

EXPOSURE DRAFT



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Competition and Consumer (Industry Codes— Cash Acceptance) 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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Preliminary **Part 1**
Preliminary **Division 1**

Section 1

Part 1—Preliminary

Division 1—Preliminary

1 Name

This instrument is the *Competition and Consumer (Industry Codes—Cash Acceptance) 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	1 January 2026.	1 January 2026

Note: This table relates only to the provisions of this instrument as originally made.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 Simplified outline of this instrument

This instrument prescribes mandatory industry codes which regulate the conduct of supermarket retailers and motor fuel retailers towards consumers.

The Codes require retailers to ensure that consumers making in-person payments of \$500 or less are provided a reasonable opportunity to do so in cash. A retailer may be liable to a civil penalty for failing to comply with this requirement.

The requirement does not apply to certain small business retailers.

The Codes allow the Commission to exempt particular retailers or classes of retailers from the requirement if satisfied of certain matters.

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Part 1 Preliminary

Division 2 Interpretation

Section 5

Division 2—Interpretation

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) Commission;
- (b) corporation.

In this instrument:

Act means the *Competition and Consumer Act 2010*.

cash payment means payment by way of cash (in the form of coin or printed money).

cash payment point means:

- (a) a counter (or section of a counter) or kiosk (whether self-service or otherwise) at which in-person payments can be made by way of a cash payment; or
- (b) any other location reasonably identifiable as a place at which in-person payments can be made, if the payments can be made at the location by way of a cash payment.

consumer has the meaning given by subsection 51ACA(1) of the Act.

franchisee has the same meaning as in the *Competition and Consumer (Industry Codes—Franchising) Regulations 2024*.

franchisor has the same meaning as in the *Competition and Consumer (Industry Codes—Franchising) Regulations 2024*.

in-person payment means a payment by an individual (including for or on behalf of another person) that is made:

- (a) for a supply of goods or services by a supermarket retailer or a motor fuel retailer; and
- (b) while the individual is physically present at premises, or a part of premises, used by the retailer to carry on a supermarket business or motor fuel business.

motor fuel business means a business that involves the retail sale of motor fuel.

motor fuel retailer means a corporation that carries on a motor fuel business in Australia.

relevant franchise system means a franchise system (within the meaning of the *Competition and Consumer (Industry Codes—Franchising) Regulations 2024*) that relates to the carrying on of a supermarket business or motor fuel business.

retail site, in relation to a supermarket retailer or motor fuel retailer, means premises, or a part of premises:

- (a) used by the retailer to carry on a supermarket business or motor fuel business; and

(b) at which the retailer ordinarily accepts in-person payments.

small business entity: see section 6.

supermarket business has the same meaning as in the *Competition and Consumer (Industry Codes—Food and Grocery) Regulations 2024*.

supermarket retailer means a corporation that carries on a supermarket business in Australia.

6 Meaning of *small business entity*

- (1) A supermarket retailer or motor fuel retailer is a **small business entity** at a time in an income year if the retailer is a small business entity within the meaning of the *Income Tax Assessment Act 1997* for the income year, as determined in accordance with this section.
- (2) Subsections (3) to (6) of this section apply for the purposes of subsection (1).

General modifications

- (3) Disregard the effect of the following:
 - (a) subsection 328-110(4) of that Act (which deals with aggregated turnover worked out as at the end of the income year);
 - (b) subsection 328-120(3) of that Act (which deals with excluding amounts derived from sales of retail fuel).

Franchise turnover

- (4) The franchisor of, and all of the franchisees in, a relevant franchise system are taken to be connected with each other for the purposes of section 328-115 of that Act (which deals with determining aggregated turnover).
- (5) However, subsection (4) of this section does not apply to the extent it would result in a franchisee in the relevant franchise system being a relevant entity under both paragraphs 328-115(2)(b) and (c) of that Act for the purposes of determining the aggregated turnover of an entity for an income year.
- (6) In determining, under section 328-120 of that Act, the annual turnover for an income year of a franchisor of a relevant franchise system (whether as the retailer or as an entity taken to be connected with the retailer), include only ordinary income the franchisor derives from the system.

Meaning of terms

- (7) An expression used in this section and the *Income Tax Assessment Act 1997* has the same meaning in this section as it has in that Act.

7 Legal tender

To avoid doubt, nothing in this instrument requires the acceptance of a payment made other than by way of a legal tender.

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Part 1 Preliminary

Division 2 Interpretation

Section 7

Note: See Part IV of the *Currency Act 1965* (which deals with a legal tender made in coins) and section 36 of the *Reserve Bank Act 1959* (which provides for notes issued under certain laws of the Commonwealth to be legal tender).

Division 3—Mandatory industry codes

8 Mandatory industry codes

For the purposes of section 51AE of the Act, the industry code set out in Part 2 or 3 of this instrument:

- (a) is prescribed for the purposes of Part IVB of the Act; and
- (b) is declared to be a mandatory industry code.

9 Civil penalty provisions of industry codes

- (1) A provision of Part 2 or 3 of this instrument that is of one of the following kinds and sets out at its foot a pecuniary penalty indicated by the words “civil penalty” is a civil penalty provision of the industry code set out in that Part for the purposes of Part IVB and section 76 of the Act:
 - (a) a subsection;
 - (b) a section that is not divided into subsections.
- (2) However, no provision of this instrument is a civil penalty provision for those purposes during the period of 6 months beginning on the day this instrument commences.

10 Review of certain decisions under industry codes

Applications may be made to the Administrative Review Tribunal for review of decisions of the Commission exempting, or refusing to exempt, a supermarket retailer under subsection 13(1) or a motor fuel retailer under subsection 16(1).

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Part 2 Industry code relating to cash acceptance by supermarket retailers

Section 11

Part 2—Industry code relating to cash acceptance by supermarket retailers

11 Industry to which this Code applies

This Part sets out an industry code that relates to the industry of food and groceries.

12 Accepting cash payments

- (1) A supermarket retailer must ensure that any consumer who is to make an in-person payment at a retail site of the retailer, in the amount of \$500 or less, has a reasonable opportunity to do so by way of a cash payment.

Note: This provision is not a civil penalty provision during the period of 6 months beginning on the day this instrument commences: see subsection 9(2).

Civil penalty: 600 penalty units.

- (2) In determining whether the consumer has a reasonable opportunity for the purposes of subsection (1), regard is to be had to:
- (a) whether the number (which must be at least one) of cash payment points operating at the retail site when the payment is to be made is reasonable and proportionate, taking into account:
 - (i) consumer demand for making cash payments; and
 - (ii) the size and nature of the supermarket business carried on by the retailer; and
 - (b) whether the level of effort required of the consumer to make a cash payment at the retail site is reasonable in the circumstances; and
 - (c) any other relevant matters.
- (3) This section does not apply to a supermarket retailer that is a small business entity.

13 Commission may grant exemptions

- (1) The Commission may, on the written application of a supermarket retailer, exempt the retailer from the operation of section 12 if the Commission is satisfied that:
- (a) both:
 - (i) exceptional circumstances outside of the retailer's control are preventing or will prevent the retailer from complying with that section; and
 - (ii) the retailer has taken all reasonable steps to be able to comply with that section; or
 - (b) the costs associated with the retailer complying with that section pose a significant risk to the ongoing feasibility of the supermarket business carried on by the retailer.

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Industry code relating to cash acceptance by supermarket retailers **Part 2**

Section 13

Note: The exemption must be made by written instrument, which is a notifiable instrument: see subsection 51AE(1D) of the Act.

- (2) The Commission may, on its own initiative, exempt a class of supermarket retailers from the operation of section 12 if the Commission is satisfied that:
- (a) there are exceptional circumstances, outside of the control of the retailers and of a widespread nature; and
 - (b) those circumstances are preventing or will prevent the retailers from complying with that section.

Note: The exemption must be made by written instrument, which is a legislative instrument: see subsection 51AE(1D) of the Act.

- (3) An exemption under this section:
- (a) may or may not be limited to apply in relation to payments to be made in specified circumstances, including at specified retail sites or classes of retail sites of one or more supermarket retailers; and
 - (b) may or may not be limited to a specified period; and
 - (c) may apply unconditionally or subject to specified conditions.
- (4) An exemption under this section has effect according to its terms.

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Part 3 Industry code relating to cash acceptance by motor fuel retailers

Section 14

Part 3—Industry code relating to cash acceptance by motor fuel retailers

14 Industry to which this Code applies

This Part sets out an industry code that relates to the retail motor fuel industry.

15 Accepting cash payments

- (1) A motor fuel retailer must ensure that any consumer who is to make an in-person payment at a retail site of the retailer, in the amount of \$500 or less, has a reasonable opportunity to do so by way of a cash payment.

Note: This provision is not a civil penalty provision during the period of 6 months beginning on the day this instrument commences: see subsection 9(2).

Civil penalty: 600 penalty units.

- (2) In determining whether the consumer has a reasonable opportunity for the purposes of subsection (1), regard is to be had to:
- (a) whether the number (which must be at least one) of cash payment points operating at the retail site when the payment is to be made is reasonable and proportionate, taking into account:
 - (i) consumer demand for making cash payments; and
 - (ii) the size and nature of the motor fuel business carried on by the retailer; and
 - (b) whether the level of effort required of the consumer to make a cash payment at the retail site is reasonable in the circumstances; and
 - (c) any other relevant matters.
- (3) This section does not apply to a motor fuel retailer that is a small business entity.

16 Commission may grant exemptions

- (1) The Commission may, on the written application of a motor fuel retailer, exempt the retailer from the operation of section 15 if the Commission is satisfied that:
- (a) both:
 - (i) exceptional circumstances outside of the retailer's control are preventing or will prevent the retailer from complying with that section; and
 - (ii) the retailer has taken all reasonable steps to be able to comply with that section; or
 - (b) the costs associated with the retailer complying with that section pose a significant risk to the ongoing feasibility of the motor fuel business carried on by the retailer.

Note: The exemption must be made by written instrument, which is a notifiable instrument: see subsection 51AE(1D) of the Act.

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Industry code relating to cash acceptance by motor fuel retailers **Part 3**

Section 16

- (2) The Commission may, on its own initiative, exempt a class of motor fuel retailers from the operation of section 15 if the Commission is satisfied that:
- (a) there are exceptional circumstances, outside of the control of the retailers and of a widespread nature; and
 - (b) those circumstances are preventing or will prevent the retailers from complying with that section.

Note: The exemption must be made by written instrument, which is a legislative instrument: see subsection 51AE(1D) of the Act.

- (3) An exemption under this section:
- (a) may or may not be limited to apply in relation to payments to be made in specified circumstances, including at specified retail sites or classes of retail sites of one or more motor fuel retailers; and
 - (b) may or may not be limited to a specified period; and
 - (c) may apply unconditionally or subject to specified conditions.
- (4) An exemption under this section has effect according to its terms.