

EXPOSURE DRAFT



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Competition and Consumer (Industry Codes— Food and Grocery) Amendment (Supermarkets Excessive Pricing Prohibition) Regulations 2025

I, the Honourable Sam Mostyn AC, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2025

Sam Mostyn AC
Governor-General

By Her Excellency's Command

Dr Jim Chalmers [DRAFT ONLY—NOT FOR SIGNATURE]
Treasurer

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1 Name

This instrument is the *Competition and Consumer (Industry Codes—Food and Grocery) Amendment (Supermarkets Excessive Pricing Prohibition) Regulations 2025*.

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. The whole of this instrument		

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Competition and Consumer (Industry Codes—Food and Grocery) Regulations 2024

1 Section 4

After “resolution of disputes”, insert “in relation to the supplier provisions of this Code”.

2 Section 4

Omit “relating to this Code”, substitute “relating to the supplier provisions of this Code”.

3 Section 4

Omit “contravenes this Code”, substitute “contravenes the supplier provisions of this Code”.

4 At the end of section 4

Add:

Very large retailers may be liable to a civil penalty for supplying or offering to supply grocery products to consumers at excessive prices.

5 Section 5

Insert:

pricing information, in relation to a retailer, means information on any of the following:

- (a) a price at which a retailer supplies or offers to supply a kind of grocery product;
- (b) a cost of the retailer to supply or offer to supply a kind of grocery product;
- (c) any of the following given to the retailer by a supplier:
 - (i) a payment;
 - (ii) a discount;
 - (iii) a rebate;
 - (iv) an allowance;
 - (v) any other benefit;in exchange for any of the following services provided to a supplier:
 - (vi) freight;
 - (vii) advertising;
 - (viii) data analytics;
 - (ix) any other service in connection with the retail sale of grocery products to consumers;
- (d) any of the following given to the retailer by a supplier in connection with the retail sale of grocery products to consumers:
 - (i) a payment;

- (ii) a discount;
- (iii) a rebate;
- (iv) an allowance;
- (v) any other benefit.

supplier provisions of this Code means the provisions of this Code other than Division 4A of Part 2.

very large retailer: see section 8.

6 Section 8 (heading)

Omit “**and large wholesaler**”, substitute “, **large wholesaler and very large retailer**”.

7 After subsection 8(1)

Insert:

(1A) A retailer is a **very large retailer** for a financial year if the total covered revenue (see subsection (2)) of the following entities:

- (a) the retailer;
- (b) each related body corporate of the retailer;

as set out in the those entities’ annual accounts, prepared in accordance with generally accepted accounting principles, exceeds \$30 billion for the previous financial year.

Note: For when a body corporate is related to another body corporate, see section 4A of the Act.

8 At the end of subsection 10(1)

Add “(other than Division 4A of Part 2)”.

9 Paragraph 10(2)(a)

After “the Code”, insert “(other than Division 4A of Part 2)”.

10 At the end of section 12

Add:

- ; and (h) to promote workably competitive outcomes in grocery product markets and enhance the welfare of consumers by prohibiting excessive pricing for grocery products by very large retailers.

11 Section 13

Omit “This Code”, substitute “(1) This Code (other than Division 4A of Part 2)”.

12 At the end of section 13

Add:

- (2) If there is an inconsistency between an industry code mentioned in a paragraph in subsection (1) and Division 4A of Part 2, that Division prevails over the industry code to the extent of the inconsistency.

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Schedule 1 Amendments

13 After paragraph 14A(1)(h)

Insert:

- (ha) subsection 45B(1);
- (hb) section 45C;

14 Section 15

Omit “this Code”, substitute “the supplier provisions of this Code”.

15 Paragraph 29(1)(a)

After “this Code”, insert “(other than the purpose in paragraph 12(h))”.

16 Paragraph 29(1)(b)

After “this Code”, insert “(other than Division 4A of Part 2)”.

17 Subsection 29(2)

Omit “purpose of, or obligation under, this Code”, substitute “purpose of this Code (other than the purpose in paragraph 12(h)) or an obligation under this Code (other than Division 4A of Part 2)”.

18 Section 45 (at the end of the heading)

Add “—large retailers and large wholesalers”.

19 After Division 4 of Part 2

Insert:

Division 4A—Prohibition on excessive pricing

45A Requirement to notify Commission—very large retailers

(1) If a corporation:

- (a) is a very large retailer for a financial year; but
- (b) was not for the previous financial year;

the corporation must notify the Commission, in writing and within 5 business days after the day applying under subsection (3), that the corporation is a very large retailer.

Civil penalty:

- (a) for a contravention by a body corporate—3,200 penalty units; or
- (b) for a contravention by a person who is not a body corporate—640 penalty units.

(2) If a corporation:

- (a) is not a very large retailer for a financial year; but
- (b) was for the previous financial year;

the corporation must notify the Commission, in writing and within 5 business days after the day applying under subsection (3), that the corporation is no longer a very large retailer.

Civil penalty:

-
- (a) for a contravention by a body corporate—3,200 penalty units; or
 - (b) for a contravention by a person who is not a body corporate—640 penalty units.
- (3) The day applying to the corporation under this subsection is the latest day that the corporation, or any related body corporate of the corporation, is required to lodge a report for the previous financial year under section 319 of the *Corporations Act 2001*.

45B Prohibition on excessive pricing—very large retailers

- (1) A very large retailer must not supply or offer to supply a kind of grocery product to consumers at an excessive price.

Note: This subsection applies in relation to any kind of grocery product. For example:

- (a) rice with the same brand, packaging and quantity; or
- (b) white long grain rice, regardless of brand, packaging or quantity; or
- (c) all rice.

Civil penalty:

- (a) for a contravention by a body corporate—the amount under section 14A; or
 - (b) for a contravention by a person who is not a body corporate—\$500,000.
- (2) Subsection (1) does not apply in relation to a supply of, or an offer to supply, a kind of grocery product if a law of the Commonwealth, a State or a Territory regulates the price for the supply or offer to supply.

45C Record keeping on prices and costs

If:

- (a) any pricing information, or a document that contains any pricing information, is created by or given to a retailer; and
- (b) the retailer is a very large retailer for the financial year in which the information or document is created or given;

the retailer must keep the pricing information for at least 3 years after the information or document is created or given.

Civil penalty:

- (a) for a contravention by a body corporate—the amount under section 14A; or
- (b) for a contravention by a person who is not a body corporate—\$500,000.

20 Paragraph 46(1)(a)

Omit “this Code”, substitute “the supplier provisions of this Code”.

21 Subsections 48(1) to (3)

Omit “this Code” (wherever occurring), substitute “the supplier provisions of this Code”.

22 Paragraph 49(1)(a)

Omit “this Code”, substitute “the supplier provisions of this Code”.

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Schedule 1 Amendments

23 Paragraph 50(1)(a)

Omit “this Code”, substitute “the supplier provisions of this Code”.

24 Paragraph 50(2)(d)

Omit “the provisions”, substitute “the supplier provisions”.

25 At the end of paragraph 54(2)(a)

Add “(other than the purpose in paragraph 12(h))”.

26 Paragraphs 61(1)(b) and (c)

Omit “this Code”, substitute “the supplier provisions of this Code”.

27 Subsection 64(8)

Omit “this Code”, substitute “the supplier provisions of this Code”.

28 Paragraph 65(1)(d)

Omit “this Code”, substitute “the supplier provisions of this Code”.

29 Paragraphs 66(1)(c) and (d)

Omit “this Code”, substitute “the supplier provisions of this Code”.

30 Subsection 67(1)

Omit “this Code”, substitute “the supplier provisions of this Code”.

31 Section 77 (heading)

Omit “this Code”, substitute “the supplier provisions of this Code”.

32 Paragraph 77(1)(d)

Omit “this Code”, substitute “the supplier provisions of this Code”.

33 Paragraph 77(2)(b)

Omit “this Code”, substitute “the supplier provisions of this Code”.

34 Subsection 77(3)

Omit “this Code”, substitute “the supplier provisions of this Code”.

35 Paragraph 78(2)(s)

Omit “this Code”, substitute “the supplier provisions of this Code”.

36 Before section 80

Insert:

Division 1—Application, saving and transitional provisions relating to the commencement of this instrument

37 At the end of Part 3

Add:

Division 2—Application, saving and transitional provisions relating to the Competition and Consumer (Industry Codes—Food and Grocery) Amendment (Supermarkets Excessive Pricing Prohibition) Regulations 2025

89 Application—initial very large retailers

- (1) Subsection 8(1A) applies in relation to financial years ending on or after the commencement of that subsection, whether the previous financial year mentioned in that subsection ends before, on or after that commencement.
- (2) Treat a corporation as being required to comply with subsection 45A(1) if:
 - (a) on the day this section commences, it is a retailer; and
 - (b) the total covered revenue, worked out under section 8, of the following entities:
 - (i) the corporation;
 - (ii) each related body corporate of the corporation;exceeds \$30 billion for the most recent financial year ending before that day.
- (3) Treat the corporation as having complied with that requirement if it notifies the Commission, in writing and within 5 business days after the day this section commences, that the corporation is a very large retailer.

90 Application—existing records

Section 45C applies in relation to any pricing information, or any document that contains any pricing information, that is:

- (a) created by or given to a retailer within 3 years before the commencement of that section; and
- (b) held by the retailer immediately after the commencement of that section; as if the information or document had been created by or given to the retailer immediately after that commencement.

91 Application—ADR processes

The amendments of section 67 made by the *Competition and Consumer (Industry Codes—Food and Grocery) Amendment (Supermarkets Excessive Pricing Prohibition) Regulations 2025* apply in relation to a notification made on or after the commencement of this section.