

Australia's new mandatory text requirements for "warranties against defects" for goods and services enters into force on 9 June 2019

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Executive summary

An upcoming change to Australia's Consumer Law that requires new mandatory text to be displayed with warranties against defects for services will enter into force on 9 June 2019.

The change also introduces the concept and new mandatory remedies for a "major failure" for goods.

After this date, businesses that do not comply risk fines of up to AU\$50,000¹ for companies and \$10,000 for individuals per breach.

Detailed discussion

Application of the new requirements

These changes will affect Australian companies who supply services or goods with services in Australia and represent to consumers that they will rectify or compensate for defects in the service. These changes will not affect Australian companies who supply goods without an accompanying service.

Warranty against defects

The changes alter the mandatory text that accompanies warranties against defects.

A warranty against defects is a representation by the supplier or manufacturer of a good or service that sets out their response if the supplied good or service is defective.

Specifically, a warranty against defects is a promise:

1. **Goods:** to repair or replace the defective good
2. **Services:** to provide again or rectify the defective service
3. **Goods/Services:** to compensate the customer for the defective good/service

An example of a warranty against defects is a written contract stating that a painter will repair any blemishes that arise within three years of purchase.

Steps to comply

Suppliers of services or goods with services must display new mandatory blocks of text with all warranties against defects from 9 June 2019

There are two options - one for the supply of services and one for the supply of goods combined with services.

Where a warranty against defects is provided for services, the following text must be displayed:

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

- ▶ *to cancel your service contract with us; and*
- ▶ *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.

Where a warranty against defects is provided for a good combined with services, the following text must be displayed:

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:

- ▶ *to cancel your service contract with us; and*
- ▶ *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.

Endnote

1. Currency references in this Alert are to AU\$.

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