to the matters required by section 78C(4) of the Act:

(a) a description of the thing to which the notice applies;

(b) either the name of the person on whom the notice is to be served or a statement that the notice is to be affixed to the thing;

(c) the name, signature and business telephone number of the authorised officer who issued the notice;

(d) the date on which the notice was served or affixed.

10—Expiation of offences against *Australian Consumer Law (SA)*

The expiation fees specified in the following table are fixed for alleged offences against the *Australian Consumer Law (SA)* arising from an alleged contravention of the section specified opposite the fee:

Section		Fee
Section 151	False or misleading representations about goods or services	$1 200
Section 152	False or misleading representations about sale etc of land	$1 200
Section 153	Misleading conduct relating to employment	$1 200
Section 154	Offering rebates, gifts, prizes etc	$1 200
Section 155	Misleading conduct as to the nature etc of goods	$1 200
Section 156	Misleading conduct as to the nature etc of services	$1 200
Section 157	Bait advertising	$1 200
Section 158	Wrongly accepting payment	$1 200
Section 159	Misleading representations about certain business activities	$1 200
Section 161	Unsolicited cards etc	$1 200
Section 162	Assertion of right to payment for unsolicited goods or services	$1 200

Section		**Fee**
Section 163	Assertion of right to payment for unauthorised entries or advertisements	$1 200
Section 164	Participation in pyramid schemes	$1 200
Section 165	Multiple pricing	$150
Section 166	Single price to be specified in certain circumstances	$1 200
Section 167	Referral selling	$1 200
Section 168	Harassment and coercion	$1 200
Section 169	Display notices	$500
Section 170	Permitted hours for negotiating an unsolicited consumer agreement	$500
Section 171	Disclosing purpose and identity	$500
Section 172	Ceasing to negotiate on request	$500
Section 173	Informing person of termination period etc	$500
Section 174	Requirement to give document to the consumer	$500
Section 175	Requirements for all unsolicited consumer agreements etc	$500
Section 176	Additional requirements for unsolicited consumer agreements not negotiated by telephone	$500
Section 177	Requirements for amendments of unsolicited consumer agreements	$500
Section 178	Obligations of suppliers on termination	$500
Section 179	Prohibition on supplies etc	$500
Section 180	Repayment of payments received after termination	$500
Section 181	Prohibition on recovering amounts after termination	$500
Section 182	Certain provisions of unsolicited consumer agreements void	$500
Section 183	Waiver of rights	$500
Section 188	Lay by agreements must be in writing etc	$300
Section 189	Termination charges	$300
Section 190	Termination of lay by agreements by suppliers	$300
Section 191	Refund of amounts	$300
Section 191A	Gift cards to be redeemable for at least 3 years	$300
Section 191B	When gift card ceases to be redeemable to appear prominently on gift card	$300
Section 191C	Terms and conditions not to allow post-supply fees	$300
Section 191D	Post-supply fees not to be demanded or received	$300
Section 192	Prescribed requirements for warranties against defects	$500
Section 193	Repairers must comply with prescribed requirements	$500
Section 194	Supplying etc consumer goods that do not comply with safety standards	$1 200

Section		Fee
Section 195	Supplying etc product related services that do not comply with safety standards	$1 200
Section 196	Requirement to nominate a safety standard	$150
Section 197	Supplying etc consumer goods covered by a ban	$1 200
Section 198	Supplying etc product related services covered by a ban	$1 200
Section 199	Compliance with recall orders	$1 200
Section 200	Notification by persons who supply consumer goods outside Australia if there is compulsory recall	$150
Section 201	Notification requirements for a voluntary recall of consumer goods	$150
Section 202	Suppliers to report consumer goods etc associated with the death or serious injury or illness of any person	$150
Section 203	Supplying etc goods that do not comply with information standards	$1 200
Section 204	Supplying etc services that do not comply with information standards	$1 200
Section 205	Compliance with substantiation notices	$150
Section 206	False or misleading information etc	$150

Schedule 1—Forms

Form 1—Recreational services—Exclusion, restriction or modification of rights under the *Australian Consumer Law (SA)*

Your rights:

Under sections 60 and 61 of the *Australian Consumer Law (SA)*, if a person in trade or commerce supplies you with services (including recreational services[1]), there is—

- a statutory guarantee that those services will be rendered with due care and skill; and
- a statutory guarantee that those services, and any product resulting from those services, will be reasonably fit for the purpose for which the services are being acquired (as long as that purpose is made known to the supplier); and
- a statutory guarantee that those services, and any product resulting from those services, will be of such a nature, and quality, state or condition, that they might reasonably be expected to achieve the result that the consumer wishes to achieve (as long as that wish is made known to the supplier or a person with whom negotiations have been conducted in relation to the acquisition of the services).

Excluding, restricting or modifying your rights:

Under section 42 of the *Fair Trading Act 1987*, the supplier of recreational services is entitled to ask you to agree to exclude, restrict or modify their liability for any personal injury suffered by you or another person for whom or on whose behalf you are acquiring the services (a ***third party consumer***).

If you sign this form, you will be agreeing to exclude, restrict or modify the supplier's liability with the result that compensation may not be payable if you or the third party consumer suffer personal injury[2].

Important

You do not have to agree to exclude, restrict or modify your rights by signing this form.

The supplier may refuse to provide you with the services if you do not agree to exclude, restrict or modify your rights by signing this form.

Even if you sign this form, you may still have further legal rights against the supplier.

A child under the age of 18 cannot legally agree to exclude, restrict or modify their rights.

A parent or guardian of a child who acquires recreational services for the child cannot legally agree to exclude, restrict or modify the child's rights.

Agreement to exclude, restrict or modify your rights:

I agree that the liability of .... *[the supplier of recreational services]* for any personal injury that may result from the supply of the recreational services that may be suffered by me (or a person for whom or on whose behalf I am acquiring the services) is—

(a) excluded;

(b) restricted as set out below:
[specify the nature of the restriction]

(c) modified as set out below:
[specify the nature of the modification]

**Strike out whichever of (a), (b) or (c) do not apply and specify the nature of the restriction or modification, as is relevant.*

Signature:
Date:
Signature of witness:
Name and address of witness:

Definitions

1 ***Recreational services*** are services that consist of participation in—

- a sporting activity or similar leisure-time pursuit; or
- any other activity that involves a significant degree of physical exertion or risk and is undertaken for the purposes of recreation, enjoyment or leisure.

2 ***Personal injury*** is bodily injury and includes mental and nervous shock and death.

Further information:

Further information about your rights can be found at www.cbs.sa.gov.au

Schedule 2—Repeal of *Fair Trading Regulations 2010*

The *Fair Trading Regulations 2010* are repealed.

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

Year	No	Reference	Commencement
2025	61	*Gazette 17.7.2025 p2661*	17.7.2025: r 2