

EXPOSURE DRAFT EXPLANATORY MATERIAL

Issued by authority of the Treasurer

Competition and Consumer Act 2010

Competition and Consumer (Industry Codes—Cash Acceptance) Regulations 2025

Section 51AE of the *Competition and Consumer Act 2010* (the Act) provides that the Governor-General may make regulations prescribing an industry code, or specified provisions of an industry code, for the purposes of Part IVB of the Act. It also provides that the industry code may be mandatory or voluntary, and may confer on persons or bodies certain functions and powers in relation to the code.

The purpose of the *Competition and Consumer (Industry Codes—Cash Acceptance) Regulations 2025* (the Regulations) is to prescribe two new mandatory industry codes under section 51AE of the Act. The new codes require certain retail businesses supplying certain essential goods – namely, fuel and groceries – to accept payment in cash (generally referred to as the ‘cash acceptance mandate’ throughout this document).

Despite the rise of digital payments in recent years, cash payments remain a vital payment method for many Australians, particularly in regional and rural communities. The Regulations ensure that consumers of certain essential goods can continue to pay in cash in the future if they desire. This does not preclude the businesses from also accepting other forms of payment.

Maintaining access to cash is a key part of modernising payments infrastructure. By mandating cash acceptance in the retail sale of fuel and groceries, the Regulations assist with payment system resilience, for example, during natural disasters or digital outages.

The Regulations are part of a number of complementary measures to modernise the payment system and ensure Australians continue to have access to cash.

In July 2025, the Council of Financial Regulators (CFR) and the Australian Competition and Consumer Commission (ACCC) conducted public consultation on a proposed regulatory framework to support the long-term sustainability of the cash distribution system. CFR and the ACCC are currently considering consultation responses, which will help inform their advice to the Government on options for a potential regulatory framework.

Also in July 2025, the RBA released a consultation paper as part of its Review of Merchant Card Payment Costs and Surcharging. The RBA Payment Systems Board reached the preliminary view that it would be in the public interest to: remove surcharging on eftpos, Mastercard and Visa cards, lower the cap on interchange fees paid by businesses, require card networks and large acquirers to publish the fees they charge.

The Act does not specify any conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations are subject to sunseting and disallowance.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence on 1 January 2026.

Details of the Regulations are set out in Attachment A.

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Details of the Competition and Consumer (Industry Codes—Cash Acceptance) Regulations 2025

Section 1 – Name

This section provides that the name of the Regulations is the *Competition and Consumer (Industry Codes—Cash Acceptance) Regulations 2025* (the Regulations).

Section 2 – Commencement

Schedule 1 to the Regulations will commence on 1 January 2026.

Section 3 – Authority

The Regulations are made under the *Competition and Consumer Act 2010* (the Act).

Section 4 – Simplified outline of the instrument

This section summarises the content of the Regulations. Specifically, it outlines that the Regulations prescribe mandatory industry codes (the Codes) that 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 with a reasonable opportunity to do so in cash.

Civil penalties are in place for failing to comply, and there are exemptions for small business retailers and for specified entities exempted by the ACCC.

Further details are provided below.

Section 5 – Definitions

The Regulations define several terms, including:

- **Cash payment** means payment by way of cash – which can be coins or printed money (i.e. banknotes).
- **Cash payment point** means a counter, kiosk, or another reasonably identifiable location at which cash payments can be made by consumers.
- **Consumer** has the same meaning as in subsection 51ACA(1) of the Act – that is, a consumer is a person to whom goods or services are or may be supplied by participants in the relevant industry.
- **In-person payment** means the consumer is paying in-person, regardless of whether the retailer's cash payment points are manned or self-service.
- **Retail site** means a premises or part of premises where the retailer carries on a supermarket business or motor fuel business and at which they ordinarily accept in-person payments.

Additional terms defined in the Regulations are outlined in the relevant sections below.

Section 6 – Meaning of **small business entity**

The Regulations define **small business entity** to mean a supermarket or motor fuel retailer that is a small business entity within the general meaning of the *Income Tax Assessment Act 1997* – that is, the entity’s annual turnover is less than \$10 million. This includes sales of retail fuel (which would otherwise be excluded from the entity’s turnover under subsection 328-120(3) of that Act).

In accordance with section 328-110 of the *Income Tax Assessment Act 1997*, a supermarket or motor fuel retailer carrying on a business in the current income year will be a small business entity for the entire current income year, for the purposes of the cash acceptance mandate, if:

- the entity’s aggregated turnover for the previous income year was less than \$10 million; or
- both of the following apply:
 - the entity’s aggregated turnover was \$10 million or more for the previous income year, but was less than \$10 million for the income year immediately before that;
 - as at the start of the current income year, the entity’s aggregated turnover for the current year is likely to be less than \$10 million.

Franchisees and franchisors are exempt as small businesses only if the turnover of the entire franchise system is below \$10 million. This minimises confusion for consumers, because all retailers within the same franchise ‘brand’ will either be subject to, or *not* subject to, the cash acceptance mandate.

Franchisee and **franchisor** have the same meaning as in the *Competition and Consumer (Industry Codes—Franchising) Regulations 2024*. In general, the franchisor is a person who grants the franchise, and a franchisee is a person to whom the franchise is granted (with some qualifications). **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.

Section 7 – Legal tender

This section affirms that retailers bound by the Codes do not need to accept payment other than by way of legal tender.

Section 8 – Mandatory industry code

The Regulations establish prescribed mandatory industry codes for the purposes of section 51AE of the Act. The Regulations empower the ACCC to administer and enforce these provisions as mandatory industry codes.

Section 9 – Civil penalty provisions of industry codes

Section 8 sets out how provisions of the Codes are identified as civil penalty provisions. Breaches of civil penalty provisions in the Codes carry pecuniary penalties, and are also subject to the infringement notices regime in Division 2A of Part IVB of the Act.

However, the civil penalties and infringement notices regimes do not apply until six months after commencement of the Codes. During this initial six-month period, no pecuniary penalties or infringement notices may be issued for alleged breaches of the Codes. This delayed application allows supermarket and motor fuel retailers time to adjust their operations, as necessary, to comply with their obligations under the Codes.

Section 10 – Review of decisions

The Administrative Review Tribunal may review, on application, decisions of the ACCC to exempt or not exempt retailers from the Codes.

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

Section 11 – Industry to which this Code applies

Part 2 of the Regulations sets out an industry code that applies to the industry of food and groceries (the Code).

Supermarket business has the same meaning as in the *Competition and Consumer (Industry Codes—Food and Grocery) Regulations 2024* – that is, a business that mainly sells retail grocery products to consumers, of which a substantial proportion is food that is not for in-store consumption. A **supermarket retailer** is a corporation that carries on a supermarket business in Australia.

Section 12 – Accepting cash payments

Supermarket retailers need to make sure that any consumer making an in-person payment of \$500 or less has a reasonable opportunity to do so by way of cash payment. Small business entities (as outlined above) are not bound by the Code.

‘Reasonable opportunity’ means that the number of cash payment points operating at the retail site are reasonable and proportionate, taking into account consumer demand and the size and nature of the retailer’s business. The level of effort asked of the consumer to make a cash payment also needs to be reasonable in the circumstance.

However, regardless of circumstances and the size and nature of the business, there needs to be at least one cash payment point operating at the retail site.

Breaches of this provision carry a civil pecuniary penalty of 600 penalty units.

Section 13 – Commission may grant exemptions

The ACCC may exempt supermarket retailers that would otherwise be covered by the Code from having to accept cash payments. The ACCC may grant an exemption in response to a written application from a supermarket retailer, or on its own initiative.

Exemptions can cover entire businesses, classes of retailers, specific retail sites, or specific classes of retail sites owned by a single business.

Exemptions can (but need not) be time-limited and can (but need not) contain conditions.

Exemption granted in response to a written application from a supermarket retailer:

- The ACCC may grant an exemption if it is satisfied that exceptional circumstances outside the retailer's control are preventing, or will prevent, the retailer from accepting cash payments or providing reasonable opportunity for their consumers to pay in cash. The ACCC would also need to be satisfied the retailer has taken all reasonable steps to comply with the Code. For example, an individual supermarket retailer may apply for an exemption if a flooding event leads to localised disruption to cash delivery services for that retailer.
- Alternatively, the ACCC may grant an exemption if it is satisfied that the costs associated with the retailer complying with the cash acceptance mandate would pose a significant risk to the ongoing feasibility of the supermarket business carried on by the retailer. For example, an individual supermarket retailer in a remote location may apply for an exemption if the costs of cash delivery to that location were so significant that the retailer would need to substantially increase prices in order to continue operating that business.

Exemption granted by the ACCC on its own initiative:

- The ACCC may grant an exemption covering multiple supermarket retailers if it is satisfied that exceptional circumstances outside the retailers' control are preventing, or will prevent, those retailers from accepting cash payments or providing reasonable opportunity for their consumers to pay in cash. The ACCC would also need to be satisfied that the exceptional circumstances are widespread in nature. For example, the ACCC may consider granting an exemption to a class of supermarket retailers if a major flooding event leads to widespread disruption to cash delivery services in a particular geographic area.

Exemptions must be in writing. In accordance with subsection 51AE(1D) of the Act, an individual exemption (that is, granted by the ACCC in response to a written application from a supermarket retailer) is made by a notifiable instrument, which is not disallowable. An exemption covering a class of retailers (that is, granted by the ACCC on its own initiative) is made via a legislative instrument, which is disallowable.

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

Section 14 – Industry to which this Code applies

Part 3 of the Regulations sets out an industry code that applies to the retail motor fuel industry (the Code). This industry definition is for the purposes of the Regulations only.

A **motor fuel business** is defined as a business that involves the retail sale of motor fuel. A **motor fuel retailer** is a corporation that carries on a motor fuel business.

Section 15 – Accepting cash payments

This section imposes the same requirements on motor fuel retailers to accept cash payments as those imposed on supermarket retailers by Part 2, section 12.

Section 16 – Commission may grant exemptions

This section empowers the ACCC to grant exemptions to motor fuel retailers in the same way that Part 2, section 13 empowers the Commission to do so for supermarket retailers.

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