

# NEW MANDATORY WARRANTY WORDING FOR SERVICES

Due to recent amendments to the *Competition and Consumer Regulations 2010 (Cth)* (Regulations), businesses providing warranties against defects to consumers in relation to the supply of services will be required to include mandatory wording in the warranty

This mandatory wording will be in addition to the existing requirements already set out in the Regulations.

Previously, mandatory wording was only required where a warranty was provided in connection with the supply of goods.

The mandatory wording is intended to alert consumers to their rights under Australian Consumer Law (ACL) which include consumer guarantees which cannot be excluded by the warranty.

## When does the amendment come into effect?

The amendment requiring the mandatory wording will come into effect on and from 8 June 2019.

## What is the mandatory wording?

Businesses must include the following mandatory wording when they provide a warranty against defects in relation to services:

*Our services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:*

1. to cancel your service contract with us; and
2. to a refund for the unused portion, or to compensation for its reduced value.

*You are also entitled to be compensated for any other reasonably foreseeable loss or damage. If the failure does not amount to a major failure you are entitled to have problems with the service rectified in a reasonable time and, if this is not done, to cancel your contract and obtain a refund for the unused portion of the contract.*

Businesses must include the following mandatory wording when they provide a warranty against defects in relation to goods and services together:

*Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:*

1. to cancel your service contract with us; and
2. to a refund for the unused portion, or to compensation for its reduced value.

*You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.*

## When do I use the mandatory wording?

If a warranty against defects is provided for a service (or goods and services together), the above mandatory wording is required to be included in the text of the warranty on and from 8 June 2019.

The Australian Competition and Consumer Commission defines a warranty against defects as follows:

*A warranty against defects is a representation communicated to a consumer that if the goods or services (or part of them) are defective, the business will:*

- repair or replace goods (or part of them)
- resupply or fix a problem with services (or part of them)
- provide compensation to the consumer.

*A representation will only be a warranty*



*against defects if it is made at or around the time that goods or services are supplied.*

*A promise about what you as a supplier or manufacturer will do if something goes wrong with a good or service can be a warranty against defects under the ACL even if it is not provided in a formal document.*

*Any material with writing on it could evidence a warranty against defects, for example wording on the packaging or on a label, if those words contain such a promise.*

It is relevant to note that regulations relating to warranties against defects only apply where the warranty is given to a consumer in connection with the supply of goods and/or services.

A person will be considered a consumer under the ACL if they purchase:

1. goods or services that cost less than \$40,000;
2. goods or services that cost more than \$40,000 but are of a kind ordinarily acquired for domestic, household or personal use or consumption; or
3. a vehicle or trailer primarily used to transport goods on public roads.

A person will not be considered a consumer if the goods are acquired for the purpose of resupply or for the purpose of transforming them into a product that is sold.

Businesses who provide a warranty against defects which does not comply with the requirements prescribed in the regulations (and who are not otherwise exempt) will be guilty of an offence under ACL.



## NEED ASSISTANCE?

Industry Legal Group provides advice on all issues relating to the Australian Consumer Law.

For assistance with ensuring your warranties are compliant, please contact Industry Legal Group on 1300 369 703 or [aaaa@industrylegalgroup.com.au](mailto:aaaa@industrylegalgroup.com.au)