Competition and Consumer Act 2010

No. 51, 1974

Compilation No. 165

Compilation date: 1 July 2026

Includes amendments: Act No. 111, 2023, Act No. 57, 2025 and Act No. 59, 2025

This compilation is in 4 volumes

Volume 1:	Chapter 1, Part I to Chapter 4, Part IVBB sections 1 to 53ZZC
Volume 2:	**Chapter 4, Part IVC to Chapter 6, Part IX** **sections 55 to 113**
Volume 3:	Chapter 6, Part X to Chapter 8, Part XIII sections 10.01 to 193
Volume 4:	Schedules Endnotes

Each volume has its own contents

Prepared by the Office of Parliamentary Counsel, Canberra

Authorised Version C2026C00323 registered 22/07/2026

About this compilation

This compilation

This is a compilation of the *Competition and Consumer Act 2010* that shows the text of the law as amended and in force on 1 July 2026 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au).

Application, saving and transitional provisions

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Presentational changes

The *Legislation Act 2003* provides for First Parliamentary Counsel to make presentational changes to a compilation. Presentational changes are applied to give a more consistent look and feel to legislation published on the Register, and enable the user to more easily navigate those documents.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. Any modifications affecting the law are accessible on the Register.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Chapter 4—Provisions relating to particular industries, payment surcharges etc. 1

Part IVC—Payment surcharges 1

Division 1—Preliminary 1

55 Object of this Part 1
55A Definitions 1

Division 2—Limit on payment surcharges 3

55B Payment surcharges must not be excessive 3

Division 3—Information about payment surcharges 4

55C Surcharge information notices 4
55D Extending periods for complying with notices 4
55E Participant must comply with notice 5

Division 4—Infringement notices 6

55F Purpose and effect of this Division 6
55G Issuing an infringement notice 6
55H Matters to be included in an infringement notice 7
55J Amount of penalty 7
55K Effect of compliance with an infringement notice 7
55L Effect of failure to comply with an infringement notice 8
55M Infringement notice compliance period for infringement notice 8
55N Withdrawal of an infringement notice 9

Part IVD—Consumer data right 11

Division 1—Preliminary 11

Subdivision A—Object and simplified outline 11

56AA Object of this Part 11
56AB Simplified outline 11

Subdivision B—Designating sectors, and declaring actions, to which the consumer data right applies 13

56AC Designated sectors subject to the consumer data right 13

Authorised Version C2026C00323 registered 22/07/2026

56ACA Declared types of actions that can be initiated under the consumer data rules 15
56AD Minister's tasks before designating a sector or declaring actions etc. 15
56AE Secretary must arrange for analysis, consultation and report about an instrument proposing to designate a sector or declare actions 17
56AEA Commission must analyse an instrument proposing to designate a sector or declare actions 18
56AF Information Commissioner must analyse and report about an instrument proposing to designate a sector or declare actions 18
56AH Other matters 19
Subdivision C—Meanings of key terms 19
56AI Meanings of *CDR data, directly or indirectly derived* and *CDR consumer* 19
56AJ Meaning of *data holder* 21
56AK Meaning of *accredited data recipient* 24
56AL Meanings of *CDR participant* and *designated gateway* 25
56AM Meanings of *chargeable CDR data*, *chargeable circumstances* and *fee-free CDR data* 26
56AMA Meanings of *CDR action* and *CDR declaration* 26
56AMB Meanings of *action service provider* and *voluntary action service provider* 26
56AMC Meaning of *accredited action initiator* 27
56AMD Meaning of *CDR action participant* 28
Subdivision D—Extension to external Territories and extraterritorial operation 28
56AN Extension to external Territories 28
56AO Extraterritorial operation of the CDR provisions 28
56AP Geographical application of offences 31
Subdivision E—Application to government entities 31
56AQ CDR provisions bind the Crown 31
56AR Government entities may participate under this Part 31
56AS Participating government entities of a State or Territory—declaration 33
56AT Participating government entities of a State or Territory—revocation 34

Authorised Version C2026C00323 registered 22/07/2026

Subdivision F—Application to acts done by or in relation to agents etc. of CDR entities 35
56AU Acts done by or in relation to agents etc. of CDR entities 35
Division 2—Consumer data right 36
Subdivision A—Power to make consumer data rules 36
56BA Minister may make consumer data rules 36
56BAA Rules must include requirement to delete CDR data on request from CDR consumer 36
56BB Matters that the consumer data rules may deal with 38
56BC Rules about disclosure, collection, use, accuracy, storage, security or deletion of CDR data for which there are CDR consumers 39
56BD Limitations for rules about CDR data for which there are CDR consumers 41
56BE Rules about disclosure, collection, use, accuracy, storage, security or deletion of product data 42
56BF Limitations for rules about product data 43
56BG Rules about designated gateways 44
56BGA Rules about initiating CDR actions 46
56BH Rules about accreditation for the purposes of this Part 49
56BHA Rules about approving persons to be voluntary action service providers for types of CDR actions 51
56BI Rules about reporting, record keeping and auditing 53
56BJ Rules about incidental or related matters 55
56BK Further limitations on the consumer data rules 57
Subdivision B—Compliance with consumer data rules 58
56BL Obligation to comply with consumer data rules 58
56BM Infringement notices 58
56BN Misleading or deceptive conduct—offence 59
56BO Misleading or deceptive conduct—civil penalty 60
Subdivision C—Process for making consumer data rules etc. 61
56BP Minister's tasks before making the rules 61
56BQ Secretary must arrange for consultation and report before the rules are made 62
56BR Commission and Information Commissioner must analyse the proposed rules 62
56BS Emergency rules: public consultation not required etc. 63

Authorised Version C2026C00323 registered 22/07/2026

56BT Emergency rules: consequences if made 63
56BTA Other matters 63
Subdivision D—Fees for disclosing CDR data 64
56BU Charging a fee in inappropriate circumstances when required to disclose CDR data 64
56BV Commission may intervene if fee for disclosing or using chargeable CDR data is unreasonable etc. 65
Subdivision E—Effective initiation and non-discriminatory performance of CDR actions 67
56BZA Accredited persons must act efficiently, honestly and fairly when initiating CDR actions etc. 67
56BZB Accredited persons must only initiate CDR actions in accordance with CDR consumers' valid requests etc. 67
56BZC No discrimination against CDR action instructions—service provider fails to perform CDR actions when it ordinarily performs actions of that type 68
56BZD No discrimination against CDR action instructions—service provider's fees relating to CDR actions 68
56BZE Commission may intervene if fee for processing a valid instruction for a CDR action is unreasonable 70
Subdivision F—Review by the Tribunal of determinations about certain fees 72
56BZF Review by the Tribunal of determinations about fees of particular participants or providers 72
56BZG Functions and powers of Tribunal 72
56BZH Provisions that do not apply in relation to a Tribunal review 73
Subdivision G—Prohibitions on holding out 73
56BZI Prohibition on holding out that a person is something they are not—offence 73
56BZJ Prohibition on holding out that a person is something they are not—civil penalty 74
Division 3—Accreditation etc. 76
Subdivision A—Accreditation process 76
56CA Granting accreditations 76
56CB Review of decisions refusing to accredit 76

Authorised Version C2026C00323 registered 22/07/2026

Subdivision B—Register of Accredited Persons 76
56CE Register of Accredited Persons 76
56CF Evidentiary value of the register 77
Subdivision C—CDR Accreditor 77
56CG Appointment of the CDR Accreditor 77
56CH Functions, powers and annual report....78
56CI Directions by Minister....79
56CJ Delegation 79
Subdivision D—Accreditation Registrar 80
56CK Appointment of the Accreditation Registrar 80
56CL Functions, powers and annual report....80
56CM Directions by Minister....81
56CN Delegation 81
Division 4—External dispute resolution 83
56DA Minister may recognise external dispute resolution schemes 83
Division 5—Privacy safeguards 85
Subdivision A—Preliminary 85
56EA Simplified outline....85
56EB Kinds of CDR data to which the privacy safeguards apply....85
56EC Relationship with other laws....86
Subdivision B—Consideration of CDR data privacy 88
56ED Privacy safeguard 1—open and transparent management of CDR data 88
56EE Privacy safeguard 2—anonymity and pseudonymity 91
Subdivision C—Collecting CDR data 92
56EF Privacy safeguard 3—soliciting CDR data from participants under the consumer data rules 92
56EG Privacy safeguard 4—dealing with unsolicited CDR data from participants in CDR 93
56EH Privacy safeguard 5—notifying of the collection of CDR data 94
Subdivision D—Dealing with CDR data 95
56EI Privacy safeguard 6—use or disclosure of CDR data by accredited data recipients or designated gateways 95

Authorised Version C2026C00323 registered 22/07/2026

56EJ Privacy safeguard 7—use or disclosure of CDR data for direct marketing by accredited data recipients or designated gateways 96
56EK Privacy safeguard 8—overseas disclosure of CDR data by accredited data recipients....96
56EL Privacy safeguard 9—adoption or disclosure of government related identifiers by accredited data recipients 98
56EM Privacy safeguard 10—notifying of the disclosure of CDR data....99
Subdivision E—Integrity of CDR data 101
56EN Privacy safeguard 11—quality of CDR data....101
56EO Privacy safeguard 12—security of CDR data, and destruction or de-identification of redundant CDR data 103
Subdivision F—Correction of CDR data 104
56EP Privacy safeguard 13—correction of CDR data....104
Subdivision G—Compliance with the privacy safeguards 105
56EQ Information Commissioner to promote compliance etc. 105
56ER Information Commissioner may conduct an assessment relating to the management and handling of CDR data....106
56ES Notification of CDR data security breaches....107
56ET Investigating breaches of the privacy safeguards etc. 109
56EU Civil penalty provisions....113
56EV Civil penalty provisions—maximum amount of penalty 115
56EW Enforceable undertakings....116
56EX Injunctions....116
56EY Actions for damages....117
56EZ Delegation to the Commission etc....119
Division 6—Data standards etc. 121
Subdivision A—Data standards 121
56FA Making data standards....121
56FB What data standards can set out etc....122
56FC Data standards must be published....123
56FD Legal effect of data standards....123
56FE Enforcement of binding data standards....124

Authorised Version C2026C00323 registered 22/07/2026

Subdivision B—Data Standards Chair 125
56FF Data Standards Chair....125
56FG Appointment of the Data Standards Chair....125
56FH Functions and powers of the Data Standards Chair....125
56FI Directions by Minister....125
Subdivision C—Data Standards Body 126
56FJ Appointment of the Data Standards Body....126
56FK Function and powers of the Data Standards Body....126
Subdivision D—Administrative provisions 127
56FL Acting appointments....127
56FM Terms and conditions....127
56FN Remuneration....127
56FO Leave....128
56FP Application of the finance law etc....128
56FQ Resignation....129
56FR Termination of appointment....129
56FS Delegation....130
Division 7—Other matters 132
56GA CDR functions of the Information Commissioner....132
56GAA Delegation by the Minister or the Secretary....132
56GAB Concurrent operation of other laws....133
56GB Referring to instruments as in force from time to time....133
56GC Complying with CDR requirements etc.: protection from liability....134
56GD Exemptions by the Commission....135
56GE Exemptions and modifications by regulations....136
56GF Application of the CDR provisions....137
56GG Compensation for acquisition of property....139
56GH Review of the operation of this Part....139
Part IVE—Motor vehicle service and repair information sharing scheme 140
Division 1—Objects of Part and simplified outline 140
57AA Objects of Part....140
57AB Simplified outline....140
Division 2—Key concepts 142
57BA Meaning of *scheme vehicle*....142

Authorised Version C2026C00323 registered 22/07/2026

57BB Meaning of *Australian repairer* 142
57BC Meaning of *scheme RTO* and *RTO course* 142
57BD Meaning of *scheme information* 143
57BE Meaning of *data provider* 144
57BF Meaning of *safety and security information* 144
57BG Supply of scheme information between related bodies corporate 145

Division 3—Supply of scheme information 146
57CA Scheme information—offer to supply to Australian repairers and scheme RTOs 146
57CB Scheme information—supply on request by Australian repairers or scheme RTOs 148
57CC Scheme information—terms and conditions of supply and use 151
57CD Scheme information—interaction of supply obligations and other rights and obligations 152

Division 4—Information management 155
57DA Safety and security information—packaging 155
57DB Safety and security information—supply to Australian repairers and scheme RTOs 155
57DC Safety and security information—use or disclosure of sensitive information 157
57DD Safety and security information—storage of, and access to, sensitive information 158
57DE Security information—records of access 159

Division 5—Dispute resolution 160
57EA Scope of Division 160
57EB Resolving disputes 160
57EC Right to bring proceedings unaffected 160
57ED Attempt to resolve dispute before mediation 160
57EE When is a party taken to have tried to resolve a dispute? 161
57EF Mediation 161
57EG Termination of mediation 162
57EH Costs of mediation 163

Division 6—Motor vehicle service and repair information scheme adviser 164
57FA Scheme adviser—establishment and appointment 164
57FB Scheme adviser—functions 164

Authorised Version C2026C00323 registered 22/07/2026

Division 7—Miscellaneous 166
57GA Civil penalty provisions....166
57GB Infringement notices....166
57GC Concurrent operation of State and Territory laws....168
57GD Acquisition of property....168
57GE Scheme rules....169

Part IVF—Scams Prevention Framework 170

Division 1—Preliminary 170

Subdivision A—Object and simplified outline 170
58AA Object of this Part....170
58AB Simplified outline of this Part....170

Subdivision B—Designating sectors subject to the Scams Prevention Framework 171
58AC *Regulated sectors* subject to the Scams Prevention Framework....171
58AD *Regulated entities* for regulated sectors and their *regulated services*....172
58AE Minister must consider matters, and consult, before designating a sector....175
58AF Delegation....175

Subdivision C—Meanings of key terms 176
58AG Meaning of *scam*....176
58AH Meaning of *SPF consumer*....176
58AI Meaning of *actionable scam intelligence*....178

Subdivision D—Extension to external Territories and outside of Australia 179
58AJ Extension to external Territories and outside of Australia....179

Subdivision E—Application to acts done by or in relation to agents etc. of regulated entities 179
58AK Acts done by or in relation to agents etc. of regulated entities....179

Division 2—Overarching principles of the Scams Prevention Framework 181

Subdivision A—Preliminary 181
58BA Simplified outline of this Division....181
58BB Meaning of *reasonable steps*....181

Authorised Version C2026C00323 registered 22/07/2026

Subdivision B—SPF principle 1: Governance 182
58BC Simplified outline of this Subdivision....182
58BD Documenting and implementing governance policies and procedures—civil penalty provision 182
58BE Annual certification about SPF governance policies, procedures, metrics and targets—civil penalty provision 183
58BF Record keeping of compliance with SPF provisions—civil penalty provision 183
58BG Reporting about compliance with this Subdivision—civil penalty provision....184
58BH Sector-specific details can be set out in SPF codes....185
Subdivision C—SPF principle 2: Prevent 185
58BI Simplified outline of this Subdivision....185
58BJ Taking reasonable steps to prevent scams from being committed—civil penalty provision....185
58BK Further detail about certain concepts....186
Subdivision D—SPF principle 3: Detect 186
58BL Simplified outline of this Subdivision....186
58BM Taking reasonable steps to detect scams—civil penalty provision....187
58BN Investigating actionable scam intelligence—civil penalty provision....187
58BO Identifying impacted SPF consumers—civil penalty provision....187
58BP Sector-specific details can be set out in SPF codes....188
Subdivision E—SPF principle 4: Report 188
58BQ Simplified outline of this Subdivision....188
58BR Reporting actionable scam intelligence to SPF regulators—civil penalty provision....189
58BS Reporting scams to SPF regulators—civil penalty provisions....190
58BT Authorised third party data gateways, portals or websites for accessing reports....191
58BU Relationship with other duties and obligations....192
58BV SPF general regulator may share information relating to scamming actions with relevant entities....192
Subdivision F—SPF principle 5: Disrupt 194
58BW Simplified outline of this Subdivision....194

Authorised Version C2026C00323 registered 22/07/2026

58BX Taking reasonable steps to disrupt activities that are the subjects of actionable scam intelligence—civil penalty provision 194
58BY Reporting about the outcomes of investigations of activities that are the subjects of actionable scam intelligence—civil penalty provision 195
58BZ Sector-specific details can be set out in SPF codes 196
58BZA Safe harbour for taking actions to disrupt an activity while investigating whether the activity is a scam 196

Subdivision G—SPF principle 6: Respond 197
58BZB Simplified outline of this Subdivision 197
58BZC Enabling SPF consumers to easily report activities that are or may be scams—civil penalty provision 198
58BZD Having an accessible and transparent internal dispute resolution mechanism—civil penalty provision 199
58BZDA Giving a statement of compliance—civil penalty provision 199
58BZE Having regard to processes and guidelines when undertaking internal dispute resolution—civil penalty provision 200
58BZF Publishing information about reporting and dispute resolution mechanisms—civil penalty provision 201
58BZG SPF external dispute resolution schemes—civil penalty provisions 202
58BZH Sector-specific details can be set out in SPF codes 203

Division 3—Sector-specific codes for the Scams Prevention Framework 204
58CA Simplified outline of this Division 204
58CB Sector-specific codes (SPF codes) 204
58CC Content of SPF codes 204
58CD Delegation 206

Division 4—External dispute resolution for the Scams Prevention Framework 208
58DA Simplified outline of this Division 208
58DB Minister may authorise external dispute resolution schemes for a regulated sector 208
58DC Content, including requirements, of a scheme that is not already authorised under a Commonwealth law 209

Authorised Version C2026C00323 registered 22/07/2026

58DD Scheme operator to report to SPF regulators....210
58DE Disclosing information to the operator of an SPF EDR scheme....211
Division 5—Regulating the Scams Prevention Framework 212
Subdivision A—Preliminary 212
58EA Simplified outline of this Division....212
Subdivision B—Regulators of the Scams Prevention Framework 212
58EB General regulator of the Scams Prevention Framework....212
58EC Delegation of the SPF general regulator's functions and powers....213
58ED Regulator of a regulated sector....214
58EE Delegation of an SPF sector regulator's functions and powers....215
58EF Arrangements for regulating the Scams Prevention Framework....216
58EFA Roles and responsibilities statement....217
Subdivision C—Information sharing between SPF regulators 218
58EG SPF regulators may disclose information to each other....218
58EH Regard must be had to the object of this Part when considering whether to make such a disclosure....218
58EI Notice need not be given of a collection, use or disclosure of information or documents under this Part....218
58EJ Information that need not be disclosed....219
Division 6—Enforcing the Scams Prevention Framework 220
Subdivision A—Preliminary 220
58FA Simplified outline of this Division....220
58FB Appointment of inspectors....221
58FC Multiple remedies can be sought for a single contravention....222
58FD Preference must be given to compensation for victims....222
Subdivision B—Monitoring or investigating compliance with an SPF code 222
58FE Monitoring compliance with an SPF code—default....222
58FF Investigating compliance with an SPF code—default....224

Authorised Version C2026C00323 registered 22/07/2026

58FG Monitoring or investigating—the ACMA 226
58FH Monitoring or investigating—ASIC 227
58FI Monitoring or investigating—Minister may declare that alternative powers apply for other SPF sector regulators 229

Subdivision C—Civil penalty provisions 230
58FJ Civil penalty provisions 230
58FK Maximum penalty for tier 1 contraventions 231
58FL Maximum penalty for tier 2 contraventions 231
58FM Civil penalty double jeopardy 232

Subdivision D—Infringement notices 233
58FN Purpose and effect of this Subdivision 233
58FO Issuing an SPF infringement notice 234
58FP Matters to be included in an SPF infringement notice 234
58FQ Amount of penalty 235
58FR Effect of compliance with an SPF infringement notice 235
58FS Effect of failure to comply with an SPF infringement notice 236
58FT Infringement notice compliance period for infringement notice 236
58FU Withdrawal of an infringement notice 237

Subdivision E—Enforceable undertakings 238
58FV Enforceable undertakings 238

Subdivision F—Injunctions 239
58FW Granting injunctions 239
58FX Particular kinds of injunctions 240
58FY Interim injunctions 241
58FZ Rescinding or varying injunctions 241
58FZA Applying for injunctions 241
58FZB Other powers of the Court unaffected 242

Subdivision G—Actions for damages 242
58FZC Actions for damages—general rule 242
58FZD Meaning of *concurrent wrongdoers* 243
58FZE Certain concurrent wrongdoers not to have benefit of apportionment 243
58FZF Proportionate liability for claims involving concurrent wrongdoers 244

Authorised Version C2026C00323 registered 22/07/2026

58FZG Defendant to notify plaintiff of concurrent wrongdoer of whom defendant aware 244
58FZH Contribution not recoverable from defendant 245
58FZI Subsequent actions 245
58FZJ Joining non-party concurrent wrongdoer in the action 246
58FZK Application of this Subdivision 246
Subdivision H—Public warning notices 247
58FZL Public warning notices 247
Subdivision I—Remedial directions 248
58FZM Remedial directions 248
Subdivision J—Adverse publicity orders 249
58FZN Adverse publicity orders 249
Subdivision K—Non-punitive orders 250
58FZO Non-punitive orders 250
Subdivision L—Orders (other than awards of damages) to redress loss or damage 252
58FZP Orders (other than awards of damages) to redress loss or damage—making such orders 252
58FZQ Orders (other than awards of damages) to redress loss or damage—kinds of such orders 254
Division 7—Other provisions 257
58GA Treatment of partnerships 257
58GB Treatment of unincorporated associations 257
58GC Treatment of trusts 257
58GD Compensation for acquisition of property 258
58GE Rules for the purposes of this Part 259
58GF Report of the operation of the SPF provisions 259
Part V—Carbon tax price reduction obligation 261
Division 1—Preliminary 261
60 Simplified outline of this Part 261
60AA Objects etc. 262
60A Definitions 262
60B Regulated goods 267
Division 2—Carbon tax price reduction obligation 269
60C Price exploitation in relation to the carbon tax repeal 269

Authorised Version C2026C00323 registered 22/07/2026

60CA Failure to pass on cost savings—250% penalty 269
60D Notice to entity that is considered to have engaged in price exploitation in relation to the carbon tax repeal 271
60E Commission may issue notice to aid prevention of price exploitation in relation to the carbon tax repeal 272
60F Acquisition of property 273
Division 2A—Carbon tax removal substantiation notices 274
60FA Carbon tax removal substantiation notices.....274
60FB Extending periods for complying with carbon tax removal substantiation notices 275
60FC Compliance with carbon tax removal substantiation notices 275
Division 2B—Carbon tax removal substantiation statements 277
60FD Carbon tax removal substantiation statements 277
Division 2C—Statements for customers 280
60FE Statements for customers.....280
Division 3—Price monitoring in relation to the carbon tax repeal etc. 282
60G Commission may monitor prices in relation to the carbon tax repeal etc.....282
60H Information-gathering powers.....284
60J Reporting.....286
Division 4—False or misleading representations about the effect of the carbon tax repeal etc. on prices 287
60K False or misleading representations about the effect of the carbon tax repeal etc. on prices.....287
Division 5—Infringement notices 288
60L Issuing an infringement notice 288
60M Effect of compliance with an infringement notice 289
60N Effect of failure to comply with an infringement notice 290
60P Infringement notice compliance period for infringement notice.....290
60Q Withdrawal of an infringement notice.....291
60R Effect of this Division 292

Authorised Version C2026C00323 registered 22/07/2026

Chapter 5—Enforcement and remedies 294

Part VI—Enforcement and remedies 294

Division 1—Preliminary 294

75B Interpretation 294

Division 2—Pecuniary penalties 295

76 Pecuniary penalties....295

76A Defence to proceedings under section 76 relating to a contravention of section 92 301

76B Consequences in some cases if substantially the same conduct contravenes a provision of this Act and is an offence....302

77 Civil action for recovery of pecuniary penalties 303

77A Indemnification of officers....303

77B Certain indemnities not authorised and certain documents void....304

77C Application of section 77A to a person other than a body corporate....304

Division 3—Orders relating to acquisitions 305

77D Orders relating to void acquisitions....305

Division 4—Offences 307

78 Criminal proceedings not to be brought for contraventions of Part IV 307

79 Offences against section 45AF or 45AG....307

Division 5—Other provisions 309

79A Enforcement and recovery of certain fines....309

79B Preference must be given to compensation for victims 311

80 Injunctions....311

80A Price exploitation in relation to the carbon tax repeal—orders limiting prices or requiring refunds of money....315

80AB Stay of injunctions....316

80AC Injunctions to prevent mergers if authorisation granted on the basis of false or misleading information 317

80AD Injunctions if acquisition determinations made on the basis of false or misleading information 318

Authorised Version C2026C00323 registered 22/07/2026

81 Divestiture where merger contravenes section 50 or 50A 318
81A Divestiture where merger done under authorisation granted on false etc. information 320
81B Divestiture etc. if acquisition determinations made on false etc. information or conditions not complied with 322
82 Actions for damages 324
83 Findings and admissions of fact in proceedings to be evidence 326
84 Conduct by directors, employees or agents 326
85 Defences 329
86 Jurisdiction of courts 329
86AA Limit on jurisdiction of Federal Circuit and Family Court of Australia (Division 2) 331
86A Transfer of matters 331
86C Non-punitive orders 332
86D Punitive orders—adverse publicity 334
86E Order disqualifying a person from managing corporations 335
86F Privilege against exposure to penalty—disqualification from managing corporations 337
87 Other orders 338
87AA Special provision relating to Court's exercise of powers under this Part in relation to boycott conduct 343
87B Enforcement of undertakings 344
87C Enforcement of undertakings—Secretary of the Department 345
87CA Intervention by Commission 345

Part VIA—Proportionate liability for misleading and deceptive conduct 346

87CB Application of Part 346
87CC Certain concurrent wrongdoers not to have benefit of apportionment 346
87CD Proportionate liability for apportionable claims 347
87CE Defendant to notify plaintiff of concurrent wrongdoer of whom defendant aware 348
87CF Contribution not recoverable from defendant 349
87CG Subsequent actions 349

Authorised Version C2026C00323 registered 22/07/2026

87CH Joining non-party concurrent wrongdoer in the action 349
87CI Application of Part 349

Part VIB—Claims for damages or compensation for death or personal injury 351

Division 1—Introduction 351

87D Definitions 351
87E Proceedings to which this Part applies 353

Division 2—Limitation periods 354

87F Basic rule 354
87G Date of discoverability 355
87H Long-stop period 357
87J The effect of minority or incapacity 357
87K The effect of close relationships 358

Division 3—Limits on personal injury damages for non-economic loss 359

87L Limits on damages for non-economic loss 359
87M Maximum amount of damages for non-economic loss 359
87N Index numbers 360
87P Most extreme cases 360
87Q Cases of 33% or more (but not 100%) of a most extreme case 361
87R Cases of 15% or more (but less than 33%) of a most extreme case 361
87S Cases of less than 15% of a most extreme case 362
87T Referring to earlier decisions on non-economic loss 362

Division 4—Limits on personal injury damages for loss of earning capacity 363

87U Personal injury damages for loss of earning capacity 363
87V Average weekly earnings 363

Division 5—Limits on personal injury damages for gratuitous attendant care services 365

87W Personal injury damages for gratuitous attendant care services for plaintiff 365

Authorised Version C2026C00323 registered 22/07/2026

87X Personal injury damages for loss of plaintiff's capacity to provide gratuitous attendant care services 366

Division 6—Other limits on personal injury damages 368

87Y Damages for future economic loss—discount rate....368
87Z Damages for loss of superannuation entitlements....368
87ZA Interest on damages....369
87ZB Exemplary and aggravated damages....370

Division 7—Structured settlements 371

87ZC Court may make orders under section 87 for structured settlements....371

Chapter 6—Other provisions 372

Part VII—Authorisations and notifications 372

Division 1—Authorisations 372

87ZP Definitions....372
88 Commission may grant authorisations....372
89 Procedure for applications and the keeping of a register....374
90 Determination of applications for authorisations....377
90A Commission to afford opportunity for conference before determining application for authorisation....382
90B Commission may rely on consultations undertaken by the AEMC....386
91 Grant and variation of authorisations....387
91A Minor variations of authorisations....389
91B Revocation of an authorisation....392
91C Revocation of an authorisation and substitution of a replacement....394
92 Providing false or misleading information....397

Division 1A—Authorisations in exceptional circumstances and emergencies 399

92A Definitions....399
92B Commission may grant authorisations in exceptional circumstances and emergencies....399
92C Procedure for applications....400
92D Determination of applications....401
92E Period for which authorisations remain in force....402
92F Variation of authorisations....402

Authorised Version C2026C00323 registered 22/07/2026

92G Revocation of authorisations 403
92H Register of applications and proposals 404
Division 2—Notifications 405
Subdivision A—Exclusive dealing and resale price maintenance 405
93 Notification of exclusive dealing or resale price maintenance 405
93AAA Imposing conditions relating to notifications 411
Subdivision B—Collective bargaining 412
93AA Definitions 412
93AB Notification of collective bargaining 412
93AC Commission's objection notice 417
93ACA Imposing conditions relating to collective boycott conduct 419
93AD When collective bargaining notice comes into force and ceases to be in force 420
93AE Withdrawal of collective bargaining notice 423
93AEA Only 1 collective bargaining notice under subsection 93AB(1A) may be given 423
93AF Only 1 collective bargaining notice under subsection 93AB(1) may be given 424
93AG Stop notice for collective boycott conduct 424
Subdivision C—Conferences 426
93A Commission to afford opportunity for conference before giving notice 426
Subdivision D—Register of notifications 429
95 Register of notifications 429
Division 3—Class exemptions 433
95AA Commission may determine class exemptions 433
95AB Commission may withdraw the benefit of class exemption in particular case 434
95AC Exceptional circumstances class exemptions 435
95AD Commission may withdraw the benefit of exceptional circumstances class exemptions in particular case 437
Division 4—Declaration of exceptional circumstances 438
95AE Minister may declare exceptional circumstances 438
95AF Extension of declaration of exceptional circumstances 439

Authorised Version C2026C00323 registered 22/07/2026

Part VIIA—Prices surveillance 440

Division 1—Preliminary 440

95A Interpretation 440
95B Exempt supplies 444
95C Application of Part 444
95D Crown to be bound 445
95E Object of this Part....445
95F Simplified overview of this Part....445

Division 2—Commission's functions under this Part 447

95G Commission's functions under this Part....447

Division 3—Price inquiries 449

Subdivision A—Holding of inquiries 449

95H Price inquiries....449
95J Content of inquiry notices 450
95K Period for completing inquiry 451
95L Notice of holding of inquiry....452
95M Notice of extension of period for completing inquiry 452
95N Price restrictions 453

Subdivision B—Reports on inquiries 455

95P Copies of report to be made available 455
95Q Notification of proposed prices after receipt of report 456

Subdivision C—Procedure at inquiries 457

95R Public inquiries etc. 457
95S Taking of evidence on oath or affirmation....458
95T Failure of witness to attend 459
95U Refusal to be sworn or to answer question....459
95V Protection of witnesses....460
95W Allowances to witnesses....460

Division 4—Price notifications 462

95X Declarations by Minister or Commission....462
95Y Declarations in relation to State or Territory authorities 462
95Z Price restrictions 464
95ZA Later notices modifying a locality notice 467
95ZB Applicable period in relation to a locality notice 467

Authorised Version C2026C00323 registered 22/07/2026

95ZC Register of price notifications 468
95ZD Delegation by Commission 470
Division 5—Price monitoring 471
95ZE Directions to monitor prices, costs and profits of an industry 471
95ZF Directions to monitor prices, costs and profits of a business 471
95ZG Exceptions to price monitoring 472
Division 6—Other provisions 473
95ZH Ministerial directions....473
95ZI Inquiries by an unincorporated body or a group of 2 or more individuals....473
95ZJ Withdrawal of notices 474
95ZK Power to obtain information or documents 474
95ZL Inspection of documents etc. 478
95ZM Retention of documents....479
95ZN Confidential information 479
95ZO Immunity 480
95ZP Secrecy: members or staff members of the Commission etc. 481
95ZPA Disclosure of protected information to the Energy Department 482
95ZQ Secrecy: persons involved in inquiries by bodies other than the Commission....483
Part VIII—Resale price maintenance 486
96 Acts constituting engaging in resale price maintenance....486
96A Resale price maintenance in relation to services....489
97 Recommended prices 489
98 Withholding the supply of goods 489
99 Statements as to the minimum price of goods....490
100 Evidentiary provisions....491
Part IX—Review by Tribunal of decisions of Commission 493
Division 1A—Applications for review of certain decisions of the Commission 493
100A Applications for review 493
100B Functions and powers of Tribunal....493

Authorised Version C2026C00323 registered 22/07/2026

Division 1B—Applications for review of acquisition determinations 495

Subdivision A—Applications for review 495

100C Applications for review 495
100D Further information and documents in relation to applications 496
100E Applicants may withdraw applications 496
100F Tribunal may dismiss applications if parties consent 497
100G Tribunal may dismiss applications if fees not paid 497
100H Tribunal may dismiss applications if applicants fail to comply with order etc. 497
100J Tribunal may dismiss application if frivolous, vexatious etc. 497
100K Certain participants may seek to withdraw from being participants 498
100L Notice of withdrawals and dismissals 498
100M Tribunal not to review determinations while Commission considering public benefit applications 498

Subdivision B—Functions and powers 500

100N Functions and powers of Tribunal 500
100P Time within which Tribunal must make determination on review 501
100Q Technical experts 502
100R Commission information 502
100S Information gathering etc. 503
100T Information etc. to which Tribunal may have regard 504

Division 1—Applications for review of determinations by the Commission under Part VII 505

101 Applications for review 505
101A Application for review of notices under Division 2 of Part VII 507
101B Application for review of notice under section 95AB 507
102 Functions and powers of Tribunal 507

Division 2—Procedure and Evidence 517

102A Reviews are re-hearings 517

Authorised Version C2026C00323 registered 22/07/2026

103 Procedure generally 517
104 Regulations as to certain matters 518
105 Power to take evidence on oath 518
106 Hearings to be in public except in special circumstances 518
107 Evidence in form of written statement 519
108 Taking of evidence by single member 519
109 Participants in proceedings before Tribunal 519
110 Representation 520
111 Tribunal may order costs be awarded 520
112 Tribunal may charge fees 521
113 Standing of Commission to seek judicial review 522

Authorised Version C2026C00323 registered 22/07/2026

Chapter 4—Provisions relating to particular industries, payment surcharges etc.

Part IVC—Payment surcharges

Division 1—Preliminary

55 Object of this Part

The object of this Part is to ensure that payment surcharges:

(a) are not excessive; and

(b) reflect the cost of using the payment methods for which they are charged.

55A Definitions

In this Part:

excessive, in relation to a payment surcharge, has the meaning given by subsection 55B(2).

infringement notice compliance period has the meaning given by subsection 55M(1).

listed corporation has the meaning given by section 9 of the *Corporations Act 2001*.

payment surcharge means:

(a) an amount charged, in addition to the price of goods or services, for processing payment for the goods or services; or

(b) an amount (however described) charged for using one payment method rather than another.

payment system standard means a standard determined under section 18 of the *Payment Systems (Regulation) Act 1998*.

Authorised Version C2026C00323 registered 22/07/2026

surcharge information notice has the meaning given by subsection 55C(3).

surcharge participant has the meaning given by subsection 55C(2).

Authorised Version C2026C00323 registered 22/07/2026

Division 2—Limit on payment surcharges

55B Payment surcharges must not be excessive

(1) A corporation must not, in trade or commerce, charge a payment surcharge that is excessive.

(2) A payment surcharge is ***excessive*** if:

(a) the surcharge is for a kind of payment covered by:

(i) a payment system standard; or

(ii) regulations made for the purposes of this subparagraph; and

(b) the amount of the surcharge exceeds the permitted surcharge referred to in the payment system standard or the regulations.

(3) Subsection (1) does not apply to a corporation who is exempted from its operation by the regulations.

Authorised Version C2026C00323 registered 22/07/2026

Division 3—Information about payment surcharges

55C Surcharge information notices

(1) The Commission may, by written notice given to a surcharge participant, require the participant to give to the Commission information or documents evidencing either or both of the following:

(a) the amount of a payment surcharge;

(b) the cost of processing a payment in relation to which a payment surcharge was paid.

(2) A corporation is a ***surcharge participant*** if, in trade or commerce, the corporation:

(a) charges a payment surcharge; or

(b) processes a payment for which a payment surcharge is charged.

(3) The notice given by the Commission to the surcharge participant is a ***surcharge information notice***.

(4) The surcharge information notice must specify:

(a) the kinds of information or documents to be given to the Commission; and

(b) the period for giving the information or documents.

55D Extending periods for complying with notices

(1) A surcharge participant that has been given a notice under section 55C may, at any time within 21 days after the notice was given to the participant, apply in writing to the Commission for an extension of the period for complying with the notice.

(2) The Commission may, by written notice given to the surcharge participant, extend the period within which the participant must comply with the notice.

Authorised Version C2026C00323 registered 22/07/2026

55E Participant must comply with notice

(1) A surcharge participant commits an offence if:

(a) the surcharge participant is given a surcharge information notice; and

(b) the surcharge participant fails to comply with the notice within the period for so complying.

Penalty: 30 penalty units.

(2) Subsection (1) is an offence of strict liability.

Note: Sections 137.1 and 137.2 of the *Criminal Code* create offences for providing false or misleading information or documents.

Authorised Version C2026C00323 registered 22/07/2026

Division 4—Infringement notices

55F Purpose and effect of this Division

(1) The purpose of this Division is to provide for the issue of an infringement notice to a person for an alleged contravention of section 55B as an alternative to proceedings for an order under section 76 for the payment of a pecuniary penalty.

(2) This Division does not:
  (a) require an infringement notice to be issued to a person for an alleged contravention of section 55B; or
  (b) affect the liability of a person to proceedings under section 76 in relation to an alleged contravention of section 55B if:
    (i) an infringement notice is not issued to the person for the contravention; or
    (ii) an infringement notice issued to the person for the contravention is withdrawn under section 55N; or
  (c) prevent a court from imposing a higher penalty than the penalty specified in the infringement notice if the person does not comply with the notice.

55G Issuing an infringement notice

(1) If the Commission has reasonable grounds to believe that a person has contravened section 55B, the Commission may issue an infringement notice to the person.

(2) The Commission must not issue more than one infringement notice to the person for the same alleged contravention of section 55B.

(3) The infringement notice does not have any effect if the notice:
  (a) is issued more than 12 months after the day that the contravention of section 55B is alleged to have occurred; or
  (b) relates to more than one alleged contravention of section 55B by the person.

Authorised Version C2026C00323 registered 22/07/2026

55H Matters to be included in an infringement notice

(1) An infringement notice must:

(a) be identified by a unique number; and

(b) state the day on which it is issued; and

(c) state the name and address of the person to whom it is issued; and

(d) identify the Commission and state how it may be contacted; and

(e) give details of the alleged contravention, including the day of the alleged contravention; and

(f) state the maximum pecuniary penalty that the court could order the person to pay under section 76 for the alleged contravention; and

(g) specify the penalty that is payable in relation to the alleged contravention; and

(h) state that the penalty is payable within the infringement notice compliance period for the notice; and

(i) state that the penalty is payable to the Commission on behalf of the Commonwealth; and

(j) explain how payment of the penalty is to be made; and

(k) explain the effect of sections 55K, 55L, 55M and 55N.

55J Amount of penalty

The penalty to be specified in an infringement notice that is to be issued to a person in relation to an alleged contravention of section 55B must be:

(a) if the person is a listed corporation—600 penalty units; or

(b) if the person is a body corporate other than a listed corporation—60 penalty units; or

(c) if the person is not a body corporate—12 penalty units.

55K Effect of compliance with an infringement notice

(1) This section applies if:

Authorised Version C2026C00323 registered 22/07/2026

(a) an infringement notice for an alleged contravention of section 55B is issued to a person; and
(b) the person pays the penalty specified in the infringement notice within the infringement notice compliance period and in accordance with the notice; and
(c) the infringement notice is not withdrawn under section 55N.

(2) The person is not, merely because of the payment, regarded as having contravened section 55B.

(3) No proceedings (whether criminal or civil) may be started or continued against the person, by or on behalf of the Commonwealth, in relation to the alleged contravention of section 55B.

55L Effect of failure to comply with an infringement notice

If:
(a) an infringement notice for an alleged contravention of section 55B is issued to a person; and
(b) the person fails to pay the penalty specified in the infringement notice within the infringement notice compliance period and in accordance with the notice; and
(c) the infringement notice is not withdrawn under section 55N;

the person is liable to proceedings under section 76 in relation to the alleged contravention of section 55B.

55M Infringement notice compliance period for infringement notice

(1) Subject to this section, the ***infringement notice compliance period*** for an infringement notice is the period of 28 days beginning on the day after the day that the infringement notice is issued by the Commission.

(2) The Commission may extend, by notice in writing, the infringement notice compliance period for the infringement notice if the Commission is satisfied that it is appropriate to do so.

Authorised Version C2026C00323 registered 22/07/2026

(3) Only one extension may be given and the extension must not be for longer than 28 days.

(4) Notice of the extension must be given to the person who was issued the infringement notice.

(5) A failure to comply with subsection (4) does not affect the validity of the extension.

(6) If the Commission extends the infringement notice compliance period for an infringement notice, a reference in this Division to the infringement notice compliance period for an infringement notice is taken to be a reference to the infringement notice compliance period as so extended.

55N Withdrawal of an infringement notice

Representations to the Commission

(1) A person to whom an infringement notice has been issued for an alleged contravention of section 55B may make written representations to the Commission seeking the withdrawal of the infringement notice.

(2) Evidence or information that the person, or a representative of the person, gives to the Commission in the course of making representations under subsection (1) is not admissible in evidence against the person or representative in any proceedings (other than proceedings for an offence based on the evidence or information given being false or misleading).

Withdrawal by the Commission

(3) The Commission may, by written notice (the ***withdrawal notice***) given to the person to whom an infringement notice was issued, withdraw the infringement notice if the Commission is satisfied that it is appropriate to do so.

(4) Subsection (3) applies whether or not the person has made representations seeking the withdrawal.

Authorised Version C2026C00323 registered 22/07/2026

Content of withdrawal notices

(5) The withdrawal notice must state:
  (a) the name and address of the person; and
  (b) the day on which the infringement notice was issued to the person; and
  (c) that the infringement notice is withdrawn; and
  (d) that proceedings under section 76 may be started or continued against the person in relation to the alleged contravention of section 55B.

Time limit for giving withdrawal notices

(6) To be effective, the withdrawal notice must be given to the person within the infringement notice compliance period for the infringement notice.

Refunds

(7) If the infringement notice is withdrawn after the person has paid the penalty specified in the infringement notice, the Commission must refund to the person an amount equal to the amount paid.

Authorised Version C2026C00323 registered 22/07/2026

Part IVD—Consumer data right

Division 1—Preliminary

Subdivision A—Object and simplified outline

56AA Object of this Part

The object of this Part is:

(a) to enable consumers in certain sectors of the Australian economy to require information relating to themselves in those sectors to be disclosed safely, efficiently and conveniently:
  (i) to themselves for use as they see fit; or
  (ii) to accredited persons for use subject to privacy safeguards; and

(b) to enable any person to efficiently and conveniently access information in those sectors that:
  (i) is about goods (such as products) or services; and
  (ii) does not relate to any identifiable, or reasonably identifiable, consumers; and

(ba) to enable consumers in those sectors to request accredited persons to give instructions:
  (i) safely, efficiently and conveniently on behalf of the consumers; and
  (ii) to service providers in those sectors;
  for the performance of actions; and

(c) as a result of paragraphs (a) to (ba), to create more choice and competition, or to otherwise promote the public interest.

56AB Simplified outline

Rules made under this Part may:

Authorised Version C2026C00323 registered 22/07/2026

(a) enable consumers in certain sectors of the Australian economy to require information relating to themselves in those sectors to be disclosed to themselves or to accredited persons; and
(b) enable any person to be disclosed information in those sectors that is about goods (such as products) or services, and does not relate to any identifiable, or reasonably identifiable, consumers; and
(c) enable consumers in those sectors to request accredited persons to give instructions on behalf of the consumers to service providers in those sectors for the performance of actions; and
(d) require these kinds of disclosures and other things to be done, and these kinds of instructions to be given, in accordance with data standards.

This Part regulates the instruction layer associated with instructions for the performance of actions, which includes regulating requests for instructions, the giving of instructions, and how service providers process instructions.

A service provider given an instruction under the rules to perform an action must do so if the provider ordinarily performs actions of that type in the course of its business. Otherwise, this Part contains little regulation of the action layer (that is, regulating how service providers perform actions they are instructed to do). For example, the provider can perform the action, and charge any fees, in the way it ordinarily does.

A register is to be kept of accredited persons.

Privacy safeguards apply. These mainly apply to accredited persons who, under those rules, are disclosed information relating to identifiable, or reasonably identifiable, consumers.

Authorised Version C2026C00323 registered 22/07/2026

Subdivision B—Designating sectors, and declaring actions, to which the consumer data right applies

56AC Designated sectors subject to the consumer data right

Designating a sector

(1) A ***designated sector*** means a sector of the Australian economy designated under subsection (2).

(2) The Minister may, by legislative instrument, designate a sector of the Australian economy by specifying:

(a) classes of information (the ***designated information***); and

(b) persons who hold information within those classes of information (or on whose behalf such information is held); and

(c) the earliest day (the ***earliest holding day***) applicable to the sector for holding the designated information; and

(d) each of the classes of information within the designated information for which a person may charge a fee if:

(i) the person is required under the consumer data rules to disclose information within that class to another person in specified circumstances; or

(ii) another person uses information within that class in specified circumstances as the result of a disclosure required of the first-mentioned person under the consumer data rules; and

(e) if the sector is to have one or more gateways:

(i) the particular persons who are gateways; and

(ii) for each of those persons, the classes of information within the designated information for which the person is a gateway.

Note 1: The persons specified under paragraph (b):

(a) may be specified by class (see subsection 13(3) of the *Legislation Act 2003*); and

(b) will be holders of the information, rather than the consumers to whom the information relates; and

Authorised Version C2026C00323 registered 22/07/2026

(c) may not be the only holders of the information who can be required to disclose it under the consumer data rules (see section 56AJ (about the meaning of ***data holder***)).

Note 2: While a class of information specified under paragraph (d) or (e) needs to be of the information specified under paragraph (a), it need not be the same class as a class specified under paragraph (a).

Note 3: Subparagraph (e)(i) allows only particular persons to be specified, not classes of persons.

Note 4: For variation and repeal, see subsection 33(3) of the *Acts Interpretation Act 1901*.

Geographical limitation on information that can be designated

(3) Despite paragraph (2)(a), treat a class of information specified as described in that paragraph as only including so much of the information in that class as:

(a) has at any time been generated or collected wholly or partly in Australia or the external Territories, and:

(i) has been so generated or collected by (or on behalf of) one or more Australian persons; or

(ii) relates to one or more Australian persons (other than the persons who so generated or collected it); or

(iii) relates to goods or services supplied, or offered for supply, to one or more Australian persons; or

(b) has only ever been generated and collected outside of Australia and the external Territories, and:

(i) has been so generated or collected by (or on behalf of) one or more Australian persons; and

(ii) relates to one or more Australian persons (other than the persons who so generated or collected it), or relates to goods or services supplied, or offered for supply, to one or more Australian persons.

In this subsection, ***Australian person*** has the same meaning as in subsection 56AO(5).

Authorised Version C2026C00323 registered 22/07/2026

Limitation on the earliest holding day

(4) While the earliest holding day may be before the day the instrument under subsection (2) is made, the earliest holding day must not be earlier than the first day of the calendar year that is 2 years before the calendar year in which that instrument is made.

Example: The instrument is made on 1 July 2020. The earliest holding day could be 1 January 2018, but not before.

Note: The earliest holding day helps to work out if a person is a data holder of information specified under paragraph (2)(a), and so whether that information is subject to the consumer data right.

56ACA Declared types of actions that can be initiated under the consumer data rules

The Minister may, by legislative instrument, declare:

(a) one or more types of actions for which an instruction may be given under the consumer data rules; and

(b) for each of those action types—the classes of data holders, of CDR data, that are to be action service providers for that type of action.

Note: The classes of data holders specified for an action type will have no choice about being action service providers for that action type.

56AD Minister's tasks before designating a sector or declaring actions etc.

(1) Before making an instrument under subsection 56AC(2) or section 56ACA, the Minister must consider all of the following:

(a) the likely effect of making the instrument on:

(i) the interests of consumers; and

(ii) the efficiency of relevant markets; and

(iii) the privacy or confidentiality of consumers' information; and

(iv) promoting competition; and

(v) promoting data-driven innovation; and

Authorised Version C2026C00323 registered 22/07/2026

(vi) any intellectual property in the information, or relating to the types of actions, to be covered by the instrument; and

(vii) the public interest;

(b) the likely regulatory impact of allowing the consumer data rules to impose requirements relating to the information, or types of actions, to be covered by the instrument;

(c) for an instrument under subsection 56AC(2)—the following matters when considering whether to specify a class of information, as described in paragraph 56AC(2)(d), in the instrument:

(i) whether not specifying that class could result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) otherwise than on just terms (within the meaning of that paragraph);

(ii) whether holders of information within that class currently charge a fee for disclosing such information;

(iii) whether the incentive to generate, collect, hold or maintain information within that class would be reduced if that class were not so specified;

(iv) the marginal cost of the disclosures required under the consumer data rules of information within that class;

(d) for an instrument under subsection 56AC(2)—whether one or more gateways need to be specified in the instrument in order to facilitate access to the information to be covered by the instrument;

(e) any other matters the Minister considers relevant.

Note: The consumers could be individuals or other persons such as companies (see also subsection 56AI(4)).

(2) Before making an instrument under subsection 56AC(2) or section 56ACA, the Minister must:

(a) be satisfied that the Secretary of the Department has complied with section 56AE in relation to the making of the instrument; and

Authorised Version C2026C00323 registered 22/07/2026

(b) wait at least 60 days after the day the Secretary publishes the report relating to the making of the instrument (see section 56AE).

(3) Before making an instrument under subsection 56AC(2) or section 56ACA, the Minister must consult the Information Commissioner about the likely effect of making the instrument on the privacy or confidentiality of consumers' information.

56AE Secretary must arrange for analysis, consultation and report about an instrument proposing to designate a sector or declare actions

(1) The Secretary of the Department complies with this section in relation to the making of an instrument under subsection 56AC(2) or section 56ACA if the Secretary arranges for all of the following:

(a) an analysis of the matters in paragraphs 56AD(1)(a) to (e) in relation to the instrument;

(b) public consultation about those matters in relation to the instrument:

(i) for at least 28 days; and

(ii) in one or more ways that include making information available on the Department's website and inviting the public to comment;

(c) consultation with each of the following about those matters in relation to the instrument:

(i) the Commission;

(ii) the Information Commissioner;

(iii) for an instrument under subsection 56AC(2)—the person or body (if any) that the Secretary believes to be the primary regulator of the sector that the instrument would designate;

(iiia) for an instrument under section 56ACA—a person or body (if any) that the Secretary believes to be a regulator of a type of actions that the instrument would declare;

(iv) any person or body prescribed by the regulations;

Authorised Version C2026C00323 registered 22/07/2026

(d) the preparation of a report for the Minister about that analysis and consultation.

(2) The Secretary must publish the report on the Department's website.

56AEA Commission must analyse an instrument proposing to designate a sector or declare actions

When the Commission is consulted under subparagraph 56AE(1)(c)(i), the Commission must analyse the matters in paragraphs 56AD(1)(a) to (d) in relation to the instrument.

56AF Information Commissioner must analyse and report about an instrument proposing to designate a sector or declare actions

(1) When the Information Commissioner is consulted under subsection 56AD(3), the Information Commissioner must:
(a) analyse the likely effect of making the instrument on the privacy or confidentiality of consumers' information; and
(b) report to the Minister about that analysis.

(2) The Information Commissioner must publish the report on the Information Commissioner's website, except for any excluded part of the report.

(3) In deciding whether or not to exclude a part of the report from publication, the Information Commissioner must:
(a) have regard to the need to prevent the matters in subsection 33(2) of the *Privacy Act 1988*; and
(b) try to achieve an appropriate balance between the need to prevent those matters and the desirability of ensuring that interested persons are sufficiently informed of the Information Commissioner's analysis in the report.

Authorised Version C2026C00323 registered 22/07/2026

56AH Other matters

A failure to comply with section 56AD, 56AE, 56AEA or 56AF does not invalidate an instrument made under subsection 56AC(2) or section 56ACA.

Subdivision C—Meanings of key terms

56AI Meanings of *CDR data, directly or indirectly derived* and *CDR consumer*

*Meaning of **CDR data***

(1) ***CDR data*** is:

(a) information that is within a class of information specified, as described in paragraph 56AC(2)(a), in an instrument designating a sector under subsection 56AC(2); or

(aa) information that:

(i) relates to a CDR consumer for a CDR action; and

(ii) an accredited action initiator for CDR actions of that type is authorised by the consumer data rules to use, or disclose, to prepare or give a valid instruction for the performance of the CDR action on behalf of the CDR consumer; or

(b) information that is not covered by paragraph (a) or (aa) of this subsection, but is wholly or partly derived from information covered by:

(i) paragraph (a) or (aa) of this subsection; or

(ii) a previous application of this paragraph.

Note 1: Geographical limitations may cause some information within a class specified as described in paragraph 56AC(2)(a) to be disregarded (see subsection 56AC(3)), which means it will not be CDR data.

Note 2: Information covered by paragraph (b) includes information derived from information covered by paragraph (a) or (aa), information derived from that derived information, and so on.

Authorised Version C2026C00323 registered 22/07/2026

Note 3: Information covered by paragraph (b), for which there is a CDR consumer, cannot be required to be disclosed under the consumer data rules (see subsection 56BD(1)).

Note 4: Only certain kinds of CDR data for which there are no CDR consumers (also known as product data) can be required to be disclosed under the consumer data rules (see subsection 56BF(1)).

*Meaning of **directly or indirectly derived***

(2) CDR data is ***directly or indirectly derived*** from other CDR data if the first-mentioned CDR data is wholly or partly derived from the other CDR data after one or more applications of paragraph (1)(b).

*Meaning of **CDR consumer** for CDR data*

(3) A person is a ***CDR consumer*** for CDR data if:

(a) the CDR data relates to the person because:

(i) of the supply of a good or service to the person or to one or more of the person's associates (within the meaning of section 318 of the *Income Tax Assessment Act 1936*); or

(ii) of circumstances of a kind prescribed by the regulations; and

(b) the CDR data is held by another person who:

(i) is a data holder of the CDR data; or

(ii) is an accredited data recipient of the CDR data; or

(iia) is holding the CDR data as an action service provider for a type of CDR action; or

(iii) is holding the CDR data on behalf of a person mentioned in subparagraph (i), (ii) or (iia); and

(c) the person is identifiable, or reasonably identifiable, from:

(i) the CDR data; or

(ii) other information held by the other person referred to in paragraph (b); and

(d) none of the exclusions (if any) prescribed by the regulations apply to the first-mentioned person in relation to the CDR data.

Authorised Version C2026C00323 registered 22/07/2026

*Meaning of **CDR consumer** for a CDR action*

(3A) A person is a ***CDR consumer*** for a CDR action if:

(a) the performance of the CDR action:

(i) is for the person; or

(ii) relates to the person because of circumstances of a kind prescribed by the regulations; and

(b) the performance of the CDR action is not for the person as:

(i) an accredited action initiator for CDR actions of that type; or

(ii) an action service provider for CDR actions of that type; and

(c) none of the exclusions (if any) prescribed by the regulations apply to the person in relation to the CDR action.

Example: Assume X and Y are both accredited action initiators, and Y gives a valid instruction for the performance of a CDR action (that relates to the supply of accounting services) on X's behalf. X will be a CDR consumer for the CDR action, but Y will not be because of paragraph (b).

Other definitions of consumer do not apply for this Part

(4) Section 4B (about consumers) does not apply to this Part.

56AJ Meaning of *data holder*

(1) A person is a ***data holder***, of CDR data, if:

(a) the CDR data:

(i) is information within a class of information specified, as described in paragraph 56AC(2)(a), in an instrument designating a sector under subsection 56AC(2) (the ***designation instrument***); or

(ii) is directly or indirectly derived from information covered by subparagraph (i); and

(b) the CDR data is held by (or on behalf of) the person on or after the earliest holding day specified in the designation instrument; and

Authorised Version C2026C00323 registered 22/07/2026

(ba) in the case of the CDR data beginning to be held by (or on behalf of) the person before that earliest holding day, the CDR data:

(i) is of continuing use and relevance; and

(ii) is not about the provision before that earliest holding day of a product or service by (or on behalf of) the person; and

(c) the person is not a designated gateway for the CDR data; and

(d) subsection (2), (3), (3A), (4) or (5) applies to the person and the CDR data.

Note 1: Geographical limitations may cause some information within a class specified as described in paragraph 56AC(2)(a) to be disregarded (see subsection 56AC(3)), which means it will not be CDR data.

Note 2: For a product or service that the person began providing before the earliest holding day and continued providing after that day:

(a) subparagraph (ba)(ii) means the person will not be the data holder of CDR data about the person's provision of the product or service before that day; but

(b) the person will be the data holder of CDR data about the person's provision of the product or service on or after that day.

First case—person is specified in the designation instrument and data not disclosed to the person under the consumer data rules

(2) This subsection applies to a person and CDR data if:

(a) the person, or a class of persons to which the person belongs, is specified, as described in paragraph 56AC(2)(b), in the designation instrument as holding a class of information to which the CDR data belongs; and

(b) neither the CDR data, nor any other CDR data from which it was directly or indirectly derived, was disclosed to the person under the consumer data rules.

Second case—reciprocity arising from the person being disclosed other CDR data under the consumer data rules

(3) This subsection applies to a person and CDR data if:

Authorised Version C2026C00323 registered 22/07/2026

(a) neither the CDR data, nor any other CDR data from which it was directly or indirectly derived, was disclosed to the person under the consumer data rules; and

(b) the person is an accredited data recipient of other CDR data; and

(c) the conditions (if any) specified in the consumer data rules are met.

Note 1: Paragraph (b) is referring to other CDR data not covered by paragraph (a).

Note 2: The other CDR data referred to in paragraph (b) could be within a class of information specified in another instrument designating a different sector under subsection 56AC(2).

Third case—reciprocity arising from the person being a voluntary action service provider for a type of CDR action

(3A) This subsection applies to a person and CDR data if:

(a) neither the CDR data, nor any other CDR data from which it was directly or indirectly derived, was disclosed to the person under the consumer data rules; and

(b) the designation instrument (see subsection (1)) also specifies, as described in paragraph 56AC(2)(b), a class of persons (the ***core data holders***) as holding a class of information to which the CDR data belongs; and

(c) the person is not a core data holder, but is a voluntary action service provider for a type of CDR action; and

(d) the classes of data holders declared in the CDR declaration for that type of CDR action include the core data holders; and

(e) the conditions (if any) specified in the consumer data rules are met.

Note 1: The CDR data needs to be held by (or on behalf of) the person (see paragraph (1)(b)).

Note 2: The core data holders are data holders because of subsection (2).

Authorised Version C2026C00323 registered 22/07/2026

Fourth case—person is an accredited person and conditions in the consumer data rules are met

(4) This subsection applies to a person and CDR data if:
  (a) the person is an accredited person; and
  (b) the CDR data, or any other CDR data from which it was directly or indirectly derived, was disclosed to the person under the consumer data rules; and
  (c) the conditions specified in the consumer data rules are met.

Fifth case—person is specified in the designation instrument and conditions in the consumer data rules are met

(5) This subsection applies to a person and CDR data if:
  (a) the person, or a class of persons to which the person belongs, is specified, as described in paragraph 56AC(2)(b), in the designation instrument as holding a class of information to which the CDR data belongs; and
  (b) the CDR data, or any other CDR data from which it was directly or indirectly derived, was disclosed to the person under the consumer data rules; and
  (c) the conditions specified in the consumer data rules are met.

56AK Meaning of *accredited data recipient*

(1) A person is an ***accredited data recipient***, of CDR data, if:
  (a) the person is an accredited person; and
  (b) the CDR data is held by (or on behalf of) the person; and
  (c) the CDR data, or any other CDR data from which it was directly or indirectly derived, either:
    (i) was disclosed to the person under the consumer data rules; or
    (ii) is covered by subsection (2) for the person; and
  (d) the person is neither a data holder, nor a designated gateway, for the first-mentioned CDR data; and

Authorised Version C2026C00323 registered 22/07/2026

(e) the first-mentioned CDR data is not being held by (or on behalf of) the person as an action service provider for a type of CDR action.

Note: For paragraph (d), the person will be a data holder of that CDR data if subsection 56AJ(4) applies.

(2) This subsection covers CDR data for a person if:

(a) the CDR data is information that relates to a CDR consumer for a CDR action; and

(b) the person is authorised by the consumer data rules to use or disclose that information to prepare or give a valid instruction for the performance of the CDR action on behalf of the CDR consumer.

Note: This CDR data is information that is CDR data because of paragraph 56AI(1)(aa). Paragraph 56BGA(1)(d) ensures the rules can give the authorisation referred to in paragraph (b) of this subsection.

56AL Meanings of *CDR participant* and *designated gateway*

(1) A ***CDR participant***, for CDR data, is a data holder, or an accredited data recipient, of the CDR data.

(2) A person is a ***designated gateway***, for CDR data, if:

(a) the person is specified as a gateway, as described in subparagraph 56AC(2)(e)(i), in an instrument designating a sector under subsection 56AC(2); and

(b) the CDR data is information within a class, specified in that instrument, for which the person is a gateway; and

(c) the CDR data is, or is to be, disclosed to the person under the consumer data rules because the person is:

(i) acting as described in a subparagraph of paragraph 56BG(1)(a) or (b); or

(ii) if there are no consumers for the CDR data—acting between a CDR participant for the CDR data and a person requesting a disclosure of the CDR data;

and not because the person is an accredited person or a CDR consumer for the CDR data.

Authorised Version C2026C00323 registered 22/07/2026

56AM Meanings of *chargeable CDR data*, *chargeable circumstances* and *fee-free CDR data*

(1) CDR data is ***chargeable CDR data*** if the CDR data is information within a class specified, as described in paragraph 56AC(2)(d), in an instrument designating a sector under subsection 56AC(2) (the ***designation instrument***).

(2) The chargeable CDR data is disclosed in ***chargeable circumstances*** if it is disclosed in circumstances specified:
   (a) for that class of information; and
   (b) as described in subparagraph 56AC(2)(d)(i);
in the designation instrument.

(3) The chargeable CDR data is used in ***chargeable circumstances*** if it is used in circumstances specified:
   (a) for that class of information; and
   (b) as described in subparagraph 56AC(2)(d)(ii);
in the designation instrument.

(4) CDR data is ***fee-free CDR data*** if:
   (a) the consumer data rules require it to be disclosed; and
   (b) it is not chargeable CDR data.

56AMA Meanings of *CDR action* and *CDR declaration*

(1) A ***CDR action*** is an action of a type declared under section 56ACA.

(2) A ***CDR declaration***, for a type of CDR action, is the declaration under section 56ACA that declares actions of that type.

56AMB Meanings of *action service provider* and *voluntary action service provider*

(1) A person is an ***action service provider***, for a type of CDR action, if the person:

Authorised Version C2026C00323 registered 22/07/2026

(a) is within a class of data holders (of CDR data) declared in the CDR declaration for that type of CDR action; or

(b) is a voluntary action service provider for that type of CDR action.

Note 1: A data holder covered by paragraph (a) has no choice about being an action service provider for CDR actions of that type.

Note 2: A data holder covered by paragraph (a) for one or more types of CDR actions will not be an action service provider for any other type of CDR action unless the data holder chooses to apply to be a voluntary action service provider.

(2) A person is a ***voluntary action service provider***, for a type of CDR action, if:

(a) paragraph (1)(a) does not apply to the person for that type of CDR action; and

(b) the person holds an approval, of the kind described in subsection 56BHA(1), under the consumer data rules for that type of CDR action.

Note: The person will need to have applied to be approved as an action service provider for CDR actions of that type (see subsection 56BHA(1)).

56AMC Meaning of *accredited action initiator*

A person is an ***accredited action initiator*** for a type of CDR action if:

(a) the person is an accredited person; and

(b) the person's accreditation authorises the person to initiate that type of CDR action.

Note 1: The consumer data rules may include rules about accreditation, including about different levels of accreditation (see subsection 56BH(1)).

Note 2: The Register of Accredited Persons may include information about what a person's level of accreditation authorises the person to do (see section 56CE).

Authorised Version C2026C00323 registered 22/07/2026

56AMD Meaning of *CDR action participant*

A ***CDR action participant*** is an action service provider, or an accredited action initiator, for one or more types of CDR actions.

Subdivision D—Extension to external Territories and extraterritorial operation

56AN Extension to external Territories

Each of the following provisions (the ***CDR provisions***) extends to every external Territory:

(a) a provision of this Part;

(b) a provision of the regulations made for the purposes of a provision of this Part;

(c) a provision of the consumer data rules;

(ca) a provision of any other instrument made under this Part;

(d) another provision of this Act to the extent that it relates to a provision covered by paragraph (a), (b), (c) or (ca);

(e) a provision of the Regulatory Powers Act to the extent that it applies in relation to a provision of this Part;

(f) a provision of the *Privacy Act 1988* to the extent that it applies as described in section 56ES or 56ET of this Act.

56AO Extraterritorial operation of the CDR provisions

CDR provisions generally apply inside and outside Australia

(1) Subject to subsections (2) to (3B), the CDR provisions extend to acts, omissions, matters and things outside Australia.

CDR provisions apply for CDR data held inside Australia

(2) To the extent that the CDR provisions have effect in relation to CDR data held within Australia, the CDR provisions apply in relation to all persons (including foreign persons).

Authorised Version C2026C00323 registered 22/07/2026

CDR provisions can apply for CDR data held outside Australia

(3) To the extent that the CDR provisions have effect in relation to an act, or omission, relating to CDR data held outside Australia, the CDR provisions only apply if:

(a) the act or omission is by (or on behalf of) an Australian person; or

(b) the act or omission occurs wholly or partly in Australia, or wholly or partly on board an Australian aircraft or an Australian ship; or

(c) the act or omission occurs wholly outside Australia, and an Australian person suffers, or is likely to suffer, financial or other disadvantage as a result of the act or omission.

CDR provisions apply for CDR actions to be performed inside Australia

(3A) To the extent that the CDR provisions have effect in relation to a CDR action to be performed within Australia, the CDR provisions apply in relation to all persons (including foreign persons).

Example: Requirements in the consumer data rules relating to giving a valid instruction for the performance of a CDR action within Australia can apply to the accredited action initiator for the CDR action even if the accredited action initiator is a foreign person.

CDR provisions can apply for CDR actions to be performed outside Australia

(3B) To the extent that the CDR provisions have effect in relation to an act, or omission, relating to a CDR action to be performed outside Australia, the CDR provisions only apply if:

(a) the act or omission is by (or on behalf of) an Australian person; or

(b) the act or omission occurs wholly or partly in Australia, or wholly or partly on board an Australian aircraft or an Australian ship.

Example: Requirements in the consumer data rules relating to giving a valid instruction for the performance of a CDR action outside Australia can

Authorised Version C2026C00323 registered 22/07/2026

apply to the accredited action initiator for the CDR action if the accredited action initiator is an Australian person.

Interpretation

(4) For the purposes of subsection (3) or (3B), if a person's act or omission includes sending, omitting to send, causing to be sent or omitting to cause to be sent an electronic communication or other thing:

(a) from a point outside Australia to a point inside Australia; or

(b) from a point inside Australia to a point outside Australia;

that act or omission is taken to have occurred partly in Australia.

(5) In this section:

Australia, when used in a geographical sense, includes all the external Territories.

Australian aircraft has the same meaning as in the *Criminal Code*.

Australian person means:

(a) a body corporate established by or under a law of the Commonwealth, of a State or of a Territory; or

(b) an Australian citizen, a permanent resident (within the meaning of the *Australian Citizenship Act 2007*), or any other person ordinarily resident within Australia or an external Territory; or

(c) an entity covered by subsection 56AR(1), (2) or (3) (about Australian government entities).

Australian ship has the same meaning as in the *Criminal Code*.

foreign person means a person other than an Australian person.

point includes a mobile or potentially mobile point, whether on land, underground, in the atmosphere, underwater, at sea or anywhere else.

Authorised Version C2026C00323 registered 22/07/2026

56AP Geographical application of offences

Division 14 (Standard geographical jurisdiction) of the *Criminal Code* does not apply in relation to an offence against the CDR provisions.

Note: The extended geographical application that section 56AO gives to the CDR provisions applies to the offences against the CDR provisions.

Subdivision E—Application to government entities

56AQ CDR provisions bind the Crown

(1) The CDR provisions bind the Crown in each of its capacities.

(2) However, the CDR provisions do not make the Crown:
- (a) liable to a pecuniary penalty or to be prosecuted for an offence; or
- (b) subject to a remedy under section 56EY (about actions for damages for contravening the privacy safeguards); or
- (c) subject to a remedy under Part VI (about enforcement) other than section 87B (about enforceable undertakings); or
- (d) subject to a remedy under Part 4 (about civil penalties) or 7 (about injunctions) of the Regulatory Powers Act; or
- (e) subject to Part XID of this Act (about search and seizure).

56AR Government entities may participate under this Part

Application to Commonwealth government entities

(1) The CDR provisions apply in relation to an entity that:
- (a) is part of the Commonwealth; or
- (b) is a Commonwealth entity (within the meaning of the *Public Governance, Performance and Accountability Act 2013*); or
- (c) is a body (whether or not incorporated) established by or under a law of the Commonwealth; or
- (d) is:

Authorised Version C2026C00323 registered 22/07/2026

(i) holding or performing the duties of an office established by or under a law of the Commonwealth; or

(ii) holding an appointment made under a law of the Commonwealth; or

(e) is prescribed by the regulations.

Note: For how the CDR provisions so apply, see subsection (4).

Application to State or Territory government entities

(2) The CDR provisions apply only in relation to an entity that:

(a) is part of a State or Territory; or

(b) is a body (whether or not incorporated) established for a public purpose by or under a law of a State or Territory; or

(c) is:

(i) holding or performing the duties of an office established by or under a law of a State or Territory; or

(ii) holding an appointment made under a law of a State or Territory; or

(d) is an entity prescribed by the regulations in relation to a State or Territory;

if the entity is declared under subsection 56AS(1) as a participating entity, for the State or Territory, in one or more specified capacities.

Note 1: The entity is only a participating entity for those capacities specified in the declaration, for example, as a data holder.

Note 2: For how the CDR provisions so apply, see subsection (4).

(3) However, whether or not such a declaration is in force for an entity referred to in subsection (2), the CDR provisions apply in relation to the entity to the extent that:

(a) the CDR provisions relate to a CDR consumer for CDR data, and the entity is a CDR consumer for CDR data (or would be if the entity were a person); or

(b) the CDR provisions relate to a CDR consumer for a CDR action, and the entity is a CDR consumer for a CDR action (or would be if the entity were a person).

Authorised Version C2026C00323 registered 22/07/2026

Note: For how the CDR provisions so apply, see subsection (4).

How the CDR provisions apply to a government entity

(4) For an entity covered by subsection (1), (2) or (3), the CDR provisions apply as described in that subsection in relation to the entity:

(a) as if the entity were a person; and

(b) with the modifications (if any) prescribed by the regulations.

This subsection does not affect how subsection 56AQ(2) applies to the entity.

(5) If the CDR provisions so apply to an entity covered by subsection (1):

(a) as a data holder of CDR data, the entity is conferred such functions as are necessary to enable the entity to operate as a data holder in accordance with the CDR provisions; or

(aa) as an accredited person, the entity is conferred such functions as are necessary to enable the entity to operate as an accredited person in accordance with the CDR provisions; or

(b) as a designated gateway for CDR data, the entity is conferred such functions as are necessary to enable the entity to operate as a designated gateway in accordance with the CDR provisions; or

(c) as an action service provider for a type of CDR action, the entity is conferred such functions as are necessary to enable the entity to operate as an action service provider in accordance with the CDR provisions.

56AS Participating government entities of a State or Territory—declaration

(1) The Minister may, by notifiable instrument, declare that an entity is a participating entity, for a State or Territory, in one or more of the following specified capacities:

(a) as a data holder of CDR data;

(b) as an accredited person;

Authorised Version C2026C00323 registered 22/07/2026

(c) as a designated gateway for CDR data;

(d) as an action service provider for a type of CDR action.

Note: An entity may be declared by class (see subsection 13(3) of the *Legislation Act 2003*).

(2) However, the Minister must not do so unless the Minister is satisfied that the State or Territory has agreed to the entity participating under this Part in those capacities.

(3) If:

(a) a State or Territory has agreed to an entity of the State or Territory participating under this Part in those capacities; and

(b) the entity is a body corporate;

the entity is taken to have also agreed to participate under this Part in those capacities.

56AT Participating government entities of a State or Territory—revocation

(1) The Minister may, by notifiable instrument, revoke a declaration made under subsection 56AS(1) that an entity is a participating entity for a State or Territory.

(2) If a State or Territory requests in writing the Minister to revoke a declaration made under subsection 56AS(1) that an entity is a participating entity for the State or Territory, the Minister must, under subsection (1) of this section, revoke the declaration as soon as practicable.

(3) If the Minister revokes a declaration made under subsection 56AS(1) in relation to an entity, then, despite the revocation, subsection 56AR(2) continues to apply to the entity in relation to:

(a) any right, privilege, obligation or liability acquired, accrued or incurred before the revocation; and

(b) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation or liability;

as if the declaration were still in force.

Authorised Version C2026C00323 registered 22/07/2026

Subdivision F—Application to acts done by or in relation to agents etc. of CDR entities

56AU Acts done by or in relation to agents etc. of CDR entities

Conduct of agents etc. of a CDR entity attributable to the CDR entity

(1) For the purposes of this Part and the consumer data rules, each of the following provisions applies to a CDR entity who is not a body corporate in a corresponding way to the way that provision applies to a CDR entity who is a body corporate:

(a) section 84 of this Act;

(b) section 97 of the Regulatory Powers Act (to the extent that it applies in relation to a provision of this Part).

Acts done in relation to an agent of a CDR entity taken to be done in relation to the CDR entity

(2) For the purposes of this Part and the consumer data rules, if an act is done by a person in relation to another person (the ***agent***) who:

(a) is acting on behalf of a CDR entity; and

(b) is so acting within the agent's actual or apparent authority;

the act is taken to have also been done in relation to the CDR entity.

Definitions

(3) In this section:

CDR entity means any of the following:

(a) a data holder of CDR data;

(b) an accredited person;

(c) a designated gateway for CDR data;

(d) an action service provider for a type of CDR action.

Authorised Version C2026C00323 registered 22/07/2026

Division 2—Consumer data right

Subdivision A—Power to make consumer data rules

56BA Minister may make consumer data rules

(1) The Minister may, by legislative instrument, make rules (the ***consumer data rules***) for designated sectors, or types of CDR actions, in accordance with this Division.

Note: Subdivision C deals with the process for making the consumer data rules.

(2) Without limiting subsection (1), the consumer data rules may set out:

(a) different rules for different designated sectors; or

(b) different rules for different classes of CDR data; or

(c) different rules for different classes of persons specified, as described in paragraph 56AC(2)(b), in an instrument designating a sector under subsection 56AC(2); or

(d) different rules for different classes of persons who are able to be disclosed CDR data under the consumer data rules; or

(e) different rules for different types of CDR actions; or

(f) different rules for different classes of:

(i) action service providers for types of CDR actions; or

(ii) accredited persons; or

(iii) CDR consumers for CDR actions.

56BAA Rules must include requirement to delete CDR data on request from CDR consumer

Requirement to delete CDR data in response to request from CDR consumer

(1) The consumer data rules must include a requirement on an accredited data recipient of CDR data to delete all or part of the

Authorised Version C2026C00323 registered 22/07/2026

CDR data if a CDR consumer for the CDR data validly requests this.

(2) However, a rule described in subsection (1) must not require deletion of all or part of the CDR data if:

(a) the accredited data recipient is required to retain the CDR data by or under an Australian law or a court/tribunal order; or

(b) the CDR data relates to any current or anticipated:

(i) legal proceedings; or

(ii) dispute resolution proceedings;

to which the accredited data recipient is a party; or

(c) the CDR data relates to any current or anticipated:

(i) legal proceedings; or

(ii) dispute resolution proceedings;

to which the CDR consumer is a party.

Consumer data rules may include rules in relation to the requirement

(3) The consumer data rules may include the following rules in relation to the requirement:

(a) rules about:

(i) how the CDR consumer may make a valid request; and

(ii) what must be included in a request for it to be valid and when a request ceases to be a valid request;

(b) rules specifying circumstances (in addition to those in subsection (2)) in which the accredited data recipient may refuse to delete the CDR data despite the requirement;

(c) rules about how an accredited data recipient is to delete the CDR data covered in a valid request;

(d) rules about how the requirement is to be complied with depending on the class of CDR data requested to be deleted;

(e) rules about how an accredited data recipient is to notify the CDR consumer of:

Authorised Version C2026C00323 registered 22/07/2026

(i) the deletion of the CDR data and the extent of the deletion; or

(ii) if the CDR data is not deleted—the reasons the deletion did not occur;

(f) rules about any other matters incidental or related to the requirement (see also section 56BJ).

(4) This section applies despite any other provision of this Division.

(5) This section does not limit the consumer data rules dealing with the deletion of CDR data in circumstances other than compliance with the requirement.

56BB Matters that the consumer data rules may deal with

The consumer data rules may deal with the following matters:

(a) disclosure, collection, use, accuracy, storage, security or deletion of CDR data for which there are one or more CDR consumers (see also sections 56BC and 56BD);

(b) disclosure, collection, use, accuracy, storage, security or deletion of CDR data for which there are no CDR consumers (see also sections 56BE and 56BF);

(c) designated gateways for CDR data (see also section 56BG);

(ca) initiating CDR actions (see also section 56BGA);

(d) accreditation for the purposes of this Part (see also section 56BH);

(da) approving persons to be voluntary action service providers for types of CDR actions (see also section 56BHA);

(e) reporting, record keeping and auditing (see also section 56BI);

(f) matters incidental or related to any of the above matters (see also section 56BJ).

Authorised Version C2026C00323 registered 22/07/2026

56BC Rules about disclosure, collection, use, accuracy, storage, security or deletion of CDR data for which there are CDR consumers

Required disclosures in response to valid requests

(1) Without limiting paragraph 56BB(a), the consumer data rules may include the following rules:

(a) requirements on a CDR participant for CDR data to disclose all or part of the CDR data, in response to a valid request by a CDR consumer for the CDR data, to:

(i) the CDR consumer for use as the CDR consumer sees fit; or

(ii) an accredited person for use subject to the privacy safeguards; or

(iii) a data holder of other CDR data;

(b) rules about:

(i) how a CDR consumer for the CDR data may make a valid request of the kind described in paragraph (a); and

(ii) what must be included in a request for it to be valid, what disclosures or other matters a valid request may cover, and when a request ceases to be a valid request;

(c) requirements on a person (other than a CDR consumer for the CDR data) to satisfy in order to be disclosed the CDR data in the way described in paragraph (a).

Note 1: The requirements described in paragraph (a) could, for example, include a requirement that the disclosure be in accordance with the relevant data standards.

Note 2: A fee may be charged for such a disclosure if the CDR data is chargeable CDR data, unless section 56BU provides otherwise.

Authorised disclosures or use in accordance with valid consents

(2) Without limiting paragraph 56BB(a), the consumer data rules may include the following rules:

Authorised Version C2026C00323 registered 22/07/2026

(a) rules authorising a CDR participant for CDR data to disclose all or part of the CDR data to a person in accordance with a valid consent of a CDR consumer for the CDR data;

(b) rules authorising a person to use CDR data in accordance with a valid consent of a CDR consumer for the CDR data;

(c) rules about:

(i) how a CDR consumer for the CDR data may make a valid consent of the kind described in paragraph (a) or (b); and

(ii) what must be included in a consent for it to be valid, what disclosures, uses or other matters a valid consent may cover, and when a consent ceases to be a valid consent.

Note: Fees may be charged for these disclosures or uses.

Other rules

(3) Without limiting paragraph 56BB(a), the consumer data rules may include the following rules relating to CDR data for which there are one or more CDR consumers:

(a) rules relating to the privacy safeguards;

(b) other rules relating to the disclosure, collection, use, accuracy, storage or security of the CDR data that affect:

(i) an accredited person; or

(ii) a CDR participant, or CDR consumer, for the CDR data;

(c) other rules relating to the deletion of the CDR data that affect:

(i) an accredited person; or

(ii) an accredited data recipient of the CDR data; or

(iii) a CDR consumer for the CDR data.

Note 1: Subsection 56BD(3) limits how such rules can affect a data holder.

Note 2: The rules may deal with similar or additional matters to those in the privacy safeguards. When doing so, the rules will need to be consistent with those safeguards (see subsections 56EC(1) and (2)).

Authorised Version C2026C00323 registered 22/07/2026

Note 3: The rules must include a requirement on an accredited data recipient to delete all or part of the CDR data in response to a valid request by a CDR consumer for the CDR data (see section 56BAA).

56BD Limitations for rules about CDR data for which there are CDR consumers

Only certain CDR data can be required to be disclosed

(1) The consumer data rules can only require a disclosure of CDR data for which there are one or more CDR consumers if:

(a) the CDR data is covered by paragraph 56AI(1)(a) or (aa); and

(b) the disclosure is to:

(i) one or more of those CDR consumers; or

(ii) an accredited person; or

(iii) a designated gateway for the CDR data; or

(iv) a data holder of the CDR data by a designated gateway for the CDR data; or

(iva) a data holder of other CDR data; or

(ivb) an action service provider for a type of CDR action; or

(v) a person acting on behalf of a person referred to in any of subparagraphs (ii) to (ivb).

Note 1: This means CDR data cannot be required to be disclosed if it is only CDR data because it is directly or indirectly derived from:

(a) other CDR data within a class specified, as described in paragraph 56AC(2)(a), in an instrument designating a sector under subsection 56AC(2); or

(b) other CDR data, about a CDR consumer for a CDR action, that an accredited action initiator is authorised to use to prepare or give a valid instruction for the performance of the CDR action.

Note 2: The consumer data rules can include other rules relating to this other derived CDR data.

Note 3: Voluntary disclosures of this other derived CDR data can be authorised under the consumer data rules.

No fee when fee-free CDR data is required to be disclosed

(2) The consumer data rules cannot allow a fee to be charged for:

Authorised Version C2026C00323 registered 22/07/2026

(a) the disclosure of fee-free CDR data under rules like those described in paragraph 56BC(1)(a) or 56BG(1)(a); or

(b) the use of fee-free CDR data received as the result of such a disclosure.

Note: Fees may be charged for other kinds of disclosures or uses of fee-free CDR data.

Rules affecting data holders that relate to the use, accuracy, storage, security or deletion of CDR data

(3) For a data holder of CDR data for which there are one or more CDR consumers, the consumer data rules:

(a) can only include rules affecting the data holder that relate to the deletion of the CDR data if:

(i) the CDR data; or

(ii) any other CDR data from which it was directly or indirectly derived;

was disclosed to the data holder under the consumer data rules; and

(b) can only include rules affecting the data holder that relate to the use, accuracy, storage or security of the CDR data if such rules also relate to the disclosure of the CDR data under the consumer data rules.

Effect of limitations

(4) Subsections (1), (2) and (3) apply despite any other provision of this Division.

56BE Rules about disclosure, collection, use, accuracy, storage, security or deletion of product data

Without limiting paragraph 56BB(b), the consumer data rules may include the following rules for CDR data for which there are no CDR consumers:

Authorised Version C2026C00323 registered 22/07/2026

(a) requirements on a CDR participant for the CDR data to disclose all or part of the CDR data to a person in response to a valid request by the person;

(b) rules about:

(i) how a person may make a valid request of the kind described in paragraph (a); and

(ii) what must be included in a request for it to be valid, what disclosures or other matters a valid request may cover, and when a request ceases to be a valid request;

(c) requirements on a person to satisfy in order to be disclosed the CDR data in the way described in paragraph (a);

(d) other rules affecting:

(i) CDR participants for the CDR data; or

(ii) persons wishing to be disclosed the CDR data;

that relate to the disclosure, collection, use, accuracy, storage, security or deletion of the CDR data.

Note 1: A request for this CDR data could be made, for example, to assist the development of a product or service.

Note 2: The requirements described in paragraph (a) could, for example, include a requirement that the disclosure be in accordance with the relevant data standards.

Note 3: The privacy safeguards do not apply to this CDR data (see subsection 56EB(1)).

56BF Limitations for rules about product data

Only certain kinds of product data can be required to be disclosed

(1) The consumer data rules can only require a disclosure of CDR data for which there are no CDR consumers if:

(a) the CDR data is about the eligibility criteria, terms and conditions, price, availability or performance of:

(i) a product or other kind of good; or

(ii) a service; and

(b) in the case where the CDR data is about availability or performance—the CDR data is publicly available.

Authorised Version C2026C00323 registered 22/07/2026

Note 1: This means other kinds of CDR data for which there are no CDR consumers cannot be required to be disclosed.

Note 2: The consumer data rules can include other rules relating to other kinds of CDR data for which there are no CDR consumers.

Note 3: Voluntary disclosures of other kinds of CDR data for which there are no CDR consumers can be authorised under the consumer data rules.

No fee when this CDR data is required to be disclosed

(2) The consumer data rules cannot allow a fee to be charged for:
  (a) the disclosure of CDR data under rules like those described in paragraph 56BE(a) or 56BG(2)(a); or
  (b) the use of CDR data received as the result of such a disclosure.

Note: A fee could be charged for other disclosures or uses of CDR data for which there are no CDR consumers.

Effect of limitations

(3) Subsections (1) and (2) apply despite any other provision of this Division.

56BG Rules about designated gateways

CDR data for which there are CDR consumers

(1) Without limiting paragraph 56BB(c), if there is a designated gateway for CDR data for which there are one or more CDR consumers, the consumer data rules may include the following rules:
  (a) rules like those described in subsection 56BC(1) for the CDR data, but involving the designated gateway:
    (i) acting between the CDR consumer and the CDR participant in the making of a valid request; or
    (ii) acting between the CDR consumer and the accredited person who is the proposed recipient of the requested disclosure; or

Authorised Version C2026C00323 registered 22/07/2026

(iii) acting between the CDR participant and the CDR consumer, or accredited person, who is the proposed recipient of the requested disclosure;

(b) rules like those described in subsection 56BC(2) for the CDR data, but involving the designated gateway:

(i) acting between the CDR consumer and a person authorised as described in that subsection; or

(ii) acting between persons authorised as described in that subsection;

(c) other rules affecting the designated gateway that relate to the disclosure, collection, use, accuracy, storage, security or deletion of the CDR data.

Product data

(2) Without limiting paragraph 56BB(c), if there is a designated gateway for CDR data for which there are no CDR consumers, the consumer data rules may include the following rules:

(a) rules like those described in paragraphs 56BE(a) to (c), but involving the designated gateway acting between the CDR participant and the person requesting the disclosure;

(b) other rules affecting the designated gateway that relate to the disclosure, collection, use, accuracy, storage, security or deletion of the CDR data.

Limitation—rules relating to the collection, use, accuracy, storage, security or deletion of CDR data

(3) For a designated gateway for CDR data for which there are one or more CDR consumers, the consumer data rules:

(a) can only include rules affecting the designated gateway requiring or authorising the disclosure of the CDR data if such rules are as described in paragraph (1)(a) or (b); and

(b) can only include rules affecting the designated gateway that relate to the collection, use, accuracy, storage, security or deletion of the CDR data if such rules also relate to a disclosure described in paragraph (a) of this subsection.

Authorised Version C2026C00323 registered 22/07/2026

Note: Paragraph (a) does not prevent the inclusion of a rule relating to a disclosure described in that paragraph.

(4) Subsection (3) applies despite any other provision of this Division.

Transitional rules

(5) Without limiting paragraph 56BB(c), if there is a designated gateway for CDR data, the consumer data rules may include transitional rules for when a person ceases to be the designated gateway, including about the disclosure, collection, use, accuracy, storage, security or deletion of the CDR data.

Note: These rules could, for example, include a requirement that the CDR data be disclosed in accordance with the relevant data standards to another gateway. Some of these transitional rules could be similar to some of the privacy safeguards.

56BGA Rules about initiating CDR actions

Instructions may be given to initiate types of CDR actions

(1) Without limiting paragraph 56BB(ca), the consumer data rules may include the following rules:

(a) requirements on an accredited action initiator for a type of CDR action relating to giving a valid instruction:

(i) for the performance of a CDR action of that type; and

(ii) to an action service provider for a CDR action of that type; and

(iii) on behalf of a CDR consumer for the CDR action, and in response to that consumer's valid request; and

(iv) after a series of specified kinds of interactions between that initiator, provider, consumer or other persons (whether involving all or any 2 of them);

(b) rules about how an instruction must be prepared for it to be a valid instruction of the kind described in paragraph (a), what matters a valid instruction may cover, and when an instruction ceases to be a valid instruction;

(c) rules about:

Authorised Version C2026C00323 registered 22/07/2026

(i) how a CDR consumer for a CDR action may make a valid request of the kind described in subparagraph (a)(iii); and

(ii) what must be included in a request for it to be valid, what matters a valid request may cover, and when a request ceases to be a valid request;

(d) for an accredited action initiator for a type of CDR action who is acting as described in paragraph (a) to give a valid instruction on behalf of a CDR consumer for a CDR action—rules authorising the initiator to use or disclose information relating to the consumer that:

(i) is disclosed to the initiator; or

(ii) is otherwise held by the initiator;

to prepare or give the valid instruction;

(e) requirements on an action service provider for a type of CDR action relating to how the provider processes a valid instruction of the kind described in paragraph (a);

(f) rules relating to the interactions described in subparagraph (a)(iv);

(g) rules relating to the privacy safeguards in relation to an instruction or request relating to a CDR action;

(h) rules relating to information that is not CDR data, but that relates to a CDR action.

Note 1: The requirements described in paragraph (a) could, for example, include a requirement that the instruction be prepared and given in accordance with the relevant data standards.

Note 2: The rules may deal with similar or additional matters to those in the privacy safeguards. When doing so, the rules will need to be consistent with those safeguards (see subsections 56EC(1) and (2)).

Allowing providers to charge fees at the instruction layer

(2) Without limiting paragraph 56BB(ca), the consumer data rules may include rules declaring that action service providers for a type of CDR action may charge (or cause to be charged) fees for processing valid instructions of the kind described in paragraph (1)(a) for CDR actions of that type.

Authorised Version C2026C00323 registered 22/07/2026

Note 1: The action service providers will not be able to charge fees for processing valid instructions in the absence of such a declaration (see subsection 56BZD(1) and paragraph 56BZD(2)(a)).

Note 2: This subsection has no effect on what fees the providers decide to charge at the action layer for performing the CDR actions.

Authorised disclosures or use of related CDR data in accordance with valid consents

(3) Without limiting paragraph 56BB(ca), the consumer data rules may include the following rules:

(a) rules authorising a CDR action participant to disclose all or part of specified CDR data to a person in accordance with a valid consent of a CDR consumer for the CDR data;

(b) rules authorising a person to use CDR data in accordance with a valid consent of a CDR consumer for the CDR data;

(c) rules about:

(i) how a CDR consumer for the CDR data may make a valid consent of the kind described in paragraph (a) or (b); and

(ii) what must be included in a consent for it to be valid, what disclosures, uses or other matters a valid consent may cover, and when a consent ceases to be a valid consent.

Rules must not apply at the action layer

(4) Despite any other provision of this Division, the consumer data rules cannot include rules requiring an action service provider for a type of CDR action to perform (or not perform) a CDR action of that type in a particular way.

Note 1: The consumer data rules focus on the instruction layer not the action layer.

Note 2: The action service provider will need to ensure it does not discriminate against a valid instruction given under the consumer data rules (see sections 56BZC and 56BZD).

Authorised Version C2026C00323 registered 22/07/2026

Rules affecting CDR action participants that relate to the use, accuracy, storage, security or deletion of CDR data

(5) For CDR data that:

(a) is information referred to in paragraph (1)(d), or is directly or indirectly derived from other information referred to in that paragraph; and

(b) is disclosed to a CDR action participant under the consumer data rules (whether the disclosure is directly or indirectly from the accredited action initiator referred to in that paragraph);

the consumer data rules can include rules affecting that CDR action participant that relate to the use, disclosure, accuracy, storage, security or deletion of the CDR data.

56BH Rules about accreditation for the purposes of this Part

(1) Without limiting paragraph 56BB(d), the consumer data rules may include the following rules:

(a) rules conferring functions or powers on the CDR Accreditor;

(b) the criteria for a person to be accredited under subsection 56CA(1);

(c) rules providing that accreditations may be granted subject to conditions, and that conditions may be imposed on an accreditation after it has been granted;

(d) rules providing that accreditations may be granted at different levels corresponding to different risks, including the risks associated with:

(i) specified classes of CDR data; or

(ii) specified classes of activities; or

(iia) specified types of CDR actions; or

(iii) specified classes of applicants for accreditation;

(da) rules specifying what a person accredited at a particular level is authorised to do (or not authorised to do);

(e) rules for the period, renewal, transfer, variation, suspension, revocation or surrender of accreditations;

Authorised Version C2026C00323 registered 22/07/2026

(f) notification requirements on persons whose accreditations have been varied, suspended, revoked or surrendered;

(g) transitional rules for when an accreditation is varied, is suspended or ends, including about the disclosure, collection, use, accuracy, storage, security or deletion of CDR data;

(h) rules about a matter referred to in subsection 56CE(4) (about the Register of Accredited Persons).

Note 1: The rules described in paragraph (d) could, for example, include a level of accreditation for initiating CDR actions under the consumer data rules.

Note 2: The rules described in paragraph (g) could, for example, include a requirement that the CDR data be disclosed in accordance with the relevant data standards to an accredited person. Some of these transitional rules could be similar to some of the privacy safeguards.

(2) Without limiting paragraph (1)(b):

(a) the criteria may differ for different classes of persons; and

(b) the criteria may include the payment of a fee.

Any fee must not be such as to amount to taxation.

(3) Without limiting paragraph (1)(e), the grounds for varying, suspending or revoking an accreditation could include failing to comply with a requirement in this Part or in the consumer data rules.

Note 1: The requirements in this Part include the privacy safeguards.

Note 2: An example of a variation could be the imposition of a condition, or changing the level of an accreditation.

(4) If the consumer data rules include rules enabling decisions to be made:

(a) to vary, suspend or revoke an accreditation; or

(b) to refuse to make a decision described in paragraph (a);

the rules must permit the making of applications to the Administrative Review Tribunal for review of those decisions.

Note 1: The consumer data rules can also provide for internal review of these decisions, and internal and review by the Administrative Review Tribunal of other decisions (see section 56BJ).

Authorised Version C2026C00323 registered 22/07/2026

Note 2: The decisions could be decisions of the Minister or of another person (see paragraph 56BJ(c)).

56BHA Rules about approving persons to be voluntary action service providers for types of CDR actions

(1) Without limiting paragraph 56BB(da), the consumer data rules may include the following rules:

(a) rules for the approval of persons who apply to be action service providers for one or more types of CDR actions;

(b) the criteria for a person to be so approved;

(c) rules providing that such approval may be granted subject to conditions, and that conditions may be imposed on such an approval after it has been granted;

(d) rules providing that such approvals may be granted at different levels corresponding to different risks, including the risks associated with:

(i) specified types of CDR actions; or

(ii) specified classes of CDR data; or

(iii) specified classes of applicants for such approvals;

(e) rules specifying what a person approved at a particular level is authorised to do (or not authorised to do);

(f) rules for the period, renewal, transfer, variation, suspension, revocation or surrender of such approvals;

(g) notification requirements on persons whose such approvals have been granted, renewed, transferred, varied, suspended, revoked or surrendered;

(h) rules about publishing details of such approvals, renewals, transfers, variations, suspensions, revocations or surrenders;

(i) transitional rules for when such an approval is varied, is suspended or ends, including about the disclosure, collection, use, accuracy, storage, security or deletion of CDR data;

(j) rules conferring functions or powers on the Minister for any of the matters described in this subsection.

Note: The Minister may delegate the functions or powers referred to in paragraph (j) (see section 56GAA).

Authorised Version C2026C00323 registered 22/07/2026

(2) Without limiting paragraph (1)(b):

(a) the criteria may differ for different classes of persons; and

(b) the criteria may permit a person to be approved even if the person:

(i) is not a body corporate established by or under a law of the Commonwealth, of a State or of a Territory; and

(ii) is neither an Australian citizen, nor a permanent resident (within the meaning of the *Australian Citizenship Act 2007*); and

(c) the criteria may include the payment of a fee.

Any fee must not be such as to amount to taxation.

(3) Any such approval is granted on the basis that no compensation is payable if the approval is varied, transferred, suspended, revoked or surrendered in any way.

(4) Without limiting paragraph (1)(f), the grounds for varying, suspending or revoking such an approval could include failing to comply with a requirement in this Part or in the consumer data rules.

Note 1: The requirements in this Part include the privacy safeguards.

Note 2: An example of a variation could be the imposition of a condition, or changing the level of an approval.

(5) If the consumer data rules include rules enabling decisions to be made:

(a) to grant, vary, suspend or revoke such an approval; or

(b) to refuse to make a decision described in paragraph (a);

the rules must permit the making of applications to the Administrative Review Tribunal for review of those decisions.

Note: The consumer data rules can also provide for internal review of these decisions, and internal and ART review of other decisions (see section 56BJ).

(6) Without limiting paragraph (1)(h), the rules may provide that:

Authorised Version C2026C00323 registered 22/07/2026

(a) a person able to make any of the kinds of decisions described in subsection (5) may supply to another person a copy or extract that:
  (i) is from a publication of details described in paragraph (1)(h), where those details are matters of fact; and
  (ii) is certified by the person to be a true copy or a true extract (as applicable); and
(b) such a certified copy or extract (the ***certificate***) is admissible in any proceedings as prima facie evidence of the original; and
(c) the certificate must not be admitted in evidence in proceedings relating to a person unless:
  (i) the person; or
  (ii) a barrister or solicitor who is representing the person in the proceedings;

has, at least 14 days before the certificate is sought to be so admitted, been given a copy of the certificate together with notice of the intention to produce the certificate as evidence in the proceedings.

56BI Rules about reporting, record keeping and auditing

(1) Without limiting paragraph 56BB(e), the consumer data rules may include the following rules:
  (a) a power for a CDR consumer for CDR data to direct a CDR participant for the CDR data to give the consumer, or an accredited person, reports about:
    (i) the consumer's valid requests to the CDR participant, under rules like those described in paragraph 56BC(1)(a) or 56BG(1)(a), for the CDR data; and
    (ii) any disclosures made in response to such requests;
  (b) a power for a CDR consumer for CDR data to direct a CDR participant for the CDR data to give the consumer, or an accredited person, reports about:

Authorised Version C2026C00323 registered 22/07/2026

(i) the consumer's valid consents to the CDR participant, under rules like those described in paragraph 56BC(2)(a) or (b) or 56BG(1)(b), for the CDR data; and

(ii) any disclosures made in response to such consents;

(c) a power for a person referred to in paragraph 56BG(1)(a) or (b) to direct a designated gateway referred to in that paragraph to give reports about:

(i) valid requests or consents, affecting the designated gateway, under rules like those described in that paragraph; and

(ii) any disclosures made in response to such requests or consents;

(ca) a power for a CDR consumer for a CDR action to direct an accredited action initiator for CDR actions of that type to give the consumer, or an accredited person, reports about:

(i) the consumer's valid request made to the initiator, under rules like those described in subsection 56BGA(1), for the giving of a valid instruction for the performance of the CDR action; or

(ii) a valid instruction given by the initiator, under rules like those described in subsection 56BGA(1), on behalf of the consumer and for the performance of the CDR action;

(cb) a power for a CDR consumer for a CDR action to direct an action service provider for CDR actions of that type to give the consumer, or an accredited person, reports about the provider's processing of any valid instruction given to the provider:

(i) on behalf of the consumer under rules like those described in subsection 56BGA(1); and

(ii) for the performance of the CDR action;

(d) requirements for CDR participants for CDR data, or CDR action participants, to give reports to the Commission or the Information Commissioner;

Authorised Version C2026C00323 registered 22/07/2026

(e) requirements for accredited persons to give reports to the Commission or the Information Commissioner;

(f) requirements for designated gateways for CDR data to give reports to the Commission or the Information Commissioner;

(g) requirements for the keeping of records relating to the operation of the consumer data rules;

(h) requirements for each of the following entities:

(i) the CDR Accreditor;

(ii) the Accreditation Registrar;

(iii) the Data Standards Chair;

to give reports to the Commission or the Information Commissioner about that entity's functions or powers.

Note: Information or documents relating to compliance with the consumer data rules may also be required to be given (see subsections 155(1) and (2)).

(2) Without limiting subsection (1), the consumer data rules may include requirements for CDR participants or designated gateways for CDR data, CDR action participants or accredited persons to give to the Commission or Information Commissioner:

(a) copies of one or more of the records required to be kept as described in paragraph (1)(g); or

(b) information from such records;

either periodically, or on request by the Commission or Information Commissioner, or both.

56BJ Rules about incidental or related matters

Without limiting paragraph 56BAA(3)(f) or 56BB(f), the consumer data rules may include the following rules:

(a) rules that refer to the data standards;

(b) the circumstances in which persons are, or may be, relieved from complying with requirements in the consumer data rules that would otherwise apply to them;

(c) a rule that depends on a person being satisfied of one or more specified matters;

Authorised Version C2026C00323 registered 22/07/2026

(d) rules for the making of applications for internal review, or of applications to the Administrative Review Tribunal for review, of decisions of a person under the consumer data rules;

(e) rules about the manner or form in which persons or bodies:

(i) may exercise powers under the consumer data rules; or

(ii) must comply with requirements imposed by the consumer data rules;

which could include requiring the use of a form approved by the Commission or by the Information Commissioner;

(f) rules about the following matters:

(i) the manner in which CDR participants for CDR data, or CDR action participants, may charge (or cause to be charged) a fee for a matter covered by the consumer data rules;

(ii) the time for paying such a fee;

(iii) giving notice of, or publicising, such a fee or matters about such a fee;

(g) rules requiring CDR participants, or designated gateways, for CDR data, or CDR action participants, to have internal or external dispute resolution processes:

(i) that relate to the operation of the consumer data rules or this Part; and

(ii) that meet specified criteria;

(h) rules relating to an external dispute resolution scheme recognised under Division 4, including about access to such a scheme;

(i) transitional rules for the external resolution of disputes:

(i) described in subsection 56DA(1); and

(ii) not covered by a scheme recognised under that subsection;

(ia) rules requiring agents of any of the following entities (a ***CDR entity***):

(i) a data holder of CDR data;

(ii) an accredited person;

Authorised Version C2026C00323 registered 22/07/2026

(iii) a designated gateway for CDR data;

(iv) an action service provider for a type of CDR action;

to do or not to do specified things when acting on behalf of the CDR entity and within the agent's actual or apparent authority;

(j) rules about any other matters that the provisions of this Part provide may be specified, or otherwise dealt with, in the consumer data rules.

56BK Further limitations on the consumer data rules

(1) The consumer data rules cannot impose on a person a requirement that has a retrospective commencement or application.

Example: The rules cannot require a data holder to disclose CDR data on a day before the rules are registered, or on a day before the registration of a variation to the rules that includes the requirement.

Note: Other limitations on the consumer data rules are in sections 56BD, 56BF and 56BG.

(2) To avoid doubt, the consumer data rules may require a person to do something on a particular day, in relation to CDR data generated or collected on an earlier day, if the person:

(a) is a data holder of the CDR data; or

(b) is an accredited person; or

(c) is a person who has given a valid request under the consumer data rules relating to the CDR data; or

(d) is a designated gateway for the CDR data; or

(e) is an action service provider for a type of CDR action.

Example: A data holder is given a valid request to disclose CDR data that was generated before the rules are registered. The rules can require that disclosure.

(4) Subsection (1) applies despite any other provision of this Division.

Authorised Version C2026C00323 registered 22/07/2026

Subdivision B—Compliance with consumer data rules

56BL Obligation to comply with consumer data rules

The consumer data rules may provide that specified provisions of the rules are civil penalty provisions (within the meaning of the Regulatory Powers Act).

Note: Sections 76 to 77 deal with enforcing the civil penalty provisions.

56BM Infringement notices

Object

(1) The object of this section is for Division 5 of Part XI to apply to a civil penalty provision of the consumer data rules in a corresponding way to the way that Division applies to a provision of Part 2-2 of the Australian Consumer Law.

Note: That Division is about infringement notices issued for alleged contraventions of provisions of the Australian Consumer Law.

Extended application of Division 5 of Part XI etc.

(2) Division 5 of Part XI, and any other provision of this Act that relates to that Division, also apply in relation to a civil penalty provision of the consumer data rules as if the substitutions in the following table were made.

Substitutions to be made

Item	For a reference in Division 5 of Part XI to …	… substitute a reference to …
1	section 224 of the Australian Consumer Law	section 76 of this Act.
2	Chapter 4 or Part 5-2 of the Australian Consumer Law	Part VI of this Act.
3	a provision of Part 2-2 of the Australian Consumer Law	a civil penalty provision of the consumer data rules.

Authorised Version C2026C00323 registered 22/07/2026

(3) To avoid doubt, Division 2 of Part XI does not limit the application of section 56GF (about constitutional basis) to the extended application of Division 5 of Part XI as described in this section.

56BN Misleading or deceptive conduct—offence

(1) A person commits an offence if:

(a) the person engages in conduct; and

(b) the person does so knowing that the conduct:

(i) is misleading or deceptive; or

(ii) is likely to be misleading or deceptive; and

(c) the conduct misleads or deceives, or is likely to mislead or deceive, another person (the ***second person***) into believing that:

(i) a person is a CDR consumer for CDR data; or

(ii) a person is making a valid request or consent, or has satisfied other criteria, for the disclosure of CDR data under the consumer data rules; or

(iii) a person is a CDR consumer for a CDR action; or

(iv) a person has satisfied any criteria under the consumer data rules for the making of a request, the giving of a valid instruction, or the processing of a valid instruction, for the performance of a CDR action.

Note: The person mentioned in subparagraph (c)(i), (ii), (iii) or (iv) could be the first-mentioned person, the second person or a third person.

Defence

(2) Subsection (1) does not apply if the conduct is not misleading or deceptive in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see subsection 13.3(3) of the *Criminal Code*).

Authorised Version C2026C00323 registered 22/07/2026

Penalty—body corporate

(3) An offence against subsection (1) committed by a body corporate is punishable on conviction by a fine of not more than the greater of the following:
  (a) $10,000,000;
  (b) if the court can determine the value of the benefit that the body corporate, and any body corporate related to the body corporate, have obtained directly or indirectly and that is reasonably attributable to the commission of the offence—3 times the value of that benefit;
  (c) if the court cannot determine the value of that benefit—10% of the adjusted turnover of the body corporate during the 12-month period ending at the end of the month in which the commission of the offence happened or began.

Penalty—other persons

(5) An offence against subsection (1) committed by a person other than a body corporate is punishable on conviction by imprisonment for not more than 5 years, a fine of not more than $500,000, or both.

56BO Misleading or deceptive conduct—civil penalty

(1) A person must not engage in conduct that misleads or deceives, or is likely to mislead or deceive, another person (the ***second person***) into believing that:
  (a) a person is a CDR consumer for CDR data; or
  (b) a person is making a valid request or consent, or has satisfied other criteria, for the disclosure of CDR data under the consumer data rules; or
  (c) a person is a CDR consumer for a CDR action; or
  (d) a person has satisfied any criteria under the consumer data rules for:
    (i) the making of a request; or
    (ii) the giving of a valid instruction; or

Authorised Version C2026C00323 registered 22/07/2026

(iii) the processing of a valid instruction;

for the performance of a CDR action.

Note 1: The person mentioned in paragraph (a), (b), (c) or (d) could be the first-mentioned person, the second person or a third person.

Note 2: For enforcement, see Part VI (including section 76 for an order for payment of a pecuniary penalty).

Defence

(2) Subsection (1) does not apply if the conduct is not misleading or deceptive in a material particular.

(3) A person who wishes to rely on subsection (2) bears the burden of adducing or pointing to evidence that suggests a reasonable possibility that the conduct is not misleading or deceptive in a material particular.

Subdivision C—Process for making consumer data rules etc.

56BP Minister's tasks before making the rules

Before making consumer data rules under subsection 56BA(1), the Minister must:

(a) consider the kinds of matters referred to in paragraphs 56AD(1)(a) and (b) in relation to the making of the rules; and

(aa) consider the following kinds of matters in relation to making a rule described in subsection 56BGA(2) (about fees at the instruction layer) for a type of CDR action:

(i) whether performers of actions of that type currently charge fees for processing instructions to perform such actions;

(ii) whether the incentive to perform actions of that type would be reduced if fees could not be charged for processing such instructions;

(iii) the marginal cost of processing such instructions in accordance with the consumer data rules; and

Authorised Version C2026C00323 registered 22/07/2026

(b) be satisfied that the Secretary of the Department has complied with section 56BQ in relation to the making of the rules; and

(c) wait at least 60 days after the day public consultation begins under paragraph 56BQ(b) about the making of the rules.

56BQ Secretary must arrange for consultation and report before the rules are made

The Secretary of the Department complies with this section in relation to the making of consumer data rules if the Secretary arranges for all of the following:

(a) an analysis of the kinds of matters referred to in paragraphs 56BP(a) and (aa) in relation to the making of the rules;

(b) public consultation about the making of the rules:

(i) for at least 28 days; and

(ii) in one or more ways that includes making information available on the Department's website and inviting the public to comment;

(c) consultation with each of the following about the making of the rules:

(i) the Commission;

(ii) the Information Commissioner;

(iii) the person or body (if any) that the Secretary believes to be the primary regulator of the sector;

(iv) any person or body prescribed by the regulations;

(d) the preparation of a report for the Minister about that analysis and consultation.

56BR Commission and Information Commissioner must analyse the proposed rules

When consulted under paragraph 56BQ(c), the Commission and the Information Commissioner must each analyse the kinds of matters referred to in paragraphs 56BP(a) and (aa) in relation to the making of the rules.

Authorised Version C2026C00323 registered 22/07/2026

56BS Emergency rules: public consultation not required etc.

(1) The Minister may make consumer data rules under subsection 56BA(1):

(a) without complying with paragraph 56BP(b) or (c); but

(b) after consulting the Commission and Information Commissioner;

if the Minister believes (whether or not that belief is reasonable) that it is necessary to do so in order to avoid a risk of serious harm to:

(c) the efficiency, integrity or stability of any aspect of the Australian economy; or

(d) the interests of consumers.

Note: The Minister still needs to comply with paragraph 56BP(a).

(2) However, a failure to comply with paragraph (1)(b) of this section does not invalidate consumer data rules made as described in subsection (1).

Note: Such rules may have a limited life (see section 56BT).

56BT Emergency rules: consequences if made

If:

(a) the Minister makes consumer data rules as described in subsection 56BS(1) (the ***emergency rules***); and

(b) the emergency rules are made without consulting either the Commission or the Information Commissioner, or both;

the emergency rules cease to be in force 6 months after the day they are made.

Note: If the emergency rules vary other consumer data rules, this section causes only the emergency rules to cease to be in force.

56BTA Other matters

A failure to comply with section 56BP, 56BQ or 56BR does not invalidate consumer data rules made under subsection 56BA(1).

Authorised Version C2026C00323 registered 22/07/2026

Subdivision D—Fees for disclosing CDR data

56BU Charging a fee in inappropriate circumstances when required to disclose CDR data

(1) A person contravenes this subsection if:

(a) the person is a CDR participant for CDR data; and

(b) the person is required under the consumer data rules to disclose all or part of the CDR data; and

(c) the person charges (or causes to be charged) a fee for either or both of the following matters:

(i) the disclosure (or a related disclosure by a designated gateway or other CDR participant for the CDR data);

(ii) the use of the CDR data as the result of the disclosure (or of that related disclosure); and

(d) subsection (2) or any of the following subparagraphs applies:

(i) the CDR data is fee-free CDR data;

(ii) to the extent that the fee is charged for the disclosure of chargeable CDR data—the fee purports to cover a disclosure in circumstances that are not chargeable circumstances;

(iii) to the extent that the fee is charged for the use of chargeable CDR data—the fee purports to cover use in circumstances that are not chargeable circumstances.

Note: For enforcement, see Part VI (including section 76 for an order for payment of a pecuniary penalty).

(2) This subsection applies if:

(a) any fee (the ***reasonable fee***):

(i) that has been determined under subsection 56BV(1) or (2) for the person; or

(ii) that can be worked out from a method determined under subsection 56BV(1) or (2) for the person;

covers either or both of the matters in paragraph (1)(c) of this section; and

Authorised Version C2026C00323 registered 22/07/2026

(b) the portion of the fee charged as described in that paragraph for those matters exceeds the corresponding portion of the reasonable fee.

56BV Commission may intervene if fee for disclosing or using chargeable CDR data is unreasonable etc.

Intervening for a class of CDR participants

(1) The Commission may, by legislative instrument, determine:

(a) the amount of a fee, or a method for working out the amount of a fee, that a specified class of CDR participants for specified chargeable CDR data may charge (or cause to be charged) for either or both of the following matters (the ***chargeable matters***):

(i) the disclosure of the chargeable CDR data in chargeable circumstances because of a requirement under the consumer data rules to do so;

(ii) the use of the chargeable CDR data in chargeable circumstances as the result of such a disclosure; and

(b) the specified persons who are liable to pay that fee;

if the Commission is satisfied that the fee that the CDR participants would otherwise charge (or cause to be charged) is unreasonable having regard to the criteria in subsection (4).

Intervening for a particular CDR participant

(2) The Commission may, by written notice given to a CDR participant for specified chargeable CDR data, determine:

(a) the amount of a fee, or a method for working out the amount of a fee, that the CDR participant may charge (or cause to be charged) for either or both of the following matters (the ***chargeable matters***):

(i) the disclosure of the chargeable CDR data in chargeable circumstances because of a requirement under the consumer data rules to do so;

Authorised Version C2026C00323 registered 22/07/2026

(ii) the use of the chargeable CDR data in chargeable circumstances as the result of such a disclosure; and

(b) the specified persons who are liable to pay that fee;

if the Commission is satisfied that the fee that the CDR participant would otherwise charge (or cause to be charged) is unreasonable having regard to the criteria in subsection (4).

Note: The determination is reviewable (see Subdivision F).

Matters and criteria when intervening

(3) When determining an amount or method under subsection (1) or (2), the Commission must seek to ensure that the resulting fee:

(a) reflects the reasonable costs (including capital costs) necessary for the CDR participants or CDR participant to comply with this Part and the consumer data rules in relation to the chargeable matters; and

(b) is reasonable having regard to the criteria in subsection (4).

(4) The criteria for the purposes of subsections (1), (2) and paragraph (3)(b) are:

(a) the matters in subparagraphs 56AD(1)(a)(i), (ii), (iv) to (vi) and (c)(ii) and (iv); and

(b) whether a lower fee could result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) otherwise than on just terms (within the meaning of that paragraph); and

(c) whether a lower fee would reduce the incentive to generate, collect, hold or maintain CDR data of that kind; and

(d) any other matters the Commission considers relevant.

Other matters

(5) The Commission may publish a determination under subsection (2) on the Commission's website.

(6) A fee determined under subsection (1) or (2) must not be such as to amount to taxation.

Authorised Version C2026C00323 registered 22/07/2026

Subdivision E—Effective initiation and non-discriminatory performance of CDR actions

56BZA Accredited persons must act efficiently, honestly and fairly when initiating CDR actions etc.

A person contravenes this section if:

(a) the person is an accredited person; and

(b) the person's accreditation authorises the person to initiate a type of CDR action; and

(c) the person engages in conduct that includes:

(i) proposing to a potential CDR consumer for a CDR action of that type that the person give a valid instruction under the consumer data rules for the performance of the CDR action; or

(ii) giving a valid instruction under the consumer data rules for the performance of a CDR action of that type; and

(d) the person fails to act efficiently, honestly and fairly in relation to a matter described in subparagraph (c)(i) or (ii).

Note: For enforcement, see Part VI (including section 76 for an order for payment of a pecuniary penalty).

56BZB Accredited persons must only initiate CDR actions in accordance with CDR consumers' valid requests etc.

A person contravenes this section if:

(a) the person is an accredited person; and

(b) the person's accreditation authorises the person to initiate a type of CDR action; and

(c) the person purports to give a valid instruction:

(i) for the performance of a CDR action of that type; and

(ii) to an action service provider for a CDR action of that type; and

(iii) on behalf of a CDR consumer for the CDR action; and

(d) when purporting to give that instruction:

Authorised Version C2026C00323 registered 22/07/2026

(i) there was no valid request by the consumer, made in accordance with the consumer data rules, for the giving of that instruction; or

(ii) the person had failed to comply with a requirement in the consumer data rules for giving a valid instruction for a CDR action of that type.

Note: For enforcement, see Part VI (including section 76 for an order for payment of a pecuniary penalty).

56BZC No discrimination against CDR action instructions—service provider fails to perform CDR actions when it ordinarily performs actions of that type

A person contravenes this section if:

(a) the person is an action service provider for a type of CDR action; and

(b) the person is given a valid instruction under the consumer data rules to perform a CDR action of that type; and

(c) the person fails to perform the CDR action in accordance with the valid instruction; and

(d) having regard to criteria in the consumer data rules, the person would ordinarily perform actions of that type in the course of the person's business.

Note: For enforcement, see Part VI (including section 76 for an order for payment of a pecuniary penalty).

56BZD No discrimination against CDR action instructions—service provider's fees relating to CDR actions

No discrimination against CDR action instructions via fees

(1) A person contravenes this subsection if:

(a) the person is an action service provider for a type of CDR action; and

(b) the person is given a valid instruction under the consumer data rules to perform a CDR action of that type; and

Authorised Version C2026C00323 registered 22/07/2026

(c) the person charges (or causes to be charged) one or more fees for either or both of the following matters:
  (i) processing the valid instruction;
  (ii) performing the CDR action in accordance with the valid instruction; and
(d) either subsection (2) or (3) applies to those fees.

Note: For enforcement, see Part VI (including section 76 for an order for payment of a pecuniary penalty).

First case—charging inappropriate fees at the instruction layer

(2) This subsection applies to fees, to the extent they are for processing the valid instruction, if:
(a) the consumer data rules have not declared, as described in subsection 56BGA(2), that fees may be charged (or caused to be charged) for processing valid instructions for CDR actions of that type; or
(b) the fees for processing the valid instruction exceed any fees:
  (i) determined under subsection 56BZE(1) or (2) for the person; or
  (ii) worked out from a method determined under subsection 56BZE(1) or (2) for the person;
for processing the valid instruction.

Note: This protects the integrity of the CDR action regime by discouraging the person from charging inappropriate fees at the instruction layer.

Second case—charging higher than ordinary fees at the action layer

(3) This subsection applies to fees, to the extent they are for performing the CDR action in accordance with the valid instruction, if those fees exceed the fees that the person would ordinarily charge for performing actions of that type in the course of the person's business.

Note: This confirms that the person can continue to charge what the person ordinarily charges at the action layer, but no more than this.

Authorised Version C2026C00323 registered 22/07/2026

(4) To work out the fees that the person would ordinarily charge for performing actions of that type in the course of the person's business, have regard to any criteria specified in the consumer data rules.

56BZE Commission may intervene if fee for processing a valid instruction for a CDR action is unreasonable

Intervening for a class of action service providers

(1) The Commission may, by legislative instrument, determine:
  (a) the amount of a fee that a specified class of action service providers for a type of CDR action may charge (or cause to be charged) for processing a valid instruction for a CDR action of that type; or
  (b) a method for working out the amount of such a fee;
if subsection (3) applies for the fee and CDR actions of that type.

Intervening for a particular action service provider

(2) The Commission may, by written notice given to an action service provider for a type of CDR action, determine:
  (a) the amount of a fee that the provider may charge (or cause to be charged) for processing a valid instruction for a CDR action of that type; or
  (b) a method for working out the amount of such a fee;
if subsection (3) applies for the fee and CDR actions of that type.

Note: The determination is reviewable (see Subdivision F).

Conditions in order to intervene

(3) This subsection applies for a fee and a type of CDR action if:
  (a) the consumer data rules have declared, as described in subsection 56BGA(2), that fees may be charged (or caused to be charged) for processing valid instructions for CDR actions of that type; and

Authorised Version C2026C00323 registered 22/07/2026

(b) the Commission is satisfied that the fee that would otherwise be charged (or caused to be charged) is unreasonable having regard to the criteria in subsection (5).

Matters and criteria when intervening

(4) When determining an amount or method under subsection (1) or (2), the Commission must seek to ensure that the resulting fee:
   (a) reflects the reasonable costs (including capital costs) necessary for the providers or provider to comply with this Part and the consumer data rules in relation to processing the valid instruction; and
   (b) is reasonable having regard to the criteria in subsection (5).

(5) The criteria for the purposes of subsection (3) and paragraph (4)(b) are:
   (a) the matters in subparagraphs 56AD(1)(a)(i), (ii) and (iv) to (vi); and
   (b) the marginal cost of processing the valid instruction in accordance with the consumer data rules; and
   (c) whether a lower fee could result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) otherwise than on just terms (within the meaning of that paragraph); and
   (d) whether a lower fee would reduce the incentive to perform actions of that type; and
   (e) any other matters the Commission considers relevant.

Other matters

(6) The Commission may publish a determination under subsection (2) on the Commission's website.

(7) A fee determined under subsection (1) or (2) must not be such as to amount to taxation.

Authorised Version C2026C00323 registered 22/07/2026

Subdivision F—Review by the Tribunal of determinations about certain fees

56BZF Review by the Tribunal of determinations about fees of particular participants or providers

(1) If the Commission makes a determination under subsection 56BV(2) or 56BZE(2):

(a) the CDR participant or action service provider specified in the determination; or

(b) a person whose interests are affected by the determination;

may apply in writing to the Tribunal for a review of the determination.

(2) An application under this section for a review of a determination must be made within 21 days after the day the Commission made the determination.

(3) If the Tribunal receives an application under this section for a review of a determination, the Tribunal must review the determination.

56BZG Functions and powers of Tribunal

(1) On a review of a determination made under subsection 56BV(2) or 56BZE(2), the Tribunal:

(a) may make a decision affirming, setting aside or varying the determination; and

(b) for the purposes of the review, may perform all the functions and exercise all the powers of the Commission.

(2) A decision by the Tribunal affirming, setting aside or varying such a determination is taken for the purposes of this Act (other than this Subdivision) to be a determination of the Commission.

(3) For the purposes of a review by the Tribunal, the member of the Tribunal presiding at the review may require the Commission to

Authorised Version C2026C00323 registered 22/07/2026

give such information, make such reports and provide such other assistance to the Tribunal as the member specifies.

(4) For the purposes of a review, the Tribunal may have regard to any information given, documents produced or evidence given to the Commission in connection with the making of the determination to which the review relates.

Note: Division 2 of Part IX applies to proceedings before the Tribunal.

56BZH Provisions that do not apply in relation to a Tribunal review

Division 1 of Part IX does not apply in relation to a review by the Tribunal of a determination made under subsection 56BV(2) or 56BZE(2).

Subdivision G—Prohibitions on holding out

56BZI Prohibition on holding out that a person is something they are not—offence

(1) A person commits an offence if the person holds out that:
- (a) the person is an accredited person; or
- (b) the person is an accredited person holding an accreditation that has been granted at a particular level (see paragraph 56BH(1)(d)); or
- (c) the person is an accredited person holding an accreditation that authorises the person to do something (see paragraph 56BH(1)(da)); or
- (d) the person is an accredited data recipient of CDR data; or
- (e) the person is an accredited action initiator for a type of CDR action; or
- (f) the person is an action service provider for a type of CDR action; or
- (g) the person is approved as an action service provider at a particular level (see paragraph 56BHA(1)(d)); or
- (h) the person's approval as an action service provider authorises the person to do something (see paragraph 56BHA(1)(e));

Authorised Version C2026C00323 registered 22/07/2026

if that is not the case.

Penalty—body corporate

(2) An offence against subsection (1) committed by a body corporate is punishable on conviction by a fine of not more than the greater of the following:
  (a) $10,000,000;
  (b) if the court can determine the value of the benefit that the body corporate, and any body corporate related to the body corporate, have obtained directly or indirectly and that is reasonably attributable to the commission of the offence—3 times the value of that benefit;
  (c) if the court cannot determine the value of that benefit—10% of the adjusted turnover of the body corporate during the 12-month period ending at the end of the month in which the commission of the offence happened or began.

Penalty—other persons

(3) An offence against subsection (1) committed by a person other than a body corporate is punishable on conviction by imprisonment for not more than 5 years, a fine of not more than $500,000, or both.

56BZJ Prohibition on holding out that a person is something they are not—civil penalty

A person must not hold out that:
  (a) the person is an accredited person; or
  (b) the person is an accredited person holding an accreditation that has been granted at a particular level (see paragraph 56BH(1)(d)); or
  (c) the person is an accredited person holding an accreditation that authorises the person to do something (see paragraph 56BH(1)(da)); or
  (d) the person is an accredited data recipient of CDR data; or

Authorised Version C2026C00323 registered 22/07/2026

(e) the person is an accredited action initiator for a type of CDR action; or

(f) the person is an action service provider for a type of CDR action; or

(g) the person is approved as an action service provider at a particular level (see paragraph 56BHA(1)(d)); or

(h) the person's approval as an action service provider authorises the person to do something (see paragraph 56BHA(1)(e));

if that is not the case.

Note: For enforcement, see Part VI (including section 76 for an order for payment of a pecuniary penalty).

Authorised Version C2026C00323 registered 22/07/2026

Division 3—Accreditation etc.

Subdivision A—Accreditation process

56CA Granting accreditations

(1) The CDR Accreditor may, in writing, accredit a person if the CDR Accreditor is satisfied that the person meets the criteria for accreditation specified in the consumer data rules.

(2) To avoid doubt, a person may be accredited even if the person:
  (a) is not a body corporate established by or under a law of the Commonwealth, of a State or of a Territory; and
  (b) is neither an Australian citizen, nor a permanent resident (within the meaning of the *Australian Citizenship Act 2007*).

(3) An accreditation is granted on the basis that no compensation is payable if the accreditation is varied, transferred, suspended, revoked or surrendered in any way.

56CB Review of decisions refusing to accredit

Applications may be made to the Administrative Review Tribunal for review of decisions of the CDR Accreditor under subsection 56CA(1) refusing to accredit persons.

Note: For review by the Administrative Review Tribunal of decisions to vary, suspend or revoke accreditations, see subsection 56BH(4).

Subdivision B—Register of Accredited Persons

56CE Register of Accredited Persons

(1) The Accreditation Registrar must establish and maintain a register for the purposes of this Part, to be known as the Register of Accredited Persons.

Authorised Version C2026C00323 registered 22/07/2026

(2) The Accreditation Registrar must maintain the register by electronic means.

(3) The register is not a legislative instrument.

(4) The consumer data rules may make provision for or in relation to the following:
  (a) the inclusion in the register of entries for accredited persons;
  (b) the correction of entries in the register;
  (c) the publication or availability of all or part of the register, or of specified information in the register;
  (d) any other matter relating to the content, administration or operation of the register.

56CF Evidentiary value of the register

(1) The register is admissible in any proceedings as prima facie evidence of the matters in it.

(2) The Accreditation Registrar may issue a document containing the details of a matter taken from the register.

(3) The document issued under subsection (2) is admissible in any proceedings as prima facie evidence of the matter.

Subdivision C—CDR Accreditor

56CG Appointment of the CDR Accreditor

(1) The Minister may, by written instrument, appoint as the CDR Accreditor a person who:
  (a) is the accountable authority of a Commonwealth entity (within the meaning of the *Public Governance, Performance and Accountability Act 2013*); or
  (b) is a Commonwealth entity (within the meaning of that Act).

Note 1: For variation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

Authorised Version C2026C00323 registered 22/07/2026

Note 2: The Commission will be the CDR Accreditor in the absence of an appointment under this subsection (see the definition of ***CDR Accreditor*** in subsection 4(1)).

(2) The Minister may, at any time by written instrument, terminate an appointment made under subsection (1).

56CH Functions, powers and annual report

(1) The functions of the CDR Accreditor are:
  (a) to accredit persons under subsection 56CA(1); and
  (b) such other functions as are conferred by the consumer data rules.

(2) The CDR Accreditor has the power to do all other things necessary or convenient to be done for or in connection with the performance of the CDR Accreditor's functions.

(3) To avoid doubt, for a person who is the CDR Accreditor, both:
  (a) the person's functions and powers in their capacity other than as the CDR Accreditor (their ***primary capacity***); and
  (b) if the person is not a body corporate—the functions that may be performed, and the powers that may be exercised, by anyone appointed under a Commonwealth law to act as the person in that primary capacity;

are taken to include the functions and powers of the CDR Accreditor while the person is the CDR Accreditor.

(4) If:
  (a) a person is the CDR Accreditor at any time during a period; and
  (b) an annual report for the period is prepared under section 46 of the *Public Governance, Performance and Accountability Act 2013*:
    (i) by the person in the person's primary capacity; or
    (ii) about the person in the person's primary capacity;

Authorised Version C2026C00323 registered 22/07/2026

the annual report must include information about the performance of the CDR Accreditor's functions, and the exercise of the CDR Accreditor's powers, at that time.

56CI Directions by Minister

(1) The Minister may, by legislative instrument, give written directions to the CDR Accreditor about the performance of its functions and the exercise of its powers.

Note: Section 42 (disallowance) and Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* do not apply to the directions (see regulations made for the purposes of paragraphs 44(2)(b) and 54(2)(b) of that Act).

(2) A direction under subsection (1) must be of a general nature only.

(3) The CDR Accreditor must comply with a direction under subsection (1).

56CJ Delegation

(1) The CDR Accreditor may delegate any or all of the CDR Accreditor's functions or powers to:

(a) an SES employee, or an acting SES employee, in the Department, in the Commission or in the Commonwealth entity appointed under paragraph 56CG(1)(b) (if any); or

(b) an APS employee who is holding or performing the duties of a specified office or position that:

(i) is in the Department, in the Commission or in the Commonwealth entity appointed under paragraph 56CG(1)(b) (if any); and

(ii) is an office or position that the CDR Accreditor is satisfied is sufficiently senior for the APS employee to perform the function or exercise the power.

(2) In doing anything under a delegation under this section, the delegate must comply with any directions of the CDR Accreditor.

Authorised Version C2026C00323 registered 22/07/2026

Subdivision D—Accreditation Registrar

56CK Appointment of the Accreditation Registrar

(1) The Minister may, by written instrument, appoint as the Accreditation Registrar a person who:

(a) is the accountable authority of a Commonwealth entity (within the meaning of the *Public Governance, Performance and Accountability Act 2013*); or

(b) is a Commonwealth entity (within the meaning of that Act).

Note 1: For variation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

Note 2: The Commission will be the Accreditation Registrar in the absence of an appointment under this subsection (see the definition of ***Accreditation Registrar*** in subsection 4(1)).

(2) The Minister may, at any time by written instrument, terminate an appointment made under subsection (1).

56CL Functions, powers and annual report

(1) The functions of the Accreditation Registrar are:

(a) those described in Subdivision B; and

(b) such other functions as are conferred by the consumer data rules.

(2) The Accreditation Registrar has the power to do all other things necessary or convenient to be done for or in connection with the performance of the Accreditation Registrar's functions.

(3) To avoid doubt, for a person who is the Accreditation Registrar, both:

(a) the person's functions and powers in their capacity other than as the Accreditation Registrar (their ***primary capacity***); and

(b) if the person is not a body corporate—the functions that may be performed, and the powers that may be exercised, by anyone appointed under a Commonwealth law to act as the person in that primary capacity;

Authorised Version C2026C00323 registered 22/07/2026

are taken to include the functions and powers of the Accreditation Registrar while the person is the Accreditation Registrar.

(4) If:

(a) a person is the Accreditation Registrar at any time during a period; and

(b) an annual report for the period is prepared under section 46 of the *Public Governance, Performance and Accountability Act 2013*:

(i) by the person in the person's primary capacity; or

(ii) about the person in the person's primary capacity;

the annual report must include information about the performance of the Accreditation Registrar's functions, and the exercise of the Accreditation Registrar's powers, at that time.

56CM Directions by Minister

(1) The Minister may, by legislative instrument, give written directions to the Accreditation Registrar about the performance of its functions and the exercise of its powers.

Note: Section 42 (disallowance) and Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* do not apply to the directions (see regulations made for the purposes of paragraphs 44(2)(b) and 54(2)(b) of that Act).

(2) A direction under subsection (1) must be of a general nature only.

(3) The Accreditation Registrar must comply with a direction under subsection (1).

56CN Delegation

(1) The Accreditation Registrar may delegate any or all of the Accreditation Registrar's functions or powers to:

(a) an SES employee, or an acting SES employee, in the Department, in the Commission or in the Commonwealth entity appointed under paragraph 56CK(1)(b) (if any); or

Authorised Version C2026C00323 registered 22/07/2026

(b) an APS employee who is holding or performing the duties of a specified office or position that:

(i) is in the Department, in the Commission or in the Commonwealth entity appointed under paragraph 56CK(1)(b) (if any); and

(ii) is an office or position that the Accreditation Registrar is satisfied is sufficiently senior for the APS employee to perform the function or exercise the power.

Note: For the Registrar's functions and powers, see section 56CE.

(2) In doing anything under a delegation under this section, the delegate must comply with any directions of the Accreditation Registrar.

Authorised Version C2026C00323 registered 22/07/2026

Division 4—External dispute resolution

56DA Minister may recognise external dispute resolution schemes

Recognising an external dispute resolution scheme

(1) The Minister may, by notifiable instrument, recognise an external dispute resolution scheme for the resolution of disputes:

(a) relating to the operation of the consumer data rules, or this Part, in relation to one or more designated sectors or types of CDR actions; and

(b) involving one or more of the following:

(i) CDR participants for CDR data;

(ii) CDR consumers for CDR data;

(iii) designated gateways for CDR data;

(iiia) CDR action participants;

(iiib) CDR consumers for CDR actions;

(iv) other persons relating to any of those designated sectors or types of CDR actions.

Note 1: The consumer data rules may require internal dispute resolution schemes, see paragraph 56BJ(g).

Note 2: For variation and repeal, see subsection 33(3) of the *Acts Interpretation Act 1901*.

(2) The Minister may, in the instrument under subsection (1):

(a) specify a period for which the recognition of the external dispute resolution scheme is in force; and

(b) make the recognition of the external dispute resolution scheme subject to specified conditions, including conditions relating to the conduct of an independent review of the operation of the scheme.

Before recognising an external dispute resolution scheme

(3) Before recognising an external dispute resolution scheme under subsection (1), the Minister must consider:

Authorised Version C2026C00323 registered 22/07/2026

(a) the accessibility of the scheme; and
(b) the independence of the scheme; and
(c) the fairness of the scheme; and
(d) the accountability of the scheme; and
(e) the efficiency of the scheme; and
(f) the effectiveness of the scheme; and
(g) any other matters the Minister considers relevant.

(4) Before recognising an external dispute resolution scheme under subsection (1), the Minister must arrange for the Information Commissioner to be consulted about the scheme.

(5) A failure to comply with subsection (4) does not invalidate an instrument made under subsection (1).

Authorised Version C2026C00323 registered 22/07/2026

Division 5—Privacy safeguards

Subdivision A—Preliminary

56EA Simplified outline

This Division sets out privacy safeguards that protect the privacy or confidentiality of CDR consumers' CDR data, whether the CDR consumers are individuals or bodies corporate.

The privacy safeguards apply mainly to accredited persons, but also to data holders, designated gateways and action service providers, in relation to their handling or future handling of the CDR data.

The circumstances in which these safeguards can apply to an accredited person include where the person is an accredited action initiator for a type of CDR action who is or may become an accredited data recipient of CDR data.

A person's failure to comply with any of these safeguards may lead to consequences, including liability to a civil penalty (see Subdivision G) or the suspension or revocation of the person's accreditation (see subsection 56BH(3)).

56EB Kinds of CDR data to which the privacy safeguards apply

(1) The privacy safeguards only apply to CDR data for which there are one or more CDR consumers.

Note: One requirement for CDR data to have a CDR consumer is that there needs to be at least one person who is identifiable, or reasonably identifiable, from the CDR data or from related information (see paragraph 56AI(3)(c)).

(2) The privacy safeguards apply to CDR data whether the CDR data is true or not.

Authorised Version C2026C00323 registered 22/07/2026

56EC Relationship with other laws

Relationship with the consumer data rules

(1) If there is an inconsistency between the privacy safeguards and the consumer data rules, those safeguards prevail over those rules to the extent of the inconsistency.

(2) However, the consumer data rules are taken to be consistent with the privacy safeguards to the extent that they are capable of operating concurrently.

Note: This means that the privacy safeguards do not cover the field that they deal with.

Relationship with the Privacy Act 1988

(3) This Division does not limit Part IIIA (about credit reporting) of the *Privacy Act 1988*. However, the regulations may declare that in specified circumstances that Part applies in relation to CDR data as if specified provisions of that Part were omitted, modified or varied as specified in the declaration.

(4) Despite the *Privacy Act 1988*:

(a) the Australian Privacy Principles do not apply to an accredited data recipient of CDR data in relation to the CDR data; and

(aa) if section 56ED or 56EE applies to an accredited person in relation to CDR data—the corresponding Australian Privacy Principle does not apply to the accredited person in relation to the CDR data; and

(ab) if section 56EF or 56EG applies to a person:

(i) who is an accredited person; or

(ii) as a CDR action participant;

in relation to CDR data—the corresponding Australian Privacy Principle does not apply to the person in relation to the CDR data; and

(b) if section 56EN applies to a disclosure of CDR data by a person:

Authorised Version C2026C00323 registered 22/07/2026

(i) who is a data holder of the CDR data; or

(ii) as an action service provider for a type of CDR action;

then Australian Privacy Principle 10 does not apply to the person in relation to that disclosure of the CDR data; and

(c) if subsection 56EP(1) applies to CDR data and a person:

(i) who is a data holder of the CDR data; or

(ii) as an action service provider for a type of CDR action;

then Australian Privacy Principle 13 does not apply to the person in relation to the CDR data; and

(d) Australian Privacy Principles 6, 7 and 11 do not apply to a designated gateway for CDR data in relation to the CDR data; and

(e) if a small business operator (within the meaning of the *Privacy Act 1988*) is an action service provider for a type of CDR action, the *Privacy Act 1988* applies:

(i) subject to paragraphs (ab) to (c) of this subsection; and

(ii) in relation to personal information disclosed to the provider under the consumer data rules;

as if the provider were an organisation (within the meaning of the *Privacy Act 1988*).

Note 1: For the accredited data recipient, the privacy safeguards will apply instead.

Note 2: Section 56EN (or privacy safeguard 11) is about the quality of CDR data. Section 56EP (or privacy safeguard 13) is about correcting CDR data.

(5) Apart from paragraphs (4)(aa) to (d), this Division does not affect how the Australian Privacy Principles apply to:

(aa) an accredited person who does not become an accredited data recipient of the CDR data; or

(a) a data holder of CDR data in relation to the CDR data; or

(b) a designated gateway for CDR data in relation to the CDR data; or

(c) a person as an action service provider, for a type of CDR action, in relation to CDR data.

Authorised Version C2026C00323 registered 22/07/2026

Note 1: Privacy safeguard 1 will apply to a data holder, designated gateway or action service provider in parallel to Australian Privacy Principle 1.

Note 2: The consumer data rules (which are made under Division 2) will affect how the Australian Privacy Principles apply. Requirements and authorisations under those rules will be requirements or authorisations under an Australian law for the purposes of the Australian Privacy Principles.

Subdivision B—Consideration of CDR data privacy

56ED Privacy safeguard 1—open and transparent management of CDR data

Object

(1) The object of this section is to ensure that each person (a ***CDR entity***) who:

(a) is a data holder of CDR data; or

(b) is an accredited person who is or who may become an accredited data recipient of CDR data; or

(c) is a designated gateway for CDR data; or

(d) as an action service provider for a type of CDR action, has been or may be disclosed CDR data under the consumer data rules;

manages the CDR data in an open and transparent way.

Compliance with this Part etc.

(2) The CDR entity must take such steps as are reasonable in the circumstances to implement practices, procedures and systems that:

(a) will ensure that the CDR entity complies with this Part and the consumer data rules; and

(b) will enable the CDR entity to deal with inquiries or complaints from a CDR consumer for the CDR data about the CDR entity's compliance with this Part or the consumer data rules.

Authorised Version C2026C00323 registered 22/07/2026

Policy about the management of CDR data

(3) The CDR entity must have and maintain a clearly expressed and up-to-date policy that:
  (a) is about the CDR entity's management of CDR data; and
  (b) is in a form approved in accordance with the consumer data rules; and
  (c) contains the information required by subsections (4), (5), (6) and (6A) (as applicable).

Note: This subsection is a civil penalty provision (see section 56EU).

(4) If the CDR entity is a data holder of any CDR data, the CDR entity's policy must contain the following information:
  (a) how a CDR consumer for the CDR data may access the CDR data and seek the correction of the CDR data;
  (b) how a CDR consumer for the CDR data may complain about a failure of the CDR entity to comply with this Part or the consumer data rules, and how the CDR entity will deal with such a complaint.

(5) If the CDR entity is an accredited person who is or who may become an accredited data recipient of any CDR data, the CDR entity's policy must contain the following information:
  (a) the classes of CDR data that is or may become held by (or on behalf of) the CDR entity as an accredited data recipient, and how such CDR data is held or is to be held;
  (b) the purposes for which the CDR entity may collect, hold, use or disclose such CDR data with the consent of a CDR consumer for the CDR data;
  (c) how a CDR consumer for such CDR data may access the CDR data and seek the correction of the CDR data;
  (d) how a CDR consumer for such CDR data may complain about a failure of the CDR entity to comply with this Part or the consumer data rules, and how the CDR entity will deal with such a complaint;
  (e) whether the CDR entity is likely to disclose such CDR data to accredited persons who are based overseas;

Authorised Version C2026C00323 registered 22/07/2026

(f) if the CDR entity is likely to disclose such CDR data to accredited persons who are based overseas—the countries in which such persons are likely to be based if it is practicable to specify those countries in the policy;

(g) the circumstances in which the CDR entity may disclose such CDR data to a person who is not an accredited person;

(h) the events about which the CDR entity will notify the CDR consumers of such CDR data;

(i) the circumstances in which the CDR entity must delete or de-identify such CDR data in accordance with a request given by a CDR consumer for the CDR data under the consumer data rules.

(6) If the CDR entity is a designated gateway for any CDR data, the CDR entity's policy must contain the following information:

(a) an explanation of how the CDR entity, as a designated gateway, will act between persons to facilitate:

(i) the disclosure of CDR data; or

(ii) the accuracy of CDR data; or

(iii) other matters;

under the consumer data rules;

(b) how a CDR consumer for such CDR data may complain about a failure of the CDR entity to comply with this Part or the consumer data rules, and how the CDR entity will deal with such a complaint.

(6A) If the CDR entity is a person who, as an action service provider for a type of CDR action, has been or may be disclosed CDR data under the consumer data rules, the CDR entity's policy must contain the following information:

(a) how a CDR consumer for the CDR data may access the CDR data and seek the correction of the CDR data;

(b) how a CDR consumer for the CDR data may complain about a failure of the CDR entity to comply with this Part or the consumer data rules, and how the CDR entity will deal with such a complaint.

Authorised Version C2026C00323 registered 22/07/2026

Availability of policy etc.

(7) The CDR entity must make the CDR entity's policy available:
  (a) free of charge; and
  (b) in accordance with the consumer data rules.

Note: One way the consumer data rules could require the policy to be made available is to require the policy to be made available in accordance with a data standard.

(8) If a copy of the CDR entity's policy is requested by a CDR consumer for the CDR data, the CDR entity must give the CDR consumer a copy in accordance with the consumer data rules.

56EE Privacy safeguard 2—anonymity and pseudonymity

(1) A person who is:
  (a) an accredited data recipient of CDR data; or
  (b) an accredited person who may become an accredited data recipient of CDR data;

must give each CDR consumer for that CDR data the option of using a pseudonym, or not identifying themselves, when dealing with the person in relation to that CDR data.

Note: The CDR participant from whom the person acquired (or may acquire) the CDR data may be subject to a similar obligation under Australian Privacy Principle 2.

(2) That option may be given to a CDR consumer for the CDR data through a designated gateway for the CDR data.

(3) Subsection (1) does not apply in the circumstances specified in the consumer data rules.

Authorised Version C2026C00323 registered 22/07/2026

Subdivision C—Collecting CDR data

56EF Privacy safeguard 3—soliciting CDR data from participants under the consumer data rules

(1) A person covered by column 1 of an item of the following table must not seek to collect CDR data under the consumer data rules from another person covered by column 2 of that item unless:

(a) a CDR consumer for the CDR data has validly requested this under the consumer data rules for the purposes described in column 3 of that item; and

(b) the person complies with all other requirements in the consumer data rules for the collection of the CDR data from that other person.

Soliciting CDR data from participants under the consumer data rules

Item	Column 1 A person who:	Column 2 must not seek to collect CDR data from:	Column 3 unless a CDR consumer for the CDR data has requested this for the purposes of:
1	is an accredited person	a CDR participant for the CDR data	a use or disclosure under the consumer data rules
2	is acting as one of the kinds of CDR action participant	the other kind of CDR action participant	a valid instruction to be given: (a) by one of the CDR action participants (as an accredited action initiator for a type of CDR action) to the other; and (b) under the consumer data rules; and (c) for the performance of a CDR action of that type

Note 1: For item 2, the kinds of CDR action participants are accredited action initiators and action service providers (see section 56AMD).

Authorised Version C2026C00323 registered 22/07/2026

Note 2: For column 3 of item 2, the CDR consumer for the CDR data would need to have requested the collection of the CDR data as a CDR consumer for the CDR action.

Note 3: This subsection is a civil penalty provision (see section 56EU).

(2) Subsection (1) applies whether the collection is directly or indirectly from the person covered by column 2 of the table.

Note: The collection (whether direct or indirect) would need to be under the consumer data rules for subsection (1) to apply.

Example: The valid request referred to in column 3 of item 1 of the table could be given under the consumer data rules through a designated gateway (see section 56BG).

56EG Privacy safeguard 4—dealing with unsolicited CDR data from participants in CDR

(1) A person must destroy CDR data as soon as practicable after collecting it if:

(a) the person (the ***collector***) collected the CDR data while covered by column 1 of an item of the following table, and from a person covered by column 2 of that item; and

(b) the collector collected the CDR data:

(i) purportedly under the consumer data rules; but

(ii) not as the result of seeking to collect the CDR data under the consumer data rules; and

(c) the collector is not required to retain the CDR data by or under an Australian law or a court/tribunal order; and

(d) in the case where item 3 of the table applies, the circumstances specified in the consumer data rules do not apply.

Dealing with unsolicited CDR data from participants in CDR

Item	Column 1 A collector who:	Column 2 collects the CDR data from:
1	is an accredited person	a CDR participant for the CDR data

Authorised Version C2026C00323 registered 22/07/2026

Dealing with unsolicited CDR data from participants in CDR		
Item	**Column 1** **A collector who:**	**Column 2** **collects the CDR data from:**
2	as an accredited action initiator for a type of CDR action	an action service provider for that type of CDR action
3	as an action service provider for a type of CDR action	an accredited action initiator for that type of CDR action

Note: This subsection is a civil penalty provision (see section 56EU).

(2) Subsection (1) applies whether the collection is directly or indirectly from the person mentioned in column 2 of the table.

Example: For item 1 of the table, the collection could be from the CDR participant through a designated gateway (see section 56BG).

56EH Privacy safeguard 5—notifying of the collection of CDR data

If an accredited data recipient of CDR data collected the CDR data in accordance with section 56EF, the accredited data recipient must:

(a) take the steps specified in the consumer data rules to notify CDR consumers for the CDR data of the collection; and

(b) ensure that this notification:

(i) is given to those of the CDR consumers (if there are more than one) that the consumer data rules require to be notified; and

(ii) covers the matters specified in those rules; and

(iii) is given at or before the time specified in those rules.

Note 1: The accredited data recipient could have collected the CDR data in accordance with section 56EF as an accredited action initiator, and from an action service provider, for the purposes of giving a valid instruction of the kind described in item 2 of the table in that section.

Note 2: This section is a civil penalty provision (see section 56EU).

Authorised Version C2026C00323 registered 22/07/2026

Subdivision D—Dealing with CDR data

56EI Privacy safeguard 6—use or disclosure of CDR data by accredited data recipients or designated gateways

(1) An accredited data recipient of CDR data must not use or disclose it unless:

(a) in the case of a disclosure—the disclosure is required under the consumer data rules in response to a valid request from a CDR consumer for the CDR data; or

(b) the use or disclosure is otherwise required, or authorised, under the consumer data rules; or

(c) the use or disclosure is required or authorised by or under:

(i) another Australian law; or

(ii) a court/tribunal order;

and the accredited data recipient makes a written note of the use or disclosure.

Note 1: This subsection is a civil penalty provision (see section 56EU).

Note 2: The valid request referred to in paragraph (a) could be given through a designated gateway (see section 56BG).

Note 3: The Australian Privacy Principles will not apply for subparagraph (c)(i) (see paragraph 56EC(4)(a)).

(2) A designated gateway for CDR data must not use or disclose it unless:

(a) in the case of a disclosure—the disclosure is required under the consumer data rules; or

(b) the use or disclosure is authorised under the consumer data rules; or

(c) the use or disclosure is required or authorised by or under:

(i) another Australian law; or

(ii) a court/tribunal order;

and the designated gateway makes a written note of the use or disclosure in accordance with the consumer data rules.

Note 1: This subsection is a civil penalty provision (see section 56EU).

Authorised Version C2026C00323 registered 22/07/2026

Note 2: Australian Privacy Principle 6 will not apply for subparagraph (c)(i) (see paragraph 56EC(4)(d)).

(3) Neither subsection (1) nor (2) applies to the use or disclosure of CDR data for the purposes of direct marketing.

Note: Section 56EJ deals with the use or disclosure of CDR data for the purposes of direct marketing.

56EJ Privacy safeguard 7—use or disclosure of CDR data for direct marketing by accredited data recipients or designated gateways

(1) An accredited data recipient of CDR data must not use or disclose it for direct marketing unless:

(a) in the case of a disclosure—the disclosure is required under the consumer data rules in response to a valid request from a CDR consumer for the CDR data; or

(b) the use or disclosure is authorised under the consumer data rules in accordance with a valid consent of a CDR consumer for the CDR data.

Note 1: This subsection is a civil penalty provision (see section 56EU).

Note 2: The valid request referred to in paragraph (a), or the valid consent referred to in paragraph (b), could be given through a designated gateway (see section 56BG).

(2) A designated gateway for CDR data must not use or disclose it for direct marketing unless:

(a) in the case of a disclosure—the disclosure is required under the consumer data rules; or

(b) the use or disclosure is authorised under the consumer data rules.

Note: This subsection is a civil penalty provision (see section 56EU).

56EK Privacy safeguard 8—overseas disclosure of CDR data by accredited data recipients

(1) If:

Authorised Version C2026C00323 registered 22/07/2026

(a) an accredited data recipient of CDR data proposes to disclose the CDR data; and

(b) the recipient (the ***new recipient***) of the proposed disclosure:

(i) is not in Australia or an external Territory; and

(ii) is not a CDR consumer for the CDR data;

the accredited data recipient must not make the disclosure unless:

(c) the new recipient is an accredited person; or

(d) the accredited data recipient takes reasonable steps to ensure that any act or omission by (or on behalf of) the new recipient will not, after taking into account subsection (3), contravene:

(i) subsection 56ED(3); or

(ii) another privacy safeguard penalty provision in relation to the CDR data; or

(e) the accredited data recipient reasonably believes:

(i) that the new recipient is subject to a law, or binding scheme, that provides substantially similar protection for the CDR data as the privacy safeguards provide in relation to accredited data recipients; and

(ii) that a CDR consumer for the CDR data will be able to enforce those protections provided by that law or binding scheme; or

(f) the conditions specified in the consumer data rules are met.

Note 1: This subsection is a civil penalty provision (see section 56EU).

Note 2: This subsection applies in addition to the disclosure restrictions in sections 56EI, 56EJ and 56EL.

Note 3: A similar disclosure by a data holder of the CDR data that is required under the consumer data rules will be covered by Australian Privacy Principle 8 if the CDR data is personal information about an individual.

(2) If:

(a) the accredited data recipient of the CDR data makes the disclosure to the new recipient; and

(b) none of paragraphs (1)(c), (e) and (f) apply in relation to the disclosure to the new recipient; and

Authorised Version C2026C00323 registered 22/07/2026

(c) an act or omission by (or on behalf of) the new recipient, after taking into account subsection (3), contravenes:
(i) subsection 56ED(3); or
(ii) another privacy safeguard penalty provision in relation to the CDR data;

then the act or omission is taken to also be an act or omission by the accredited data recipient.

(3) For the purposes of paragraphs (1)(d) and (2)(c), assume that the privacy safeguards apply to the new recipient as if the new recipient were an accredited data recipient for the CDR data.

56EL Privacy safeguard 9—adoption or disclosure of government related identifiers by accredited data recipients

(1) If:
(a) a person is an accredited data recipient of CDR data; and
(b) the CDR data includes a government related identifier (within the meaning of the *Privacy Act 1988*) of a CDR consumer for the CDR data who is an individual;

the person must not adopt the government related identifier as the person's own identifier of the CDR consumer, or otherwise use the government related identifier, unless:
(c) the adoption or use is required or authorised by or under:
(i) an Australian law other than the consumer data rules; or
(ii) a court/tribunal order; or
(d) subclause 9.3 of Australian Privacy Principle 9 applies in relation to the adoption or use.

Note: This subsection is a civil penalty provision (see section 56EU).

(2) If:
(a) a person who is an accredited data recipient of CDR data proposes to disclose the CDR data; and
(b) the CDR data includes a government related identifier (within the meaning of the *Privacy Act 1988*) of a CDR consumer for the CDR data who is an individual;

Authorised Version C2026C00323 registered 22/07/2026

the person must not include the government related identifier in the disclosure unless:

(c) this is required or authorised by or under:

(i) an Australian law other than the consumer data rules; or

(ii) a court/tribunal order; or

(d) subclause 9.3 of Australian Privacy Principle 9 applies in relation to the disclosure.

Note 1: This subsection is a civil penalty provision (see section 56EU).

Note 2: This subsection applies in addition to the disclosure restrictions in sections 56EI, 56EJ and 56EK.

(3) For the purposes of paragraph (1)(d) or (2)(d), disregard paragraph 56EC(4)(a) (about the APPs not applying).

56EM Privacy safeguard 10—notifying of the disclosure of CDR data

Disclosures by data holders

(1) If a data holder of CDR data is required or authorised under the consumer data rules to disclose the CDR data to a person, the data holder must:

(a) take the steps specified in the consumer data rules to notify CDR consumers for the CDR data of the disclosure; and

(b) ensure that this notification:

(i) is given to those of the CDR consumers (if there are more than one) that the consumer data rules require to be notified; and

(ii) covers the matters specified in those rules; and

(iii) is given at or before the time specified in those rules.

Note: This subsection is a civil penalty provision (see section 56EU).

Disclosures by accredited data recipients

(2) If an accredited data recipient of CDR data discloses the CDR data, the accredited data recipient must:

Authorised Version C2026C00323 registered 22/07/2026

(a) take the steps specified in the consumer data rules to notify CDR consumers for the CDR data of the disclosure; and

(b) ensure that this notification:

(i) is given to those of the CDR consumers (if there are more than one) that the consumer data rules require to be notified; and

(ii) covers the matters specified in those rules; and

(iii) is given at or before the time specified in those rules.

Note: This subsection is a civil penalty provision (see section 56EU).

Disclosures to designated gateways

(3) To avoid doubt, subsection (1) or (2) applies even if the disclosure of the CDR data is to a designated gateway for the CDR data as required or authorised under the consumer data rules.

Note: The designated gateway may be subject to a similar notification requirement under the consumer data rules (see paragraph 56BG(1)(c)).

Disclosures by action service providers

(4) If a person as an action service provider for a type of CDR action is required or authorised under the consumer data rules to disclose CDR data to another person, the action service provider must:

(a) take the steps specified in the consumer data rules to notify CDR consumers for the CDR data of the disclosure; and

(b) ensure that this notification:

(i) is given to those of the CDR consumers (if there are more than one) that the consumer data rules require to be notified; and

(ii) covers the matters specified in those rules; and

(iii) is given at or before the time specified in those rules.

Note: This subsection is a civil penalty provision (see section 56EU).

Authorised Version C2026C00323 registered 22/07/2026

Subdivision E—Integrity of CDR data

56EN Privacy safeguard 11—quality of CDR data

Disclosures by data holders

(1) If a data holder of CDR data is required or authorised under the consumer data rules to disclose the CDR data, the data holder must take reasonable steps to ensure that the CDR data is, having regard to the purpose for which it is held, accurate, up to date and complete.

Note: This subsection is a civil penalty provision (see section 56EU).

Disclosures by accredited data recipients

(2) If an accredited data recipient of CDR data is disclosing the CDR data when:

(a) required under the consumer data rules to do so in response to a valid request from a CDR consumer for the CDR data; or

(b) otherwise required, or authorised, under the consumer data rules to do so;

the accredited data recipient must take reasonable steps to ensure that the CDR data is, having regard to the purpose for which it is held, accurate, up to date and complete.

Note 1: This subsection is a civil penalty provision (see section 56EU).

Note 2: The valid request referred to in paragraph (a) could be given through a designated gateway (see section 56BG).

Disclosures by action service providers

(2A) If a person as an action service provider for a type of CDR action is required or authorised under the consumer data rules to disclose CDR data, the action service provider must take reasonable steps to ensure that the CDR data is, having regard to the purpose for which it is held, accurate, up to date and complete.

Note: This subsection is a civil penalty provision (see section 56EU).

Authorised Version C2026C00323 registered 22/07/2026

Becoming aware after disclosure that the CDR data was incorrect—advising CDR consumer

(3) If a person:

(a) makes a disclosure referred to in subsection (1), (2) or (2A) for a CDR consumer for CDR data; and

(b) later becomes aware that some or all of the CDR data was incorrect when it was disclosed because, having regard to the purpose for which it was held, it was inaccurate, out of date or incomplete;

the person must advise the CDR consumer accordingly in accordance with the consumer data rules.

Note: This subsection is a civil penalty provision (see section 56EU).

Becoming aware after disclosure that the CDR data was incorrect—disclosing corrected CDR data

(4) A person, who is required by subsection (3) to advise a CDR consumer for CDR data that some or all of the CDR data was incorrect when it was earlier disclosed, must:

(a) correct the CDR data; and

(b) disclose the corrected CDR data, in accordance with the consumer data rules, to the recipient of the earlier disclosure;

if the person:

(c) is requested to do so by the CDR consumer in accordance with the consumer data rules; or

(d) is required to do so by the consumer data rules.

Note: This subsection is a civil penalty provision (see section 56EU).

(4A) Subsection (4) does not apply in the circumstances specified in the consumer data rules.

Purpose for which the CDR data was held

(5) When working out the purpose for which the CDR data is or was held, disregard the purpose of holding the CDR data so that it can be disclosed as required under the consumer data rules.

Authorised Version C2026C00323 registered 22/07/2026

Note: This subsection is relevant for subsections (1), (2) and (2A) and paragraph (3)(b).

56EO Privacy safeguard 12—security of CDR data, and destruction or de-identification of redundant CDR data

(1) Each person (a ***CDR entity***) who is:

(a) an accredited data recipient of CDR data; or

(b) a designated gateway for CDR data;

must take the steps specified in the consumer data rules to protect the CDR data from:

(c) misuse, interference and loss; and

(d) unauthorised access, modification or disclosure.

Note: This subsection is a civil penalty provision (see section 56EU).

(2) If:

(a) the CDR entity no longer needs any of that CDR data for either of the following purposes (the ***redundant data***):

(i) a purpose permitted under the consumer data rules;

(ii) a purpose for which the person is able to use or disclose it in accordance with this Division; and

(b) the CDR entity is not required to retain the redundant data by or under an Australian law or a court/tribunal order; and

(c) the redundant data does not relate to any current or anticipated:

(i) legal proceedings; or

(ii) dispute resolution proceedings;

to which the CDR entity is a party;

the CDR entity must take the steps specified in the consumer data rules to destroy the redundant data or to ensure that the redundant data is de-identified.

Note 1: This subsection is a civil penalty provision (see section 56EU).

Note 2: Australian Privacy Principle 11 will not apply for paragraph (b) (see paragraph 56EC(4)(a) or (d)).

Authorised Version C2026C00323 registered 22/07/2026

Subdivision F—Correction of CDR data

56EP Privacy safeguard 13—correction of CDR data

Obligation on data holders and action service providers

(1) If:

(a) a CDR consumer for CDR data gives a request to the following person (the ***CDR entity***):

(i) a data holder of the CDR data (including a request given through a designated gateway for the CDR data);

(ii) a person as an action service provider for a type of CDR action; and

(b) the request is for the CDR entity to correct the CDR data, and is not given in response to advice from the CDR entity under subsection 56EN(3); and

(c) the CDR entity was earlier required or authorised under the consumer data rules to disclose the CDR data;

the CDR entity must respond to the request to correct the CDR data by taking such steps as are specified in the consumer data rules to deal with each of the matters in subsection (3) of this section.

Note 1: This subsection is a civil penalty provision (see section 56EU).

Note 2: Subsection 56EN(4) applies instead of this subsection if the request is given in response to advice from the CDR entity under subsection 56EN(3).

Obligation on accredited data recipients

(2) If:

(a) a CDR consumer for CDR data gives a request to an accredited data recipient of the CDR data (including a request given through a designated gateway for the CDR data); and

(b) the request is for the accredited data recipient to correct the CDR data, and is not given in response to advice from the accredited data recipient under subsection 56EN(3);

Authorised Version C2026C00323 registered 22/07/2026

the accredited data recipient must respond to the request by taking such steps as are specified in the consumer data rules to deal with each of the matters in subsection (3) of this section.

Note 1: This subsection is a civil penalty provision (see section 56EU).

Note 2: Subsection 56EN(4) applies instead of this subsection if the request is given in response to advice from the accredited data recipient under subsection 56EN(3).

Relevant matters when responding to correction requests

(3) The matters are as follows:

(a) either:

(i) to correct the CDR data; or

(ii) to include a statement with the CDR data, to ensure that, having regard to the purpose for which the CDR data is held, the CDR data is accurate, up to date, complete and not misleading;

(b) to give notice of any correction or statement, or notice of why a correction or statement is unnecessary or inappropriate.

(4) When working out the purpose for which the CDR data is held (see subparagraph (3)(a)(ii)), disregard the purpose of holding the CDR data so that it can be disclosed as required under the consumer data rules.

Subdivision G—Compliance with the privacy safeguards

56EQ Information Commissioner to promote compliance etc.

(1) The Information Commissioner has the following functions:

(a) making guidelines for the avoidance of acts or practices that may breach the privacy safeguards;

(b) promoting an understanding and acceptance of the privacy safeguards;

(c) undertaking educational programs for the purposes of promoting the protection of CDR data.

Authorised Version C2026C00323 registered 22/07/2026

Note: The Information Commissioner also has functions that relate to this Part more broadly (see section 56GA).

Extra matters about guidelines under paragraph (1)(a)

(2) Before making guidelines under paragraph (1)(a), the Information Commissioner must consult the Minister and the Commission about the proposed guidelines.

(3) The Information Commissioner may publish guidelines made under paragraph (1)(a) in such manner as the Information Commissioner considers appropriate.

(4) If there is an inconsistency between the guidelines made under paragraph (1)(a) and the consumer data rules, those rules prevail over the guidelines to the extent of the inconsistency.

(5) Guidelines made under paragraph (1)(a) are not a legislative instrument.

Extra matters about educational programs under paragraph (1)(c)

(6) The educational programs referred to in paragraph (1)(c) may be undertaken by:
  (a) the Information Commissioner; or
  (b) a person or authority acting on behalf of the Information Commissioner.

56ER Information Commissioner may conduct an assessment relating to the management and handling of CDR data

(1) The Information Commissioner may assess whether a CDR participant, or designated gateway, for CDR data is maintaining and handling the CDR data in accordance with:
  (a) the privacy safeguards; or
  (b) the consumer data rules to the extent that those rules relate to:
    (i) the privacy safeguards; or
    (ii) the privacy or confidentiality of the CDR data.

Authorised Version C2026C00323 registered 22/07/2026

(1A) The Information Commissioner may assess whether an accredited person who may become an accredited data recipient of CDR data is complying with:

(a) section 56ED (about privacy safeguard 1); or

(b) the consumer data rules to the extent that those rules relate to that section.

(1B) The Information Commissioner may assess whether an action service provider for a type of CDR action, who has been or may be disclosed CDR data under the consumer data rules, is maintaining and handling the CDR data in accordance with:

(a) the privacy safeguards; or

(b) the consumer data rules to the extent that those rules relate to:

(i) the privacy safeguards; or

(ii) the privacy or confidentiality of the CDR data.

(2) The Information Commissioner may conduct an assessment under subsection (1), (1A) or (1B) in such manner as the Information Commissioner considers fit.

(3) The Information Commissioner may report to the Minister, the Commission or the Data Standards Chair about an assessment under subsection (1), (1A) or (1B).

56ES Notification of CDR data security breaches

Object

(1) The object of this section is for Part IIIC of the *Privacy Act 1988* to apply to an accredited data recipient, or designated gateway, that holds a CDR consumer's CDR data in a corresponding way to the way that Part applies to an entity that holds an individual's personal information.

Note: That Part is about notification of eligible data breaches.

Authorised Version C2026C00323 registered 22/07/2026

Extended application of Part IIIC of the Privacy Act 1988

(2) Part IIIC of the *Privacy Act 1988*, and any other provision of that Act that relates to that Part, also apply in relation to:

(a) an accredited data recipient of CDR data; or

(b) a designated gateway for CDR data;

as if the substitutions in the following table, and the modifications in subsection (3), were made.

Substitutions to be made

Item	Subject to subsection (4), for a reference in Part IIIC to …	… substitute a reference to …
1	any of the following: (a) personal information; (b) information	CDR data.
2	any of the following: (a) entity; (b) APP entity; (c) APP entity, credit reporting body, credit provider or file number recipient, as the case may be	each of the following: (a) accredited data recipient; (b) designated gateway.
3	any of the following: (a) individual to whom information relates; (b) individual	CDR consumer for CDR data.

Note: When CDR data and the other terms in the last column of the table appear in this notional version of Part IIIC, they have the same meanings as in this Act.

(3) For the purposes of subsection (2), assume that:

(a) sections 26WB to 26WD of the *Privacy Act 1988* were not enacted; and

(b) subsection 26WE(1) of that Act were replaced with the following:

Authorised Version C2026C00323 registered 22/07/2026

"Scope

(1) This section applies if:
  (a) CDR data of one or more CDR consumers is held by (or on behalf of) either of the following entities (the ***CDR entity***):
    (i) an accredited data recipient of the CDR data;
    (ii) a designated gateway for the CDR data; and
  (b) section 56EO (about privacy safeguard 12) of the *Competition and Consumer Act 2010* applies to the CDR entity in relation to the CDR data.".

(4) For the purposes of the table in subsection (2):
  (a) for item 1 of the table, disregard the following references to information in Part IIIC of the *Privacy Act 1988*:
    (ia) the last reference in section 26WA;
    (i) the last reference in paragraph 26WG(h);
    (ii) the reference in the note to section 26WG;
    (iii) all references in Division 4 of Part IIIC other than the reference in paragraph 26WU(2)(e); and
  (b) for item 2 of the table, disregard each reference to entity in paragraphs 26WF(1)(f), (2)(f), (3)(f), (4)(f) and (5)(f) of the *Privacy Act 1988*.

56ET Investigating breaches of the privacy safeguards etc.

Breaches to which this section applies

(1) This section applies to a breach (a ***privacy safeguard breach***) of any of the following:
  (a) one or more of the privacy safeguards;
  (b) the consumer data rules to the extent that those rules relate:
    (i) to one or more of the privacy safeguards; or
    (ii) to the privacy or confidentiality of CDR data;
  (c) section 26WH, 26WK or 26WL or subsection 26WR(10) of the *Privacy Act 1988*, as they apply because of section 56ES of this Act;

Authorised Version C2026C00323 registered 22/07/2026

in relation to the CDR data of:

(d) a CDR consumer who is an individual; or

(e) a small business (within the meaning of the *Privacy Act 1988*) carried on by a CDR consumer for the CDR data.

(2) This section also applies to a breach of section 56ED (privacy safeguard 1).

Object

(3) The object of this section is for Part V of the *Privacy Act 1988* to apply to an act or practice:

(a) of a CDR participant, designated gateway, accredited person or action service provider for a type of CDR action; and

(b) that may be:

(i) a privacy safeguard breach relating to CDR data covered by subsection (1); or

(ii) a breach of section 56ED (privacy safeguard 1);

in a corresponding way to the way that Part applies to an act or practice of an organisation, person or entity that may be an interference with the privacy of an individual or a breach of Australian Privacy Principle 1.

Note: That Part is about investigations of interferences with privacy etc. The Information Commissioner also has the power, under Division 1AC of Part VIB of the Privacy Act 1988, to investigate contraventions of civil penalty provisions in Division 5 of Part IVD of this Act.

Extended application of Part V of the Privacy Act 1988

(4) Part V of the *Privacy Act 1988*, and any other provision of that Act that relates to that Part, also apply in relation to:

(a) a CDR participant for CDR data; or

(b) a designated gateway for CDR data; or

(c) an accredited person who may become an accredited data recipient of CDR data; or

Authorised Version C2026C00323 registered 22/07/2026

(d) an action service provider for a type of CDR action, who has been or may be disclosed CDR data under the consumer data rules;

as if the substitutions in the following table, and the modifications in subsection (5), were made.

Substitutions to be made

Item	Subject to subsection (6), for a reference in Part V to …	… substitute a reference to …
1	interference with the privacy of an individual	a privacy safeguard breach relating to the CDR data of: (a) a CDR consumer who is an individual; or (b) a small business (within the meaning of the *Privacy Act 1988*) carried on by a CDR consumer for the CDR data.
2	Australian Privacy Principle 1	section 56ED (privacy safeguard 1) of this Act.
3	individual	a person who: (a) is a CDR consumer for the CDR data to which the privacy safeguard breach (or possible privacy safeguard breach) relates; and (b) is an individual, or is carrying on a small business (within the meaning of the *Privacy Act 1988*) to which the CDR data relates.
4	recognised external dispute resolution scheme	an external dispute resolution scheme for which an instrument is in force under subsection 56DA(1) of this Act.

Note: When CDR data and the other terms in the last column of the table appear in this notional version of Part V, they have the same meanings as in this Act.

(5) For the purposes of subsection (4), assume that:

(a) subsection 5B(4) of the *Privacy Act 1988* were not enacted; and

Authorised Version C2026C00323 registered 22/07/2026

(b) section 36 of that Act also stated that:
  (i) in the case of a complaint about an act or practice of a CDR participant—the CDR participant is the respondent; or
  (ii) in the case of a complaint about an act or practice of a designated gateway—the designated gateway is the respondent; or
  (iii) in the case of a complaint about an act or practice of an accredited person who may become an accredited data recipient of CDR data—the accredited person is the respondent; or
  (iv) in the case of a complaint about an act or practice of an action service provider for a type of CDR action, who has been or may be disclosed CDR data under the consumer data rules—the action service provider is the respondent; and

(c) subsections 36(6) to (8), section 37, subsections 40(1B), 43(1A), (8), (8A) and (9) and 48(2), section 50A, sub-subparagraph 52(1)(b)(i)(A) and sections 53A and 53B of that Act were not enacted; and

(d) the paragraphs in each of subsections 55B(1) and (3) of that Act were replaced by:
  (i) a paragraph that states that an act or practice of a specified CDR participant for CDR data has breached a privacy safeguard; and
  (ii) a paragraph that states that an act or practice of a specified designated gateway for CDR data has breached a privacy safeguard; and
  (iii) a paragraph that states that an act or practice of an accredited person who may become an accredited data recipient of CDR data has breached a privacy safeguard; and
  (iv) a paragraph that states that an act or practice of an action service provider for a type of CDR action, who has been or may be disclosed CDR data under the

Authorised Version C2026C00323 registered 22/07/2026

consumer data rules, has breached a privacy safeguard; and

(e) Division 4 of Part V, and subsection 63(2A), of that Act were not enacted.

(6) For the purposes of item 3 of the table in subsection (4), disregard the reference to individual in the heading to section 39 of the *Privacy Act 1988*.

56EU Civil penalty provisions

The provisions of this Division that are civil penalty provisions

(1) For the purposes of subparagraph 79(2)(a)(ii) of the Regulatory Powers Act, each of the following provisions of this Division (the ***privacy safeguard penalty provisions***) is a civil penalty provision:

(a) subsection 56ED(3);
(b) subsection 56EF(1);
(c) subsection 56EG(1);
(d) section 56EH;
(e) subsection 56EI(1) or (2);
(f) subsection 56EJ(1) or (2);
(g) subsection 56EK(1);
(h) subsection 56EL(1) or (2);
(i) subsection 56EM(1), (2) or (4);
(j) subsection 56EN(1), (2), (2A), (3) or (4);
(k) subsection 56EO(1) or (2);
(l) subsection 56EP(1) or (2).

Enforceable civil penalty provisions

(2) Each privacy safeguard penalty provision is enforceable under Part 4 of the Regulatory Powers Act.

Note: Part 4 of the Regulatory Powers Act allows a civil penalty provision to be enforced by obtaining an order for a person to pay a pecuniary penalty for the contravention of the provision.

Authorised Version C2026C00323 registered 22/07/2026

Authorised applicant

(3) For the purposes of Part 4 of the Regulatory Powers Act, the Information Commissioner is an authorised applicant in relation to each privacy safeguard penalty provision.

Relevant court

(4) For the purposes of Part 4 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to each privacy safeguard penalty provision:
  (a) the Federal Court;
  (b) the Federal Circuit and Family Court of Australia (Division 2);
  (c) a court of a State or Territory that has jurisdiction in relation to the matter.

Act or omission also contravening a civil penalty provision of the consumer data rules

(5) If an act or omission constitutes:
  (a) a contravention of one or more of the privacy safeguard penalty provisions; and
  (b) a contravention of one or more civil penalty provisions of the consumer data rules;

proceedings may be instituted against a person in relation to the contravention of any one or more of those provisions.

Note 1: The proceedings for a contravention referred to in paragraph (a) would be instituted under Part 4 of the Regulatory Powers Act.

Note 2: The proceedings for a contravention referred to in paragraph (b) would be instituted under Part VI of this Act.

(6) However, the person is not liable to more than one pecuniary penalty under:
  (a) Part 4 of the Regulatory Powers Act for a contravention referred to in paragraph (5)(a) of this section; and
  (b) Part VI of this Act for a contravention referred to in paragraph (5)(b) of this section;

Authorised Version C2026C00323 registered 22/07/2026

in relation to the same act or omission.

Note: This means the person cannot be liable for a pecuniary penalty for a contravention of the privacy safeguards, and for a pecuniary penalty for a contravention of the consumer data rules, in relation to the same act or omission.

56EV Civil penalty provisions—maximum amount of penalty

(1) Despite subsection 82(5) of the Regulatory Powers Act, the pecuniary penalty payable:

(a) by a person; and

(b) under a civil penalty order under Part 4 of that Act (as that Part applies because of section 56EU of this Act);

must not be more than the maximum penalty amount worked out under this section for a contravention by the person.

Maximum amount of civil penalty for a body corporate

(2) For the purposes of subsection (1), the maximum penalty amount for a contravention by a body corporate of a privacy safeguard penalty provision is the greater of the following:

(a) $10,000,000;

(b) if the relevant court (see subsection 56EU(4)) can determine the value of the benefit that the body corporate, and any body corporate related to the body corporate, have obtained directly or indirectly and that is reasonably attributable to the contravention—3 times the value of that benefit;

(c) if that court cannot determine the value of that benefit—10% of the adjusted turnover of the body corporate during the 12-month period ending at the end of the month in which the contravention happened or began.

Maximum amount of civil penalty for other persons

(4) For the purposes of subsection (1), the maximum penalty amount for a contravention by a person other than a body corporate of a privacy safeguard penalty provision is $500,000.

Authorised Version C2026C00323 registered 22/07/2026

56EW Enforceable undertakings

Enforceable provisions

(1) Each provision of the privacy safeguards is enforceable under Part 6 of the Regulatory Powers Act.

Note: Part 6 of the Regulatory Powers Act creates a framework for accepting and enforcing undertakings relating to compliance with provisions.

Authorised person

(2) For the purposes of Part 6 of the Regulatory Powers Act, the Information Commissioner is an authorised person in relation to each provision referred to in subsection (1).

Relevant court

(3) For the purposes of Part 6 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to each provision referred to in subsection (1):

(a) the Federal Court;

(b) the Federal Circuit and Family Court of Australia (Division 2);

(c) a court of a State or Territory that has jurisdiction in relation to the matter.

56EX Injunctions

Enforceable provisions

(1) Each provision of the privacy safeguards is enforceable under Part 7 of the Regulatory Powers Act.

Note: Part 7 of the Regulatory Powers Act creates a framework for using injunctions to enforce provisions.

Authorised Version C2026C00323 registered 22/07/2026

Authorised person

(2) For the purposes of Part 7 of the Regulatory Powers Act, the Information Commissioner is an authorised person in relation to each provision referred to in subsection (1).

Relevant court

(3) For the purposes of Part 7 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to each provision referred to in subsection (1):
  (a) the Federal Court;
  (b) the Federal Circuit and Family Court of Australia (Division 2);
  (c) a court of a State or Territory that has jurisdiction in relation to the matter.

56EY Actions for damages

Right to bring an action for damages

(1) A person who suffers loss or damage (within the meaning of subsection 25(1) of the *Privacy Act 1988*) by an act or omission:
  (a) of another person; and
  (b) that was in contravention of:
    (i) a provision of the privacy safeguards; or
    (ii) the consumer data rules to the extent that those rules relate to the privacy safeguards or to the privacy or confidentiality of CDR data;

may recover the amount of the loss or damage by action against that other person or against any person involved in the contravention.

Note: Subsections 84(2) and (4) (about attributing conduct engaged in on behalf of a person) apply for the purposes of this section.

(2) An action under subsection (1) may be commenced at any time within 6 years after the day on which the contravention happened or began.

Authorised Version C2026C00323 registered 22/07/2026

Findings in related proceedings to be prima facie evidence

(3) If a finding of any fact is made by a court in relation to a person, or an admission of any fact is made by a person, in proceedings:

(a) under the Regulatory Powers Act (as that Act applies because of this Subdivision) in which the person is found to have contravened a provision of the privacy safeguards; or

(b) under Part VI of this Act in which the person is found to:

(i) have contravened; or

(ii) have been involved in a contravention;

of the consumer data rules to the extent that those rules relate to the privacy safeguards or to the privacy or confidentiality of CDR data;

the finding or admission is prima facie evidence of that fact in any proceeding under subsection (1) against the person.

(4) The finding or admission may be proved by production of:

(a) in any case—a document under the seal of the court from which the finding or admission appears; or

(b) in the case of an admission—a document from which the admission appears that is filed in the court.

Jurisdiction etc.

(5) The following are conferred with jurisdiction to hear and determine actions under subsection (1):

(a) the Federal Circuit and Family Court of Australia (Division 2);

(b) subject to the Constitution, the several courts of the Territories.

This subsection does not enable an inferior court of a Territory to grant a remedy of a kind that the court is unable to grant under the law of that Territory.

Note: State courts and the Federal Court also have jurisdiction for these actions (see subsection 39(2) and paragraph 39B(1A)(c) of the *Judiciary Act 1903*).

Authorised Version C2026C00323 registered 22/07/2026

(6) Section 86AA (about limits on jurisdiction) applies to proceedings under subsection (1) of this section in a corresponding way to the way that section applies to proceedings under section 82.

(7) Section 86A (about transfer of matters) applies in relation to a proceeding under subsection (1) of this section as if paragraph 86A(1)(b) also referred to a matter for determination arising under:

(a) a provision of the privacy safeguards; or

(b) the consumer data rules to the extent that those rules relate to the privacy safeguards or to the privacy or confidentiality of CDR data.

Involved in a contravention

(8) Subsection 75B(1) applies to a reference that:

(a) is in this section; and

(b) is to a person involved in a contravention covered by paragraph (1)(b) of this section;

in a corresponding way to the way that subsection 75B(1) applies to a reference in Part VI to a person involved in a contravention of section 56CD.

56EZ Delegation to the Commission etc.

(1) This section applies in relation to the following functions or powers (the ***safeguard enforcement functions or powers***):

(a) the Information Commissioner's functions or powers under section 56ER;

(b) the Information Commissioner's functions or powers under Part IIIC or V of the *Privacy Act 1988*, as those Parts apply because of sections 56ES and 56ET of this Act;

(c) the Information Commissioner's functions or powers under Part 4, 6 or 7 of the Regulatory Powers Act, that are conferred because of this Subdivision.

(2) The Information Commissioner may delegate, in writing, any of the safeguard enforcement functions or powers to:

Authorised Version C2026C00323 registered 22/07/2026

(a) the Commission; or
(b) a member of the Commission; or
(c) a member of the staff of the Commission referred to in section 27 of this Act.

(3) However, the Information Commissioner must not delegate a safeguard enforcement function or power under subsection (2) unless:
(a) the Commission has agreed to the delegation in writing; and
(b) in the case of a delegation to a staff member referred to in paragraph (2)(c)—the Commission is satisfied that the staff member:
(i) is an SES employee or acting SES employee; or
(ii) is holding or performing the duties of a sufficiently senior office or position for the function or power.

Authorised Version C2026C00323 registered 22/07/2026

Division 6—Data standards etc.

Subdivision A—Data standards

56FA Making data standards

(1) The Data Standards Chair may, by writing, make one or more data standards about each of the following matters:

(a) the format and description of CDR data;

(b) the disclosure of CDR data;

(c) the collection, use, accuracy, storage, security and deletion of CDR data;

(d) de-identifying CDR data, including so that it no longer relates to:

(i) an identifiable person; or

(ii) a person who is reasonably identifiable;

(da) the format and description of a valid instruction for the performance of a type of CDR action;

(db) the giving of a valid instruction for the performance of a type of CDR action;

(e) other matters prescribed by the regulations.

Note: For variation and repeal, see subsection 33(3) of the *Acts Interpretation Act 1901*.

Complying with consumer data rules when making standards etc.

(2) The Data Standards Chair must comply with the consumer data rules when:

(a) making a data standard; or

(b) varying or revoking a data standard;

including complying with any related requirements specified in those rules about approval, consultation and the formation of committees, advisory panels and consultative groups.

Note: The rules could, for example, require a proposed data standard to be approved by the Commission before it is made.

Authorised Version C2026C00323 registered 22/07/2026

(3) Without limiting subsection (2), the Data Standards Chair must:

(a) make, under subsection (1), a data standard about a particular matter mentioned in subsection (1) if the consumer data rules so requires; and

(b) specify in that data standard that it is binding if the consumer data rules so requires.

A data standard is a ***binding data standard*** if it is made under subsection (1) in accordance with paragraph (b) of this subsection.

Data standards are not legislative instruments

(4) A data standard made under subsection (1) is not a legislative instrument.

56FB What data standards can set out etc.

(1) Without limiting subsection 56FA(1), a single data standard may set out:

(a) different provisions for different designated sectors; or

(b) different provisions for different classes of CDR data; or

(ba) different provisions for different types of CDR actions; or

(c) different provisions for different classes of persons specified, as described in paragraph 56AC(2)(b), in an instrument designating a sector under subsection 56AC(2); or

(ca) different provisions for different classes of action service providers for types of CDR actions; or

(d) different provisions for different classes of accredited persons.

(2) Without limiting subsection 56FA(1), a separate data standard could deal with:

(a) each of the different designated sectors referred to in paragraph (1)(a) of this section; or

(b) each of the different classes or types referred to in any of paragraphs (1)(b) to (d) of this section.

Authorised Version C2026C00323 registered 22/07/2026

56FC Data standards must be published

The Data Standards Chair must publish on the internet a copy of each data standard made under subsection 56FA(1).

Note: Once published, the data standards will be available for free.

56FD Legal effect of data standards

(1) A contract is taken to be in force between:

(a) a data holder of CDR data to which a binding data standard applies; and

(b) each accredited person;

under which each of those persons:

(c) agrees to observe the standard to the extent that the standard applies to the person; and

(d) agrees to engage in conduct that the person is required by the standard to engage in.

Note: This means the data holder will be taken to have a separate contract with each accredited person.

(2) If there is a designated gateway for CDR data to which a binding data standard applies, a contract is taken to be in force between:

(a) a data holder of the CDR data; and

(b) the designated gateway for the CDR data; and

(c) each accredited person;

under which each of those persons:

(d) agrees to observe the standard to the extent that the standard applies to the person; and

(e) agrees to engage in conduct that the person is required by the standard to engage in.

Note: This means the data holder will be taken to have a separate 3-party contract with the designated gateway and each accredited person.

(2A) A contract is taken to be in force between:

(a) an action service provider for a type of CDR action to which a binding data standard applies; and

Authorised Version C2026C00323 registered 22/07/2026

(b) each accredited action initiator for a CDR action of that type;

under which each of those persons:

(c) agrees to observe the standard to the extent that the standard applies to the person; and

(d) agrees to engage in conduct that the person is required by the standard to engage in.

Note: This means the action service provider will be taken to have a separate contract with each of those accredited action initiators.

(3) However, if there is an inconsistency between a data standard, and the consumer data rules, those rules prevail over the standard to the extent of the inconsistency.

56FE Enforcement of binding data standards

(1) If a person who is under an obligation to comply with a binding data standard fails to meet that obligation, an application to the Court may be made by:

(a) the Commission; or

(b) a person aggrieved by the failure.

(2) After giving an opportunity to be heard to the applicant and the person against whom the order is sought, the Court may make an order giving directions to:

(a) the person against whom the order is sought; or

(b) if that person is a body corporate—the directors of the body corporate;

about compliance with, or enforcement of, the binding data standard.

(3) Without limiting subsection (1), an obligation to comply with a binding data standard includes an obligation arising under a contract referred to in section 56FD.

Authorised Version C2026C00323 registered 22/07/2026

Subdivision B—Data Standards Chair

56FF Data Standards Chair

There is to be a Data Standards Chair.

56FG Appointment of the Data Standards Chair

(1) The Data Standards Chair is to be appointed, on a full-time basis or a part-time basis, by the Minister by written instrument.

(2) The Data Standards Chair holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

Note 1: The Minister will be the Data Standards Chair in the absence of an appointment under this section (see the definition of ***Data Standards Chair*** in subsection 4(1)).

Note 2: The Data Standards Chair may be reappointed (see section 33AA of the *Acts Interpretation Act 1901*).

56FH Functions and powers of the Data Standards Chair

(1) The functions of the Data Standards Chair are:
(a) to make standards under Subdivision A; and
(b) to review those standards regularly; and
(c) such other functions as are prescribed by the regulations.

(2) The Data Standards Chair has the following powers:
(a) the power to establish committees, advisory panels and consultative groups;
(b) the power to do all other things necessary or convenient to be done for or in connection with the performance of the Chair's functions.

56FI Directions by Minister

(1) The Minister may, by legislative instrument, give written directions to the Data Standards Chair about the performance of the Chair's functions and the exercise of the Chair's powers.

Authorised Version C2026C00323 registered 22/07/2026

Note: Section 42 (disallowance) and Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* do not apply to the directions (see regulations made for the purposes of paragraphs 44(2)(b) and 54(2)(b) of that Act).

(2) A direction under subsection (1) must be of a general nature only.

(3) The Data Standards Chair must comply with a direction under subsection (1).

Subdivision C—Data Standards Body

56FJ Appointment of the Data Standards Body

(1) The Minister may, by written instrument, appoint as the Data Standards Body:
  (a) the Department; or
  (b) another Commonwealth entity (within the meaning of the *Public Governance, Performance and Accountability Act 2013*).

Note: For variation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

(2) The Minister may, at any time by written instrument, terminate an appointment made under subsection (1).

56FK Function and powers of the Data Standards Body

(1) The function of the Data Standards Body is to assist the Data Standards Chair.

(2) The Data Standards Body has the power to do all other things necessary or convenient to be done for or in connection with the performance of the Data Standards Body's function.

(3) The Data Standards Body must comply with the consumer data rules when assisting the Data Standards Chair, including complying with any requirements specified in those rules about:
  (a) the Body's composition; or
  (b) the Body's governance or processes.

Authorised Version C2026C00323 registered 22/07/2026

(4) To avoid doubt, for a body that is the Data Standards Body, the body's functions and powers in its capacity other than as the Data Standards Body are taken to include the function and powers of the Data Standards Body while it is the Data Standards Body.

Subdivision D—Administrative provisions

56FL Acting appointments

The Minister may, by written instrument, appoint a person to act as the Data Standards Chair:

(a) during a vacancy in the office of Data Standards Chair (whether or not an appointment has previously been made to the office); or

(b) during any period, or during all periods, when the Data Standards Chair:

(i) is absent from duty or from Australia; or

(ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

56FM Terms and conditions

(1) The Data Standards Chair holds office on the terms and conditions (if any) in relation to matters not covered by this Division that are determined by the Minister.

(2) Subsection (1) does not apply while the Data Standards Chair is the Minister.

56FN Remuneration

(1) The Data Standards Chair is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the Data Standards Chair is to be paid the remuneration that is prescribed by the regulations.

Authorised Version C2026C00323 registered 22/07/2026

(2) The Data Standards Chair is to be paid the allowances that are prescribed by the regulations.

(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

(4) Subsections (1) and (2) do not apply while the Data Standards Chair is the Minister.

56FO Leave

(1) If the Data Standards Chair is appointed on a full-time basis, the Data Standards Chair has the recreation leave entitlements that are determined by the Remuneration Tribunal.

(2) If the Data Standards Chair is appointed on a full-time basis, the Minister may grant the Data Standards Chair leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Minister determines.

(3) If the Data Standards Chair is appointed on a part-time basis, the Secretary of the Department may grant leave of absence to the Data Standards Chair on the terms and conditions that the Secretary determines.

56FP Application of the finance law etc.

(1) For the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013*), the Data Standards Chair is taken to be an official of the Department.

Note: A consequence of this subsection is that the Secretary of the Department will be the accountable authority (within the meaning of that Act) applicable to the Data Standards Chair.

(2) The Secretary of the Department, when preparing the Department's annual report under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period, must include information in that report about:

(a) the performance of the Data Standards Chair's functions; and

Authorised Version C2026C00323 registered 22/07/2026

(b) the exercise of the Data Standards Chair's powers;

during the period.

(3) If at any time the Data Standards Chair is the Minister then:

(a) subsections (1) and (2) do not apply; and

(b) the Department's annual report under section 46 of that Act for the period that includes that time must include information about the performance of the Data Standards Chair's functions, and the exercise of the Data Standards Chair's powers, at that time.

56FQ Resignation

(1) The Data Standards Chair may resign the Data Standards Chair's appointment by giving the Minister a written resignation.

(2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

56FR Termination of appointment

(1) The Minister may terminate the appointment of the Data Standards Chair:

(a) for misbehaviour; or

(b) if the Data Standards Chair is unable to perform the duties of the Data Standards Chair's office because of physical or mental incapacity.

(2) The Minister may terminate the appointment of the Data Standards Chair if:

(a) the Data Standards Chair:

(i) becomes bankrupt; or

(ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or

(iii) compounds with the Data Standards Chair's creditors; or

Authorised Version C2026C00323 registered 22/07/2026

(iv) makes an assignment of the Data Standards Chair's remuneration for the benefit of the Data Standards Chair's creditors; or

(b) if the Data Standards Chair is appointed on a full-time basis—the Data Standards Chair is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12-month period; or

(c) the Data Standards Chair fails, without reasonable excuse, to comply with section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) or rules made for the purposes of that section.

56FS Delegation

(1) The Data Standards Chair may delegate, in writing, any or all of the Chair's functions or powers to:

(a) an SES employee, or an acting SES employee, in the Data Standards Body, in the Department or in the Commission; or

(b) an APS employee who is holding or performing the duties of a specified office or position that:

(i) is in the Data Standards Body, in the Department or in the Commission; and

(ii) is an office or position that the Chair is satisfied is sufficiently senior for the APS employee to perform the function or exercise the power; or

(c) if there are no APS employees (including SES employees) in the Data Standards Body—a person:

(i) who holds an office or position in the Data Standards Body that the Chair considers is sufficiently senior for the person to perform the function; and

(ii) who the Chair considers has appropriate qualifications or expertise to perform the function.

(2) Subsection (1) does not apply to the function referred to in paragraph 56FH(1)(a) (about making standards).

Authorised Version C2026C00323 registered 22/07/2026

Note: This subsection does not prevent a person who is acting as the Data Standards Chair from making a standard.

(3) In performing a delegated function or exercising a delegated power, the delegate under subsection (1) must comply with any directions of the Data Standards Chair.

Authorised Version C2026C00323 registered 22/07/2026

Division 7—Other matters

56GA CDR functions of the Information Commissioner

(1) The Information Commissioner has the following functions:

(a) the functions conferred on the Information Commissioner by another provision of this Part, or by an instrument made under this Part;

(b) to consult with or advise any of the following about any matter relevant to the operation of this Part (or the operation of instruments made under this Part):

(i) the Minister;

(ii) the Secretary of the Department;

(iii) the Commission;

(iv) the Data Standards Chair.

Note: The Commission may also delegate to the Information Commissioner any of the Commission's functions relating to this Part (see subsection 26(3)).

(2) The functions referred to in subsection (1) may be performed by the Information Commissioner on request or on the Information Commissioner's own initiative.

56GAA Delegation by the Minister or the Secretary

Delegation by the Minister of functions or powers relating to voluntary action service providers

(1A) The Minister may, in writing, delegate all or any of the Minister's functions or powers included:

(a) as described in paragraph 56BHA(1)(j); and

(b) in the consumer data rules;

to an SES employee, or an acting SES employee, in the Department or in the Commission.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

Authorised Version C2026C00323 registered 22/07/2026

(1B) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Minister.

Delegation by the Secretary

(1) The Secretary of the Department may, in writing, delegate all or any of the Secretary's functions or powers under this Part to an SES employee, or an acting SES employee, in the Department.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

(2) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Secretary.

56GAB Concurrent operation of other laws

The CDR provisions are not intended to exclude or limit the operation of a law of the Commonwealth, or of a State or Territory, that is capable of operating concurrently with the CDR provisions.

56GB Referring to instruments as in force from time to time

(1) This section applies to the following instruments:
(a) designations under section 56AC (about designated sectors);
(aa) CDR declarations for types of CDR actions;
(b) regulations made for the purposes of a provision of this Part;
(c) the consumer data rules;
(d) data standards.

(2) An instrument to which this section applies may make provision in relation to a matter by applying, adopting or incorporating (with or without modification) any matter contained in any other instrument or writing:
(a) as in force or existing at a particular time; or
(b) as in force or existing from time to time.

Authorised Version C2026C00323 registered 22/07/2026

(3) Subsection (2) has effect despite subsection 14(2) of the *Legislation Act 2003*.

56GC Complying with CDR requirements etc.: protection from liability

(1) If a person (the ***CDR entity***), acting as described in an item of the following table, does something mentioned in that item:

(a) in good faith; and

(b) in compliance with the CDR provisions; and

(c) in compliance with each law (if any) of the Commonwealth, of a State or of a Territory prescribed by the regulations;

the CDR entity is not liable to an action or other proceeding, whether civil or criminal, for or in relation to the thing in that item.

Doing a CDR thing in good faith in compliance with the CDR provisions etc.

Item	When acting:	the things are:
1	(a) as a data holder of CDR data; or (b) as an accredited data recipient of CDR data; or (c) as a designated gateway for CDR data	(a) providing the data to another person; or (b) otherwise allowing another person access to the data.
2	as an accredited action initiator for a type of CDR action	giving an instruction that is a valid instruction for the performance of a CDR action of that type.
3	as an action service provider for a type of CDR action	processing an instruction that is a valid instruction for the performance of a CDR action of that type.

Note 1: Item 3 of the table is focussing on the instruction layer not the action layer, and so does not cover performance of the CDR action.

Note 2: A defendant bears an evidential burden in relation to the matter in this subsection for a criminal action or criminal proceeding (see subsection 13.3(3) of the *Criminal Code*).

Authorised Version C2026C00323 registered 22/07/2026

(2) A person who wishes to rely on subsection (1) in relation to a civil action or civil proceeding bears an evidential burden in relation to that matter.

(3) In this section:

evidential burden, in relation to a matter, means the burden of adducing or pointing to evidence that suggests a reasonable possibility that the matter exists or does not exist.

56GD Exemptions by the Commission

(1) The ***provisions covered by this section*** are:
  (a) the following provisions:
    (i) the provisions of this Part;
    (ii) the provisions of regulations made for the purposes of the provisions of this Part;
    (iii) the provisions of the consumer data rules; and
  (b) definitions in this Act, or in the regulations or consumer data rules, as they apply to references in provisions referred to in paragraph (a).

(2) The Commission may, by written notice given to a person, exempt the person in relation to:
  (a) particular CDR data or one or more classes of CDR data; or
  (b) a particular CDR action or one or more types of CDR actions;

from all or specified provisions covered by this section.

(3) An exemption under subsection (2):
  (a) may or may not be limited to a specified period; and
  (b) may apply unconditionally or subject to specified conditions.

(4) The Commission must publish on its website the details of each exemption under subsection (2).

Authorised Version C2026C00323 registered 22/07/2026

(5) Applications may be made to the Administrative Review Tribunal for review of a decision of the Commission exempting, or refusing to exempt, a person under subsection (2).

56GE Exemptions and modifications by regulations

(1) The ***provisions covered by this section*** are:

(a) the following provisions:

(i) the provisions of this Part;

(ii) the provisions of regulations made for the purposes of the provisions of this Part;

(iii) the provisions of the consumer data rules; and

(b) definitions in this Act, or in the regulations or consumer data rules, as they apply to references in provisions referred to in paragraph (a).

(2) The regulations may:

(a) exempt a particular person in relation to:

(i) particular CDR data or one or more classes of CDR data; or

(ii) a particular CDR action or one or more types of CDR actions;

from all or specified provisions covered by this section; or

(b) exempt a class of persons in relation to:

(i) particular CDR data or one or more classes of CDR data; or

(ii) a particular CDR action or one or more types of CDR actions;

from all or specified provisions covered by this section; or

(c) declare that provisions covered by this section apply in relation to:

(i) a particular person in relation to particular CDR data or one or more classes of CDR data; or

(ii) a class of persons in relation to particular CDR data or one or more classes of CDR data; or

Authorised Version C2026C00323 registered 22/07/2026

(iii) a particular person in relation to a particular CDR action or one or more types of CDR actions; or

(iv) a class of persons in relation to a particular CDR action or one or more types of CDR actions;

as if specified provisions were omitted, modified or varied as specified in the declaration.

(3) An exemption under paragraph (2)(a) or (b), or a declaration under paragraph (2)(c):

(a) may or may not be limited to a specified period; and

(b) may apply unconditionally or subject to specified conditions.

56GF Application of the CDR provisions

(1) The CDR provisions apply to a person if:

(a) the person is a corporation; or

(b) the person is not a corporation, but the person:

(i) acts; or

(ii) omits to act;

in a way that affects, is capable of affecting or is taken with intent to affect the activities, functions, relationships or business of a corporation.

Note: For the meaning of ***corporation***, see subsection 4(1).

(2) The CDR provisions also apply to:

(a) a person (whether or not a corporation) acting or omitting to act in the course of, or in relation to, the carrying on of:

(i) a postal, telegraphic, telephonic or other like service (within the meaning of paragraph 51(v) of the Constitution); or

(ii) the business of banking, other than State banking (within the meaning of paragraph 51(xiii) of the Constitution) not extending beyond the limits of the State concerned; or

(iii) the business of insurance, other than State insurance (within the meaning of paragraph 51(xiv) of the

Authorised Version C2026C00323 registered 22/07/2026

Constitution) not extending beyond the limits of the State concerned; or

(b) a person (whether or not a corporation):

(i) making a supply or communication; or

(ii) conducting an activity or otherwise doing something;

using a postal, telegraphic, telephonic or other like service (within the meaning of paragraph 51(v) of the Constitution); or

(c) a person (whether or not a corporation) acting or omitting to act in the course of, or in relation to:

(i) trade or commerce between Australia and places outside Australia; or

(ii) trade or commerce among the States; or

(iii) trade or commerce within a Territory, between a State or Territory or between 2 Territories; or

(d) an individual who is being, has been or is at risk of being subjected to interference, or attacks, of the kind described in paragraph 1 of Article 17 of the ICCPR; or

(e) a person (whether or not a corporation) who is undertaking, has undertaken or could undertake interference, or attacks, of the kind described in paragraph 1 of Article 17 of the ICCPR.

(3) Paragraphs (2)(d) and (e) give effect to Australia's obligations under the ICCPR.

(4) Section 6 (about the application of this Act to persons who are not corporations) does not apply in relation to the CDR provisions.

(5) In this section:

ICCPR means the International Covenant on Civil and Political Rights, done at New York on 16 December 1966, as amended and in force for Australia from time to time.

Note: The text of the International Covenant is set out in Australian Treaty Series 1980 No. 23 ([1980] ATS 23). In 2024, the text of a Covenant in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

Authorised Version C2026C00323 registered 22/07/2026

56GG Compensation for acquisition of property

(1) This section applies if the operation of the CDR provisions would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph).

(2) The person who acquires the property is liable to pay a reasonable amount of compensation to the first-mentioned person.

(3) If the 2 persons do not agree on the amount of the compensation, the person to whom compensation is payable may institute proceedings in:

(a) the Federal Court; or

(b) the Supreme Court of a State or Territory;

for the recovery from the other person of such reasonable amount of compensation as the Court determines.

56GH Review of the operation of this Part

(1) The Minister must cause an independent review to be conducted of the operation of this Part.

(2) The persons who conduct the review must complete it, and give the Minister a written report of the review, before 1 July 2022.

(3) The Minister must cause copies of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the report is given to the Minister.

Authorised Version C2026C00323 registered 22/07/2026

Part IVE—Motor vehicle service and repair information sharing scheme

Division 1—Objects of Part and simplified outline

57AA Objects of Part

The objects of this Part are to:

(a) promote competition between Australian repairers of passenger and light goods motor vehicles and establish a fair playing field by mandating access, on fair and reasonable commercial terms, to information used to diagnose, repair, service, modify or dismantle scheme vehicles; and

Note: These vehicles are defined as ***scheme vehicles*** (see section 57BA).

(b) enable consumers to have scheme vehicles diagnosed, repaired, serviced, modified or dismantled safely and effectively by an Australian repairer of their choice; and

(c) encourage the provision of accessible and affordable information about scheme vehicles to Australian repairers, and to registered training organisations (for training purposes); and

(d) protect safety and security information about scheme vehicles to ensure the safety and security of consumers, information users and the general public; and

(e) provide for the resolution of disputes about the application of this Part.

57AB Simplified outline

This Part sets up a scheme to improve access by Australian motor vehicle repairers and registered training organisations (called "scheme RTOs") to information used to diagnose faults with,

Authorised Version C2026C00323 registered 22/07/2026

service, repair, modify or dismantle motor vehicles covered by the scheme.

Such information (called "scheme information") is required to be offered for supply to Australian repairers and scheme RTOs at a price that does not exceed fair market value.

Those who supply scheme information (called "data providers") to Australian repairers and scheme RTOs are protected from certain civil claims in doing so.

To protect the safety and security of vehicle owners, individuals working for an Australian repairer or scheme RTO who access scheme information relating to vehicle safety and security must satisfy certain criteria relating to whether they are fit and proper persons to have access to such information.

Sensitive information about such individuals may be obtained by data providers for this purpose. The handling of such information is also restricted under this Part. The information cannot be made available to anyone outside Australia (including to any data provider).

Provision is made for resolving disputes about the application of the Part.

Provision is made for a scheme adviser. The scheme adviser's functions include facilitating mediation of disputes between data providers and Australian repairers or scheme RTOs, and providing information about the operation of the scheme.

Authorised Version C2026C00323 registered 22/07/2026

Division 2—Key concepts

57BA Meaning of *scheme vehicle*

A ***scheme vehicle*** is:

(a) a light goods vehicle, within the meaning of a national road vehicle standard made under the *Road Vehicle Standards Act 2018* that specifies definitions and vehicle categories for the purposes of that Act, that was manufactured on or after:
  (i) 1 January 2002; or
  (ii) a later date prescribed by the scheme rules; or

(b) a passenger vehicle (other than an omnibus), within the meaning of a national road vehicle standard made under the *Road Vehicle Standards Act 2018* that specifies definitions and vehicle categories for the purposes of that Act, that was manufactured on or after:
  (i) 1 January 2002; or
  (ii) a later date prescribed by the scheme rules; or

(c) another kind of vehicle prescribed by the scheme rules.

57BB Meaning of *Australian repairer*

A person is an ***Australian repairer*** to the extent that the person carries on or actively seeks to carry on, in Australia, a business that involves diagnosing faults with, servicing, repairing, modifying or dismantling scheme vehicles.

Note: In some State and Territory jurisdictions, a person may need to hold a licence or particular qualifications to lawfully carry on such a business.

57BC Meaning of *scheme RTO* and *RTO course*

A ***scheme RTO*** is a registered training organisation that provides, or seeks to provide, a course (an ***RTO course***) in Australia providing training in diagnosing faults with, servicing, repairing, modifying or dismantling scheme vehicles.

Authorised Version C2026C00323 registered 22/07/2026

Note: ***RTO*** is short for registered training organisation.

57BD Meaning of *scheme information*

Main definition

(1) ***Scheme information*** is information in relation to scheme vehicles prepared by or for manufacturers of scheme vehicles (or their related bodies corporate) for use in diagnosing faults with, servicing or repairing those vehicles, as supplied to the market.

Exceptions

(2) However, ***scheme information*** does not include any of the following:

(a) a trade secret;

(b) the intellectual property of a person, other than intellectual property protected under the *Copyright Act 1968*;

(c) a source code version of a program;

(d) data automatically generated and transmitted by a scheme vehicle, while it is being driven, regarding driver or vehicle performance;

(e) global positioning system data;

(f) information supplied, or to be supplied, only to a restricted number of Australian repairers for the purposes of developing solutions to emerging or unexpected faults with a scheme vehicle;

(g) information that is commercially sensitive about an agreement between a data provider and another person;

(h) information relating to an automated driving system of a scheme vehicle;

(i) any other information prescribed by the scheme rules.

Note: Scheme information may include safety and security information (see the definition of ***safety and security information*** in section 57BF). However, for restrictions on the supply of safety and security information to Australian repairers and scheme RTOs: see section 57DB.

Authorised Version C2026C00323 registered 22/07/2026

(3) An ***automated driving system*** is a system which has a SAE level of 3 or greater under the Surface Vehicle Information Report J3016 published by SAE International, as amended from time to time.

Note: The Report, as amended to 2021, could in 2021 be viewed on SAE International's website (https://www.sae.org).

57BE Meaning of *data provider*

A ***data provider*** is:

(a) a corporation carrying on a business that includes supplying, to any extent and whether directly or indirectly, scheme information to one or more Australian repairers or scheme RTOs; or

(b) any person who carries on such a business in the course of, or in relation to, trade or commerce.

57BF Meaning of *safety and security information*

(1) ***Safety and security information***, for a scheme vehicle, is either or both of the following:

(a) safety information;

(b) security information.

Note: Restrictions apply in relation to the supply of scheme information that is safety and security information: see section 57DB.

(2) ***Safety information***, for a scheme vehicle, is information relating to any of the following systems installed in the vehicle, of a kind prescribed by the scheme rules:

(a) the hydrogen system;

(b) the high voltage system;

(c) the hybrid system;

(d) the electric propulsion system;

(e) another system prescribed by the scheme rules for the purposes of this paragraph.

Authorised Version C2026C00323 registered 22/07/2026

(3) ***Security information***, for a scheme vehicle, is information relating to any of the following systems installed in the vehicle, of a kind prescribed by the scheme rules:

(a) the vehicle's mechanical and electrical security system;

(b) another system prescribed by the scheme rules for the purposes of this paragraph.

57BG Supply of scheme information between related bodies corporate

To avoid doubt, this Part applies in relation to a supply of scheme information about a scheme vehicle from a data provider to an Australian repairer even if the data provider and the Australian repairer are related bodies corporate.

Authorised Version C2026C00323 registered 22/07/2026

Division 3—Supply of scheme information

57CA Scheme information—offer to supply to Australian repairers and scheme RTOs

Scope

(1) This section applies if a data provider supplies, or offers to supply, scheme information of one or more kinds in relation to one or more kinds of scheme vehicles to one or more Australian repairers or scheme RTOs.

Main obligation

(2) The data provider must make an offer (a ***scheme offer***) to supply, on terms and conditions that comply with section 57CC, the same scheme information in relation to that kind, or those kinds, of vehicle to all Australian repairers and scheme RTOs:

(a) in the same form in which it is supplied or offered for supply under subsection (1); or

(b) if supply in that form is not practicable or accessible—in an electronic form that is reasonably accessible to all Australian repairers and scheme RTOs.

Note 1: A pecuniary penalty of up to $10,000,000 may be imposed for a contravention of this subsection: see section 76.

Note 2: Restrictions apply in relation to the packaging and supply of scheme information that is safety and security information: see section 57DB.

Choice of supply period in scheme offer

(3) If the form in which scheme information is supplied allows for variability in the period for which the information is supplied, the data provider must make the scheme offer on terms and conditions that include provision for the supply of the scheme information:

(a) for any period nominated by an Australian repairer or scheme RTO; or

(b) by day, by month and by year.

Authorised Version C2026C00323 registered 22/07/2026

Civil penalty:

(a) for a body corporate—600 penalty units; and

(b) for a person other than a body corporate—120 penalty units.

Scheme offer not to exceed fair market price

(4) The data provider must make a scheme offer for the supply of the scheme information in relation to a particular make, model or year of scheme vehicle at a price (the ***scheme price***) that does not exceed the fair market value of the information, as determined by reference to matters including those covered by subsection (5).

Note: A pecuniary penalty of up to $10,000,000 may be imposed for a contravention of this subsection: see section 76.

(5) For the purposes of subsection (4), this subsection covers the following matters:

(a) the price charged to other Australian repairers and scheme RTOs for supplying scheme information (whether under this Part or otherwise) in relation to a scheme vehicle:

(i) of that particular make, model and year; or

(ii) if pricing is not available for information in relation to a scheme vehicle of that particular make, model and year—pricing for information in relation to a scheme vehicle of a similar make, model and year;

(b) the terms and conditions on which such scheme information is offered for supply to Australian repairers and scheme RTOs (whether under this Part or otherwise), including as to the permitted use of the information, the means of access to the information, the number of permitted users, and the frequency or duration of use of the information;

(c) the anticipated demand by Australian repairers and scheme RTOs for supply of the scheme information on the basis of the scheme offer;

(d) the reasonable recovery of costs incurred in creating, producing and providing the scheme information for supply on the basis of the scheme offer;

Authorised Version C2026C00323 registered 22/07/2026

(e) the price charged for the supply of information similar to scheme information in overseas markets;

(f) the amount (if any) payable by the data provider to any person who has a proprietary interest in the scheme information.

Note: A data provider must pay compensation to a person whose copyright is infringed by a supply of scheme information: see subsection 57CD(3).

Publication of scheme offer

(6) The data provider must publish the scheme offer:

(a) in English; and

(b) on the internet; and

(c) in a form that is accessible free of charge.

Civil penalty:

(a) for a body corporate—600 penalty units; and

(b) for a person other than a body corporate—120 penalty units.

(7) The data provider must:

(a) as soon as reasonably practicable after it publishes a scheme offer under subsection (6)—provide a copy of the scheme offer, in writing, to the scheme adviser; and

(b) notify the scheme adviser, in writing, as soon as reasonably practicable after any change to the scheme offer.

Civil penalty:

(a) for a body corporate—600 penalty units; and

(b) for a person other than a body corporate—120 penalty units.

57CB Scheme information—supply on request by Australian repairers or scheme RTOs

Scope

(1) This section applies if:

Authorised Version C2026C00323 registered 22/07/2026

(a) a data provider makes, or is required to make, a scheme offer to supply scheme information in relation to a particular make, model and year of scheme vehicle; and

(b) either:

(i) an Australian repairer has a need to access the scheme information for that particular make, model and year of scheme vehicle in carrying on the Australian repairer's business; or

(ii) a scheme RTO has a need to access the scheme information to provide an RTO course; and

(c) the Australian repairer or scheme RTO requests, in writing, the data provider to supply the scheme information about that particular make, model and year of scheme vehicle; and

(d) the Australian repairer or scheme RTO pays, or offers to pay, the scheme price, or another agreed price, for the scheme information.

Note: Restrictions apply in relation to the supply of scheme information that is safety and security information: see section 57DB.

Supply of scheme information

(2) The data provider must supply the scheme information to the Australian repairer or scheme RTO:

(a) in accordance with terms and conditions that comply with section 57CC; and

(b) within the period covered by subsection (3).

Note: A pecuniary penalty of up to $10,000,000 may be imposed for a contravention of this subsection: see section 76.

(3) For the purposes of subsection (2), the period covered by this subsection:

(a) starts when (at the ***payment or offer time***) the Australian repairer or scheme RTO pays, or offers to pay, the scheme price, or another agreed price, for the scheme information; and

Authorised Version C2026C00323 registered 22/07/2026

(b) in the circumstances described in column 1 of an item of the following table, ends at the time described in column 2 of that item.

Period for supply of scheme information

Item	Column 1 **If …**	Column 2 **the period ends …**
1	(a) either: (i) the data provider has previously supplied the scheme information in the form requested to the Australian repairer or scheme RTO, or to any other person; or (ii) the scheme information is readily accessible by the data provider and can be provided in the form requested; and (b) item 2 of this table does not apply	immediately after the payment or offer time.
2	paragraph (a) of item 1 of this table applies to the scheme information, but: (a) the scheme information is, or includes, safety and security information; and (b) the data provider has not been given the information required to determine whether or not the scheme information may be supplied under section 57DB; and (c) as a result, the scheme information cannot be provided immediately after the payment or offer time	at the end of 2 business days after the day on which the Australian repairer or scheme RTO provides the required information to the data provider.

Authorised Version C2026C00323 registered 22/07/2026

Period for supply of scheme information		
Item	**Column 1**	**Column 2**
	If …	**the period ends …**
3	items 1 and 2 of this table do not apply	at the later of the following times: (a) at a time agreed by the data provider and the Australian repairer or scheme RTO; (b) at the end of 5 business days after the payment or offer time.

Data provider to notify scheme adviser of terms and conditions of supply

(4) If the data provider supplies scheme information to an Australian repairer or scheme RTO under this Part, the data provider must, within 2 business days after the supply, notify the scheme adviser, in writing, of the terms and conditions of the supply, including the price for which the information is supplied.

Civil penalty:

(a) for a body corporate—600 penalty units; and
(b) for a person other than a body corporate—120 penalty units.

57CC Scheme information—terms and conditions of supply and use

Terms and conditions of supply generally

(1) Subject to this section, nothing in this Part prevents a data provider from supplying scheme information under this Part subject to reasonable terms and conditions that do not prevent, restrict or limit the access to, or use of, the information for the purposes of diagnosing faults with, servicing, repairing, modifying or dismantling scheme vehicles.

Authorised Version C2026C00323 registered 22/07/2026

Prohibited terms or conditions

(2) However, a data provider must not enter into a contract for the supply of scheme information under this Part that contains any of the following terms or conditions:

(a) a term or condition requiring an Australian repairer or scheme RTO to acquire one or more services or products from the data provider or any other person;

(b) a term or condition allowing an increase, after the contract is made, in the price for the supply of the scheme information under the contract;

(c) a term or condition prohibited by the scheme rules.

Civil penalty:

(a) for a body corporate—600 penalty units; and

(b) for a person other than a body corporate—120 penalty units.

(3) A term or condition of a contract for the supply of scheme information under this Part that contravenes subsection (2) is of no effect.

57CD Scheme information—interaction of supply obligations and other rights and obligations

Data provider must comply with supply obligations despite existence of other rights and obligations

(1) A data provider must comply with an obligation under this Part in relation to scheme information even if such compliance would constitute or result in one or more of the following:

(a) an infringement of copyright by the data provider or any other person;

(b) a breach of contract in relation to the supply of the scheme information;

(c) a breach of an equitable obligation of confidence to which the data provider is subject in relation to the supply of the scheme information.

Authorised Version C2026C00323 registered 22/07/2026

Note 1: Division 4 of Part IVA of the *Copyright Act 1968* (which provides that certain uses of material by educational institutions do not infringe copyright) does not apply in relation to scheme information supplied under this Part (see paragraph 113P(1)(b) of that Act).

Note 2: A data provider is not criminally responsible for conduct that is justified or excused by or under this Part: see section 10.5 of the *Criminal Code* (lawful authority).

Compensation for third party copyright holders

(2) Subsection (3) applies if:

(a) a data provider supplies scheme information to an Australian repairer or scheme RTO under this Part; and

(b) a person (the ***third party claimant***) holds copyright in relation to some or all of the scheme information that is the subject of the supply; and

(c) the supply constitutes or results in an infringement of the copyright of the third party claimant; and

(d) apart from this section, the infringement would constitute an acquisition of property otherwise than on just terms (within the meaning of paragraph 51(xxxi) of the Constitution).

(3) The data provider must pay to the third party claimant an amount that represents compensation on just terms (within the meaning of paragraph (xxxi) of the Constitution) for the supply of the scheme information to the Australian repairer or scheme RTO.

(4) An amount payable by the data provider under subsection (3):

(a) is a debt due by the data provider to the third party claimant; and

(b) may be recovered by action in a court of competent jurisdiction.

(5) In a civil action by a third party claimant against a data provider for infringement of copyright in relation to scheme information supplied, or offered for supply, under this Part, it is a defence if the data provider proves that:

Authorised Version C2026C00323 registered 22/07/2026

(a) the data provider was required to supply the scheme information, or offer to supply the scheme information, under this Part; and

(b) the data provider has paid to the third party claimant the compensation required to be paid under subsection (3).

Authorised Version C2026C00323 registered 22/07/2026

Division 4—Information management

57DA Safety and security information—packaging

A data provider must, in a scheme offer, separate safety and security information from other scheme information to the extent it is reasonably practicable to do so.

Civil penalty:

(a) for a body corporate—600 penalty units; and
(b) for a person other than a body corporate—120 penalty units.

57DB Safety and security information—supply to Australian repairers and scheme RTOs

Supply of safety and security information—restrictions on supply

(1) A data provider must not supply scheme information under this Part that is, or includes, safety and security information for a scheme vehicle of a particular make, model and year unless:

(a) there are reasonable grounds, based on information provided by the Australian repairer or scheme RTO, to believe that the requirements covered by subsection (2) are satisfied in relation to the scheme information for that vehicle; and
(b) the Australian repairer or scheme RTO has provided the required declaration, or declarations, covered by subsection (3) in relation to that vehicle.

Civil penalty:

(a) for a body corporate—600 penalty units; and
(b) for a person other than a body corporate—120 penalty units.

(2) The requirements covered by this subsection are that:

(a) the safety and security information is solely for use by an individual or individuals:

(i) in the case of an Australian repairer—for the purposes of the Australian repairer's business; or

Authorised Version C2026C00323 registered 22/07/2026

(ii) in the case of a scheme RTO—for the purposes of providing an RTO course; and

(b) based only on personal information about the individual covered by subsection (6), the individual is a fit and proper person to access and use the safety and security information.

(3) The required declarations covered by this subsection are that:

(a) if security information is to be supplied—a declaration:

(i) confirming that the Australian repairer or scheme RTO is authorised by the owner of the scheme vehicle to access and use the security information for that vehicle; and

(ii) specifying the vehicle identification number of the vehicle; and

(b) in any case, if the scheme rules prescribe a standard in relation to premises at which work is to be carried out on scheme vehicles of that particular make, model and year—a declaration that the premises used by the Australian repairer or scheme RTO comply with that standard.

Fit and proper persons

(4) An individual is a ***fit and proper person*** to access and use safety and security information if the individual meets the criteria (the ***prescribed safety and security criteria***) prescribed by the scheme rules.

(5) For the purposes of subsection (4), different criteria may be prescribed in relation to each of the following:

(a) safety information;

(b) security information.

Personal information

(6) For the purposes of paragraph (2)(b), the following personal information about an individual is covered by this subsection:

(a) the individual's name and residential address;

Authorised Version C2026C00323 registered 22/07/2026

(b) information about the individual's relationship to the Australian repairer or scheme RTO (as the case may be);
(c) the individual's qualifications for using the safety and security information for the applicable purpose mentioned in paragraph (2)(a);
(d) a criminal records check about the individual;
(e) any other information (except sensitive information) prescribed by the scheme rules relevant to working out whether the individual is a fit and proper person to access and use the safety and security information.

Note: This section applies despite section 57CB (which deals with the supply of scheme information on request by an Australian repairer or scheme RTO).

(7) The scheme rules may prescribe matters in relation to the circumstances in which personal information covered by subsection (6) may be sought or given.

57DC Safety and security information—use or disclosure of sensitive information

Scope

(1) This section applies in relation to sensitive information if:
(a) the information is about an individual mentioned in paragraph 57DB(2)(a); and
(b) the information is obtained by a data provider for the purpose of determining whether the individual is a fit and proper person to access and use safety and security information; and
(c) the data provider is a small business operator within the meaning of the *Privacy Act 1988*; and
(d) that Act would not, apart from this section, apply to the data provider in relation to the information about the individual.

Note: The *Privacy Act 1988* generally does not apply in relation to small business operators, except in relation to certain activities (see sections 6C to 6E of that Act).

Authorised Version C2026C00323 registered 22/07/2026

Application of Privacy Act 1988

(2) Subject to this Division, the *Privacy Act 1988* applies in relation to the sensitive information as if the data provider were an organisation within the meaning of that Act.

(3) The administration of this section is a privacy function for the purposes of the *Australian Information Commissioner Act 2010*.

Note: See the definition of ***privacy function*** in section 9 of the *Australian Information Commissioner Act 2010*.

57DD Safety and security information—storage of, and access to, sensitive information

Scope

(1) This section applies in relation to sensitive information if:
(a) the information is about an individual mentioned in paragraph 57DB(2)(a); and
(b) the information is obtained by a data provider for the purposes of determining whether the individual is a fit and proper person to access and use safety and security information.

Sensitive information must be stored in Australia

(2) If a data provider holds the sensitive information, the data provider must store the information in Australia or an external Territory.

Civil penalty:
(a) for a body corporate—1,500 penalty units; and
(b) for a person other than a body corporate—300 penalty units.

Preventing access to sensitive information outside Australia

(3) A person must not do anything that might reasonably enable the sensitive information to be accessed outside Australia by the data provider, or any other person.

Authorised Version C2026C00323 registered 22/07/2026

Civil penalty:

(a) for a body corporate—1,500 penalty units; and

(b) for a person other than a body corporate—300 penalty units.

57DE Security information—records of access

Scope

(1) This section applies if a data provider supplies security information about a scheme vehicle to an Australian repairer or a scheme RTO under this Part.

Note: For restrictions on the supply of such information, see section 57DB.

Record-keeping requirement

(2) The data provider must keep a record of the supply of the security information for a period of 5 years after the day it is supplied, including the following:

(a) the time and date of supply;

(b) the name and contact details of the Australian repairer or scheme RTO;

(c) any personal information used by the data provider to determine whether an individual is a fit and proper person to access and use the security information;

(d) the vehicle identification number of each vehicle for which the security information is supplied;

(e) details of the security information supplied.

Note: For restrictions on the use and disclosure of the information mentioned in paragraph (c), see sections 57DB and 57DC.

Civil penalty:

(a) for a body corporate—600 penalty units; and

(b) for a person other than a body corporate—120 penalty units.

Authorised Version C2026C00323 registered 22/07/2026

Division 5—Dispute resolution

57EA Scope of Division

This Division applies to a dispute about the operation of this Part.

57EB Resolving disputes

A party to the dispute (the ***initiating party***) may initiate action to resolve the dispute against another party (the ***responding party***) in accordance with the procedure set out in this Division.

57EC Right to bring proceedings unaffected

This Division does not affect the right of the initiating party or the responding party to bring legal proceedings, under this Act or otherwise.

57ED Attempt to resolve dispute before mediation

(1) If the initiating party wishes to initiate action to resolve the dispute in accordance with this Division, the initiating party must give written notice to the responding party of the following:
  (a) the nature of the dispute;
  (b) the matter that is the subject of the dispute;
  (c) the way in which that matter relates to the application of this Part;
  (d) what outcome the initiating party wants;
  (e) what action the initiating party thinks will resolve the dispute.

(2) The parties must then try to resolve the dispute.

Note: For when a party is taken to have tried to resolve a dispute, see section 57EE.

Authorised Version C2026C00323 registered 22/07/2026

(3) If the parties cannot agree how to resolve the dispute within 2 business days, either party may refer the matter to a mediator for mediation under this Division.

(4) If the parties cannot agree on who should be the mediator, either party may request the scheme adviser to nominate a mediator.

(5) Within 2 business days after a request is made under subsection (4), the scheme adviser must nominate a mediator for the dispute.

57EE When is a party taken to have tried to resolve a dispute?

For the purposes of this Division, a party is taken to have tried to resolve a dispute if the party approaches the resolution of the dispute in a reconciliatory manner, including by doing any of the following:

(a) attending and participating in meetings at reasonable times;

(b) responding to communications to the party within a reasonable time;

(c) if the party has agreed to use a technical expert in resolving the dispute—considering the opinions of the technical expert;

(d) if a mediation process is being used to try to resolve the dispute—both:

(i) making the party's intention clear, at the beginning of the process, as to what the party is trying to achieve through the process; and

(ii) observing any obligations relating to confidentiality that apply during or after the process.

57EF Mediation

(1) Subject to this section, a mediator appointed by the parties to a dispute may decide the time and place for mediation.

(2) The mediator may, with the agreement of the parties to the dispute, appoint a technical expert to assist in the resolution of the dispute.

Authorised Version C2026C00323 registered 22/07/2026

(3) Unless the mediation is conducted using the technology referred to in subsection (4), the mediation must be conducted in Australia.

(4) The mediation may be conducted using any technology that allows a person to participate in the mediation without being physically present at the mediation.

(5) The parties must attend the mediation.

Civil penalty:

(a) for a body corporate—600 penalty units; and

(b) for a person other than a body corporate—120 penalty units.

(6) For the purposes of subsection (5), a party is taken to attend mediation in the following circumstances:

(a) the party is represented at the mediation by a person who has the authority to enter into an agreement to settle the dispute on behalf of the party;

(b) the party, or the party's authorised representative mentioned in paragraph (a), participates in the mediation using the technology referred to in subsection (4).

(7) The parties must then try to resolve the dispute.

Note: For when a party is taken to have tried to resolve a dispute, see section 57EE.

(8) Within 5 business days after the start of the mediation, the mediator must advise the scheme adviser that the mediation has started.

57EG Termination of mediation

(1) This section applies to the mediation of a dispute if the dispute has not been resolved within 30 days after the day the mediation starts.

(2) The mediator may terminate the mediation at any time unless satisfied that a resolution of the dispute is imminent.

(3) However, if either party asks the mediator to terminate the mediation, the mediator must do so.

Authorised Version C2026C00323 registered 22/07/2026

(4) If the mediator terminates the mediation of a dispute under this section, the mediator must issue a certificate stating the following:
  (a) the names of the parties;
  (b) the nature of the dispute;
  (c) whether the parties attended the mediation;
  (d) that the mediation has finished;
  (e) that the dispute has not been resolved.

(5) The mediator must give a copy of the certificate to:
  (a) the scheme adviser; and
  (b) each of the parties to the dispute.

57EH Costs of mediation

(1) The parties are equally liable for the costs of mediation under this Division unless they agree otherwise.

(2) The parties must pay their own costs of attending the mediation.

(3) The costs of mediation under this Division under subsection (1) include the following:
  (a) the cost of the mediator;
  (b) the cost of any additional input (including from technical experts) agreed by both parties to be necessary to conduct the mediation.

Authorised Version C2026C00323 registered 22/07/2026

Division 6—Motor vehicle service and repair information scheme adviser

57FA Scheme adviser—establishment and appointment

(1) There is to be a motor vehicle service and repair information scheme adviser for the purposes of this Part.

(2) The Minister may, by instrument, appoint a person to be the scheme adviser.

(3) The scheme adviser is not entitled to any payment (including any remuneration or allowances) relating to this appointment.

Note: The person appointed could be a body corporate or an individual.

57FB Scheme adviser—functions

(1) The scheme adviser has the following functions:

(a) to nominate mediators or technical experts for the purposes of Division 5 (dispute resolution);

(b) to report to the Minister at any time or by a time specified by the Minister:

(i) on scheme prices, the terms and conditions of scheme offers or the availability of scheme information; and

(ii) about whether or not, in the scheme adviser's opinion, particular information is, or should be, scheme information; and

(iii) about any other matter relevant to the operation of this Part;

(c) to report to the Commission about any systemic regulatory or enforcement issues relating to the operation of this Part;

(d) to provide general advice in relation to the application of this Part, but excluding any information obtained in confidence;

(e) to publish on the scheme adviser's website annual reports about:

Authorised Version C2026C00323 registered 22/07/2026

(i) the number and type of inquiries and disputes relating to the operation of this Part over the period of a financial year;

(ii) the number and type of disputes for which a mediator has been appointed over that period;

(iii) resolution rates for disputes for which a mediator has been appointed over that period;

(iv) other relevant matters affecting the operation of this Part over the period, including any such matter directed by the Minister in writing;

(f) to provide information online to data providers, Australian repairers and scheme RTOs about the availability of scheme information and dispute resolution under this Part, but excluding any information obtained in confidence.

(2) Information about the terms and conditions of a contract on which scheme information is supplied under this Part that is notified to the scheme adviser under subsection 57CB(4) is taken not to be information obtained in confidence, except to the extent that it identifies, or enables identification of, the parties to the contract.

(3) The scheme adviser has all the powers necessary or convenient for the performance of the functions of that office.

(4) Section 34C of the *Acts Interpretation Act 1901* does not apply in relation to a report mentioned in this section.

Note: Section 34C of the *Acts Interpretation Act 1901* would otherwise require any periodic reports to be given to the Minister and tabled in Parliament.

Authorised Version C2026C00323 registered 22/07/2026

Division 7—Miscellaneous

57GA Civil penalty provisions

A provision of this Part 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 for the purposes of this Part and item 11 of the table in subsection 76(1A):

(a) a subsection;

(b) a section that is not divided into subsections.

57GB Infringement notices

(1) Division 2A of Part IVB applies in relation to an alleged contravention of a civil penalty provision mentioned in an item in the table in subsection (2) in the same way in which it applies in relation to an alleged contravention of a civil penalty provision of an industry code (within the meaning of that Part).

(2) For the purposes of the application of Division 2A of Part IVB under subsection (1), the penalty to be specified in an infringement notice in relation to an alleged contravention of a provision mentioned in columns 1 and 2 of an item of the following table must be a penalty equal to the applicable penalty for the contravention mentioned in column 3 or 4 of that item.

Authorised Version C2026C00323 registered 22/07/2026

Penalties to be specified in infringement notices issued under this Part				
Item	**Column 1**	**Column 2**	**Column 3**	**Column 4**
	For an alleged contravention of the following provision:	**that relates to:**	**if the alleged contravention is by a body corporate—the number of penalty units must be:**	**if the alleged contravention is by a person other than a body corporate—the number of penalty units must be:**
1	subsection 57CA(3)	the choice of supply period in scheme offer	60	12
2	subsection 57CA(6)	publishing a scheme offer	60	12
3	subsection 57CA(7)	notifying the scheme adviser about scheme information offered	60	12
4	subsection 57CB(2)	failing to supply scheme information within the period covered by paragraph 57CB(2)(b)	600	120
5	subsection 57CB(4)	notifying the scheme adviser of terms and conditions of supply	60	12
6	subsection 57CC(2)	prohibited terms or conditions in contracts of supply	60	12
7	Section 57 DA	packaging of scheme information	60	12
8	subsection 57DB(1)	restrictions on supplying safety and security information	60	12
9	subsection 57DE(2)	requiring a data provider to keep records	60	12

Authorised Version C2026C00323 registered 22/07/2026

Penalties to be specified in infringement notices issued under this Part				
Item	**Column 1**	**Column 2**	**Column 3**	**Column 4**
	For an alleged contravention of the following provision:	**that relates to:**	**if the alleged contravention is by a body corporate—the number of penalty units must be:**	**if the alleged contravention is by a person other than a body corporate—the number of penalty units must be:**
10	subsection 57EF(5)	failing to attend mediation	60	12

57GC Concurrent operation of State and Territory laws

It is the Parliament's intention that a law of a State or Territory should be able to operate concurrently with this Part unless the law is directly inconsistent with this Part.

57GD Acquisition of property

Scope

(1) This section applies to any of the following provisions:
  (a) a provision of Division 3;
  (b) any other provision of this Act, to the extent to which the provision relates to Division 3.

Effect of provision

(2) The provision has no effect to the extent (if any) to which its operation would result in the acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph).

Authorised Version C2026C00323 registered 22/07/2026

57GE Scheme rules

(1) The Minister may, by legislative instrument, make rules prescribing matters:

(a) required or permitted by this Part to be prescribed by the rules; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

(2) To avoid doubt, the rules may not do the following:

(a) create an offence or civil penalty;

(b) provide powers of:

(i) arrest or detention; or

(ii) entry, search or seizure;

(c) impose a tax;

(d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;

(e) directly amend the text of this Act;

(f) subject to section 57DB, authorise or require the disclosure of sensitive information.

Authorised Version C2026C00323 registered 22/07/2026

Part IVF—Scams Prevention Framework

Division 1—Preliminary

Subdivision A—Object and simplified outline

58AA Object of this Part

The object of this Part is to prevent and respond to scams impacting:

(a) either:

(i) natural persons while they are in Australia; or

(ii) persons who carry on small businesses in Australia;

if the scams relate to, are connected with, or use certain services that are or may be provided or purportedly provided to those persons; or

(b) natural persons while they are outside of Australia if:

(i) they are ordinarily resident in Australia; and

(ii) the scams relate to, are connected with, or use certain services that are or may be provided or purportedly provided to those persons by Australian service providers or by foreign service providers through permanent establishments in Australia.

58AB Simplified outline of this Part

The Scams Prevention Framework is a multifaceted approach for protecting Australian consumers from scams. The Framework requires service providers in selected sectors of the economy to take a variety of actions to combat scams relating to, connected with, or using their services.

These service providers must comply with the overarching principles of the Framework. These principles are about:

Authorised Version C2026C00323 registered 22/07/2026

(a) governance arrangements relating to scams; and
(b) preventing, detecting, reporting, disrupting and responding to scams.

Under the Framework, the Minister may make a code (an ***SPF code***) setting out sector-specific requirements for the service providers in a selected sector of the economy relating to:

(a) governance arrangements relating to scams; and
(b) preventing, detecting, disrupting and responding to scams.

Under the Framework, the Minister may authorise external dispute resolution schemes for participation by these service providers. The operator of such a scheme will be able to determine complaints by consumers about how these service providers respond to scams.

The Commission is to regulate and enforce compliance with the overarching principles of the Framework. Other Commonwealth entities will be selected by the Minister to regulate and enforce compliance with SPF codes.

Subdivision B—Designating sectors subject to the Scams Prevention Framework

58AC *Regulated sectors* subject to the Scams Prevention Framework

(1) The Minister may, by legislative instrument, designate one or more businesses or services to be a ***regulated sector*** of the Australian economy.

Note 1: An individual business or service could be designated, or businesses or services could be designated by class (see subsection 13(3) of the *Legislation Act 2003*).

Note 2: For variation and repeal, see subsection 33(3) of the *Acts Interpretation Act 1901*.

Authorised Version C2026C00323 registered 22/07/2026

(2) Without limiting subsection (1), the following classes of businesses or services could be designated:

(a) businesses of banking, other than State banking (within the meaning of paragraph 51(xiii) of the Constitution) not extending beyond the limits of the State concerned;

(b) businesses of insurance, other than State insurance (within the meaning of paragraph 51(xiv) of the Constitution) not extending beyond the limits of the State concerned;

(c) postal, telegraphic, telephonic or other like services (within the meaning of paragraph 51(v) of the Constitution), such as one or more of the following:

(i) carriage services (within the meaning of the *Telecommunications Act 1997*);

(ii) electronic services (within the meaning of the *Online Safety Act 2021*), such as social media services (within the meaning of that Act);

(iii) broadcasting services (within the meaning of the *Broadcasting Services Act 1992*).

Note: This is not an exhaustive list. Similarly, a subset of paragraph (a), (b) or (c) could be designated.

58AD *Regulated entities* for regulated sectors and their *regulated services*

Entities with businesses or services within the banking, insurance or communications constitutional powers

(1) To the extent that a regulated sector includes a business or service covered by paragraph 58AC(2)(a), (b) or (c):

(a) the person who carries on or provides that business or service is a ***regulated entity*** for the sector; and

(b) that business or service is a ***regulated service*** of the regulated entity for the sector.

Note 1: This subsection extends to a regulated sector consisting of businesses or services that are a subset of paragraph 58AC(2)(a), (b) or (c).

Authorised Version C2026C00323 registered 22/07/2026

Note 2: Sections 58GA to 58GC extend the meaning of ***person*** for partnerships, unincorporated associations and trusts.

Other entities who may be regulated entities

(2) Otherwise:

(a) the ***regulated entities*** for a regulated sector; and

(b) the ***regulated services*** of each of those regulated entities;

are as set out in the following table:

Other regulated entities, and their regulated services, for the regulated sector

Item	This person is a *regulated entity*:	for this *regulated service*:
1	a corporation that carries on or provides a business or service that is part of the regulated sector	that business or service.
2	a person to the extent that the person is both: (a) carrying on or providing a business or service that is part of the regulated sector; and (b) acting using a postal, telegraphic, telephonic or other like service (within the meaning of paragraph 51(v) of the Constitution)	so much of that business or service as relates to the person acting in that way.
3	a person to the extent that the person is both: (a) carrying on or providing a business or service that is part of the regulated sector; and (b) acting in the course of, or in relation to, a kind of trade or commerce mentioned in subsection (3)	so much of that business or service as relates to the person acting in that way.

Note 1: For the meaning of ***corporation***, see section 4.

Note 2: Sections 58GA to 58GC extend the meaning of ***person*** for partnerships, unincorporated associations and trusts.

Authorised Version C2026C00323 registered 22/07/2026

(3) For the purposes of item 3 of the table in subsection (2), the kinds of trade or commerce are as follows:

(a) trade or commerce between Australia and places outside Australia;

(b) trade or commerce among the States;

(c) trade or commerce within a Territory, between a State or Territory or between 2 Territories.

Exceptions—complete

(4) Despite subsections (1) and (2):

(a) a person is not a ***regulated entity*** for a regulated sector to the extent that an exception prescribed by the SPF rules applies to the person; and

(b) a business or service is not a ***regulated service*** of a person for a regulated sector to the extent that an exception prescribed by the SPF rules applies to the business or service.

Note: A person, business or service may be specified by class (see subsection 13(3) of the *Legislation Act 2003*).

Exceptions—partial

(5) Despite subsections (1) and (2), the instrument made under subsection 58AC(1) designating a business or service to be all or part of the regulated sector may declare that:

(a) the person who carries on or provides the business or service is not a ***regulated entity*** for the regulated sector for the purposes of specified SPF provisions; or

(b) the business or service is not a ***regulated service*** for the regulated sector for the purposes of specified SPF provisions.

Note: An individual person, business or service could be declared, or persons, businesses or services could be declared by class (see subsection 13(3) of the *Legislation Act 2003*).

Authorised Version C2026C00323 registered 22/07/2026

58AE Minister must consider matters, and consult, before designating a sector

(1) Before making an instrument under subsection 58AC(1) about a sector of the economy, the Minister must:

(a) consider all of the following:

(i) scam activity in the sector;

(ii) the effectiveness of existing industry initiatives to address scams in the sector;

(iii) the interests of persons who would be SPF consumers of regulated services for the sector if the instrument were made;

(iv) the likely consequences (including benefits and risks) to the public if the instrument were made;

(v) the likely consequences (including benefits and risks) to the businesses or services making up the sector;

(vi) any other matters the Minister considers relevant; and

(b) consult the businesses or services making up the sector, or such associations or other bodies representing them as the Minister thinks appropriate; and

(c) consult such associations or other bodies representing the persons referred to in subparagraph (a)(iii) as the Minister thinks appropriate.

Note: For the meaning of ***SPF consumer***, see section 58AH.

(2) A failure to comply with subsection (1) does not invalidate an instrument made under subsection 58AC(1).

58AF Delegation

The Minister may, in writing, delegate the Minister's power to make an instrument under subsection 58AC(1) to another Minister.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations. For example, section 34A of that Act means that section 58AE of this Act can be satisfied by the delegate.

Authorised Version C2026C00323 registered 22/07/2026

Subdivision C—Meanings of key terms

58AG Meaning of *scam*

(1) A ***scam*** is a direct or indirect attempt (whether or not successful) to engage an SPF consumer of a regulated service where it would be reasonable to conclude that the attempt:
  (a) involves deception (see subsection (2)); and
  (b) would, if successful, cause loss or harm including obtaining SPF personal information of, or a financial or other benefit from, the SPF consumer or the SPF consumer's associates.

(2) The attempt involves deception if the attempt:
  (a) deceptively represents something to be (or to be related to) the regulated service; or
  (b) impersonates a regulated entity in connection with the regulated service; or
  (c) is an attempt to deceive the SPF consumer into:
    (i) performing an action using the regulated service; or
    (ii) facilitating another person to perform an action using the regulated service; or
  (d) is an attempt to deceive the SPF consumer that is made using the regulated service.

(3) The attempt may be a single act or a course of conduct.

(4) However, the attempt is not a ***scam*** if the attempt is of a kind prescribed by the SPF rules.

58AH Meaning of *SPF consumer*

(1) An ***SPF consumer***, of a regulated service, is any of the following:
  (a) a natural person, or a small business operator, who is or may be provided or purportedly provided the service in Australia;
  (b) a natural person who:
    (i) is ordinarily resident in Australia; and

Authorised Version C2026C00323 registered 22/07/2026

(ii) is or may be provided or purportedly provided the service outside of Australia by a regulated entity that satisfies the residency requirements in subsection (2).

(2) The regulated entity satisfies the residency requirements if it:

(a) is an Australian resident (within the meaning of the Income Tax Assessment Act 1997); or

(b) is so providing or purportedly providing the service through a permanent establishment (within the meaning of the *Income Tax Assessment Act 1997*) in Australia.

Note 1: For paragraph (1)(a), a person who is a small business operator at the time the person is impacted by a scam continues to be an SPF consumer *for that time* even if the business later has 100 or more employees.

Note 2: Sections 58GA to 58GC extend the meaning of ***person*** for partnerships, unincorporated associations and trusts.

(3) Subsection (1) includes the provision or purported provision of a regulated service:

(a) directly or indirectly to the person; or

(b) whether or not under a contract, arrangement or understanding with the person; or

(c) whether or not the regulated entity providing the service knows that the person is:

(i) a natural person; or

(ii) a small business operator; or

(d) that involves the supply of goods.

Note: This is not an exhaustive list.

(4) However, the person is not an ***SPF consumer*** of the regulated service if a condition prescribed by the SPF rules applies to the person in relation to regulated services of that kind.

(5) In this section:

annual turnover has the same meaning as in the *Corporations Act 2001*.

Authorised Version C2026C00323 registered 22/07/2026

related body corporate has the same meaning as in the *Corporations Act 2001*.

small business operator means a person who carries on a business if:

(a) in the case of the person being a body corporate:
  (i) the sum of the person's employees, and the employees of any body corporate related to the person, is less than 100 employees; and
  (ii) the person's annual turnover during the last financial year is less than $10 million; and

(b) in the case of the person not being a body corporate:
  (i) the person has less than 100 employees; and
  (ii) the person's annual turnover (worked out as if the person were a body corporate) during the last financial year is less than $10 million; and

(c) in every case—the business has a principal place of business in Australia.

(6) Section 4B (about consumers) does not apply to this Part.

58AI Meaning of *actionable scam intelligence*

A regulated entity identifies or has ***actionable scam intelligence*** if (and when) there are reasonable grounds for the entity to suspect that a communication, transaction or other activity relating to, connected with, or using a regulated service of the entity is a scam.

Note 1: Whether there are reasonable grounds for such a suspicion is an objective test. Relevant information for this test may include:
(a) information about the mechanism or identifier being used to scam SPF consumers, such as URLs, email addresses, phone numbers, social media profiles, digital wallets and bank account information of the scam promotors; and
(b) information about the suspected scammer; and
(c) information (including complaints) provided by SPF consumers.

Note 2: Gathering and reporting this information will minimise the harm from scams (see SPF principles 4 and 5 in Subdivisions E and F of Division 2).

Authorised Version C2026C00323 registered 22/07/2026

Subdivision D—Extension to external Territories and outside of Australia

58AJ Extension to external Territories and outside of Australia

(1) Each of the following provisions (the ***SPF provisions***) extends to every external Territory:

(a) a provision of this Part;

(b) a provision of a legislative instrument made under this Part;

(c) another provision of this Act to the extent that it relates to a provision covered by paragraph (a) or (b);

(d) a provision of the Regulatory Powers Act to the extent that it applies in relation to a provision covered by paragraph (a) or (b).

(2) The SPF provisions extend to acts, omissions, matters and things outside Australia.

Subdivision E—Application to acts done by or in relation to agents etc. of regulated entities

58AK Acts done by or in relation to agents etc. of regulated entities

Conduct of agents etc. of a regulated entity is attributable to the regulated entity

(1) For the purposes of the SPF provisions, section 97 of the Regulatory Powers Act (to the extent that it applies in relation to the SPF provisions) applies to a regulated entity who is not a body corporate in a corresponding way to the way that provision applies to a regulated entity who is a body corporate.

Acts done in relation to an agent of a regulated entity taken to be done in relation to the regulated entity

(2) For the purposes of SPF provisions, if an act is done by a person in relation to another person (the ***agent***) who:

Authorised Version C2026C00323 registered 22/07/2026

(a) is acting on behalf of a regulated entity; and
(b) is so acting within the scope of the agent's actual or apparent authority;

the act is taken to have also been done in relation to the regulated entity.

Authorised Version C2026C00323 registered 22/07/2026

Division 2—Overarching principles of the Scams Prevention Framework

Subdivision A—Preliminary

58BA Simplified outline of this Division

Each regulated entity must comply with the overarching principles of the Scams Prevention Framework.

These principles require each regulated entity to:

(a) document and implement governance arrangements to combat scams; and

(b) take reasonable steps to prevent, detect, report, disrupt and respond to scams.

These requirements are civil penalty provisions. The Commission (in its capacity as the SPF general regulator) will monitor, investigate and enforce compliance with these provisions. Division 6 sets out remedies for non-compliance with these provisions.

58BB Meaning of *reasonable steps*

(1) Matters relevant to whether a regulated entity has taken ***reasonable steps*** for the purposes of a provision of this Division include:

(a) the size of the regulated entity; and

(b) the kind of regulated services concerned; and

(c) the consumer base of those services; and

(d) the kinds of scam risks those services face; and

(e) whether the regulated entity has complied with any relevant SPF code obligations relating to that provision.

Authorised Version C2026C00323 registered 22/07/2026

(2) In determining whether a regulated entity has taken ***reasonable steps*** for the purposes of a provision of this Division, the primary consideration must be the matter in paragraph (1)(e) (if applicable).

Subdivision B—SPF principle 1: Governance

58BC Simplified outline of this Subdivision

Each regulated entity must document and implement governance policies, procedures, metrics and targets for combatting scams.

These must be reviewed, and certified by a senior officer of the entity, at least annually.

The entity must keep records and give reports about its compliance with this principle.

The SPF code for the sector may include sector-specific provisions for this principle.

58BD Documenting and implementing governance policies and procedures—civil penalty provision

(1) A regulated entity for a regulated sector contravenes this subsection if the entity fails to do one or more of the following:

(a) document governance policies and procedures about:

(i) preventing, detecting and disrupting scams; and

(ii) responding to scams; and

(iii) reports relating to scams;

relating to, connected with, or using the entity's regulated services for the sector;

(b) implement those governance policies and procedures;

(c) develop and implement performance metrics and targets that:

(i) are for measuring the effectiveness of those governance policies and procedures; and

Authorised Version C2026C00323 registered 22/07/2026

(ii) comply with any requirements for those metrics and targets that are prescribed by the SPF rules.

(2) Subsection (1) is a civil penalty provision.

Note: This means subsection (1) is a ***civil penalty provision of an SPF principle*** for the purposes of section 58FJ (about civil penalties).

58BE Annual certification about SPF governance policies, procedures, metrics and targets—civil penalty provision

(1) A regulated entity for a regulated sector contravenes this subsection if:

(a) no senior officer of the entity certifies in writing, within 12 months of the day the entity becomes a regulated entity for the sector, whether the entity's SPF governance policies, procedures, metrics and targets for the sector comply with this Subdivision; or

(b) no senior officer of the entity certifies in writing, within 7 days after each 12-month anniversary of the day the entity becomes a regulated entity for the sector, whether the entity's SPF governance policies, procedures, metrics and targets for the sector comply with this Subdivision.

(2) Subsection (1) is a civil penalty provision.

Note: This means subsection (1) is a ***civil penalty provision of an SPF principle*** for the purposes of section 58FJ (about civil penalties).

58BF Record keeping of compliance with SPF provisions—civil penalty provision

(1) A regulated entity for a regulated sector contravenes this subsection if the entity fails to keep records of information of a material nature relating to each of the following activities for at least 6 years after that activity happens:

(a) the initial documenting, and each revision of the documenting, of the entity's SPF governance policies, procedures, metrics and targets for the sector;

Authorised Version C2026C00323 registered 22/07/2026

(b) the initial implementation, and each reimplementation, of those SPF governance policies, procedures, metrics and targets;

(c) each consideration (including certification) by one of the entity's senior officers of those SPF governance policies, procedures, metrics and targets, including in relation to their documenting, implementation and review;

(d) any other activities that are prescribed by the SPF rules.

(2) Subsection (1) is a civil penalty provision.

Note: This means subsection (1) is a ***civil penalty provision of an SPF principle*** for the purposes of section 58FJ (about civil penalties).

58BG Reporting about compliance with this Subdivision—civil penalty provision

(1) A regulated entity for a regulated sector contravenes this subsection if:

(a) the SPF general regulator, or the SPF sector regulator for the sector, gives the entity a written request for a copy of:

(i) the entity's SPF governance policies, procedures, metrics and targets for the sector; or

(ii) specified kinds of other records required by this Subdivision to be kept for the sector by the entity; and

(b) the entity fails to comply with the request within:

(i) 10 business days after the day the entity is given the request; or

(ii) such longer period as is allowed by the SPF regulator.

(2) Subsection (1) is a civil penalty provision.

Note: This means subsection (1) is a ***civil penalty provision of an SPF principle*** for the purposes of section 58FJ (about civil penalties).

Authorised Version C2026C00323 registered 22/07/2026

58BH Sector-specific details can be set out in SPF codes

For the purposes of (but without limiting) subsection 58CC(1), the SPF code for a regulated sector may include sector-specific provisions describing:

(a) the matters that a regulated entity for the sector must include in the entity's governance policies and procedures for the purposes of this Subdivision; or

(b) the factors that a regulated entity for the sector must have regard to when developing the entity's governance policies and procedures for the purposes of this Subdivision.

Subdivision C—SPF principle 2: Prevent

58BI Simplified outline of this Subdivision

Each regulated entity for a regulated sector must take reasonable steps to prevent scams.

The SPF code for the sector may include sector-specific provisions for this principle.

58BJ Taking reasonable steps to prevent scams from being committed—civil penalty provision

(1) A regulated entity contravenes this subsection if the entity fails to take reasonable steps to prevent another person from committing a scam relating to, connected with, or using a regulated service of the entity.

Note: Sections 58GA to 58GC extend the meaning of ***person*** for partnerships, unincorporated associations and trusts.

(2) Subsection (1) is a civil penalty provision.

Note: This means subsection (1) is a ***civil penalty provision of an SPF principle*** for the purposes of section 58FJ (about civil penalties).

Authorised Version C2026C00323 registered 22/07/2026

58BK Further detail about certain concepts

(1) Taking reasonable steps for the purposes of subsection 58BJ(1) requires more than merely acting on actionable scam intelligence in the form of information provided to the regulated entity by another person.

Further sector-specific details can be set out in SPF codes

(2) For the purposes of (but without limiting) subsection 58CC(1), the SPF code for a regulated sector may include sector-specific provisions:

(a) describing what are reasonable steps for the purposes of this Subdivision (see also section 58BB); or

(b) requiring each regulated entity for the sector to:

(i) identify its SPF consumers who are at risk of being targeted by a scam; or

(ii) identify its SPF consumers who have a higher risk of being targeted by a scam; or

(c) requiring each regulated entity for the sector to provide information about such scams to an SPF consumer described in subparagraph (b)(i) or (ii).

Subdivision D—SPF principle 3: Detect

58BL Simplified outline of this Subdivision

Each regulated entity for a regulated sector must take reasonable steps to detect scams. This includes:

(a) investigating, in a timely way, activities that are the subjects of its actionable scam intelligence; and

(b) identifying, in a timely way, its consumers that have or may have been impacted by such activities.

The SPF code for the sector may include sector-specific provisions for this principle.

Authorised Version C2026C00323 registered 22/07/2026

58BM Taking reasonable steps to detect scams—civil penalty provision

(1) A regulated entity contravenes this subsection if the entity fails to take reasonable steps to detect a scam relating to, connected with, or using a regulated service of the entity.

(2) Subsection (1) is a civil penalty provision.

Note: This means subsection (1) is a ***civil penalty provision of an SPF principle*** for the purposes of section 58FJ (about civil penalties).

(3) Without limiting subsection (1), the regulated entity fails to take reasonable steps to detect a scam relating to, connected with, or using a regulated service of the entity if the entity fails to take reasonable steps to:

(a) detect such a scam as it happens; or

(b) detect such a scam after it happens.

Note: For further details about the meaning of reasonable steps, see sections 58BB and 58BP.

58BN Investigating actionable scam intelligence—civil penalty provision

(1) A regulated entity contravenes this subsection if the entity:

(a) has actionable scam intelligence about an activity relating to, connected with, or using a regulated service of the entity; and

(b) fails to take reasonable steps to investigate whether or not the activity is a scam during the 28-day period starting on the day that the intelligence becomes actionable scam intelligence for the entity.

(2) Subsection (1) is a civil penalty provision.

Note: This means subsection (1) is a ***civil penalty provision of an SPF principle*** for the purposes of section 58FJ (about civil penalties).

58BO Identifying impacted SPF consumers—civil penalty provision

(1) A regulated entity contravenes this subsection if the entity:

Authorised Version C2026C00323 registered 22/07/2026

(a) has actionable scam intelligence about an activity relating to, connected with, or using a regulated service of the entity; and

(b) fails to take reasonable steps within a reasonable time to identify the persons who were SPF consumers of that service at the time when the persons were or may have been impacted by the activity.

(2) Subsection (1) is a civil penalty provision.

Note: This means subsection (1) is a ***civil penalty provision of an SPF principle*** for the purposes of section 58FJ (about civil penalties).

58BP Sector-specific details can be set out in SPF codes

For the purposes of (but without limiting) subsection 58CC(1), the SPF code for a regulated sector may include sector-specific provisions describing:

(a) what are reasonable steps (see also section 58BB); or

(b) what is a reasonable time;

for the purposes of this Subdivision.

Subdivision E—SPF principle 4: Report

58BQ Simplified outline of this Subdivision

Each regulated entity must give the SPF general regulator reports of any actionable intelligence the entity has about activities relating to, connected with, or using the entity's regulated services.

A regulated entity must give an SPF regulator a report about a scam if the SPF regulator requests.

The SPF general regulator may disclose information about scams to certain other entities.

Authorised Version C2026C00323 registered 22/07/2026

58BR Reporting actionable scam intelligence to SPF regulators—civil penalty provision

(1) This section applies if a regulated entity has actionable scam intelligence about an activity relating to, connected with, or using a regulated service of the entity.

Civil penalty provision

(2) The entity contravenes this subsection if the entity fails to give a report about the actionable scam intelligence:

(a) to the SPF general regulator within the period, and in the manner and form, prescribed by the SPF rules; and

(b) that contains the kinds of information prescribed by the SPF rules.

Note: This subsection only applies to the entity when the SPF rules prescribe matters for paragraphs (a) and (b) that apply to the entity.

(3) Subsection (2) is a civil penalty provision.

Note: This means subsection (2) is a ***civil penalty provision of an SPF principle*** for the purposes of section 58FJ (about civil penalties).

Defence

(4) Subsection (2) does not apply to the entity if circumstances of a kind prescribed by the SPF rules apply to the entity.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

Matters relevant to reports

(5) For the purposes of (but without limiting) subsection (2), the SPF rules may prescribe:

(a) that the report may be given via access to a specified data gateway, portal or website; and

(b) that the report include the sources or evidence that the entity has for that intelligence (see section 58AI); and

(c) different matters for different kinds of regulated entities.

Authorised Version C2026C00323 registered 22/07/2026

Note: For more about the data gateways, portals or websites referred to in paragraph (a), see section 58BT.

(6) The report may be required to include SPF personal information.

58BS Reporting scams to SPF regulators—civil penalty provisions

(1) This section applies if an SPF regulator gives a written request to a regulated entity for the entity to give the SPF regulator a report about a scam relating to, connected with, or using a regulated service of the entity.

Civil penalty provision

(2) The entity contravenes this subsection if the entity fails to give a report about the scam:
  (a) to the SPF regulator within the period, and in the manner and form, set out in the request; and
  (b) that contains the kinds of information set out in the request.

(3) Subsection (2) is a civil penalty provision.

Note: This means subsection (2) is a ***civil penalty provision of an SPF principle*** for the purposes of section 58FJ (about civil penalties).

(4) For the purposes of (but without limiting) subsection (2), the SPF regulator's request may:
  (a) provide that the report may be given via access to a specified data gateway, portal or website; and
  (b) ask that the report set out:
    (i) what loss or harm may have resulted from the scam, what disruptive actions the entity has taken and whether any of those actions have been reversed; and
    (ii) what steps the entity is taking to disrupt similar scams, and to prevent loss or harm resulting from similar scams.

Note: For more about the data gateways, portals or websites referred to in paragraph (a), see section 58BT.

Authorised Version C2026C00323 registered 22/07/2026

(5) The request may ask for the report to include SPF personal information. If so, the request must require the entity to de-identify the information unless the SPF regulator reasonably believes that doing so would not achieve the object of this Part.

(6) If:

(a) a regulated entity gives a scam report to an SPF regulator under this section; and

(b) another SPF regulator later requests a scam report under this section from the regulated entity about the same matters;

then, despite subsection (2), the later scam report need only state that an earlier scam report about those matters was given to the first-mentioned SPF regulator on a specified date and time.

Note: The SPF regulators can share the earlier scam report under Subdivision C of Division 5.

58BT Authorised third party data gateways, portals or websites for accessing reports

(1) The SPF rules may prescribe a scheme for authorising third parties to operate data gateways, portals or websites that give access to reports under this Division.

(2) For the purposes of (but without limiting) subsection (1), the SPF rules may include the following:

(a) provisions conferring functions or powers on the SPF general regulator under the scheme;

(b) the criteria for a person to be authorised under the scheme;

(c) provisions providing that authorisations may be granted subject to conditions, and that conditions may be imposed on an authorisation after it has been granted;

(d) provisions providing that authorisations may be granted at different levels corresponding to different risks;

(e) provisions specifying what a person authorised at a particular level is authorised to do (or not authorised to do);

Authorised Version C2026C00323 registered 22/07/2026

(f) provisions dealing with the period, renewal, transfer, variation, suspension, revocation or surrender of authorisations;

(g) notification requirements on persons whose authorisations have been varied, suspended, revoked or surrendered;

(h) transitional rules for when an authorisation is varied, is suspended or ends, including in relation to SPF personal information;

(i) provisions for the making of applications for internal review, or of applications to the Administrative Review Tribunal for review, of decisions of a person under the scheme.

(3) A person authorised under the scheme may use or disclose SPF personal information to the extent that this is reasonably necessary to achieve the object of this Part.

58BU Relationship with other duties and obligations

A duty of confidence owed under an agreement or arrangement is of no effect to the extent that it is contrary to section 58BR or 58BS.

Note: Each of sections 58BR and 58BS is also a requirement by law to disclose the information contained in the report referred to in that section. So, complying with that section can be a defence to a secrecy provision such as section 276 of the *Telecommunications Act 1997* (see paragraph 280(1)(b) of that Act).

58BV SPF general regulator may share information relating to scamming actions with relevant entities

(1) The SPF general regulator may disclose information relating to either of the following actions (a ***scamming action***):

(a) a scam (as defined in section 58AG);

(b) a scam (within the ordinary meaning of that expression);

to an entity mentioned in subsection (2).

Note 1: This includes disclosing SPF personal information, but such information may first need to be de-identified (see subsection (4)).

Authorised Version C2026C00323 registered 22/07/2026

Note 2: The SPF general regulator can also disclose the information to an SPF sector regulator (see section 58EG).

(2) The entities are as follows:

(a) a regulated entity;

(b) a Commonwealth agency or authority involved in developing Government policy relating to this Part;

(c) a law enforcement agency of the Commonwealth, or of a State or Territory;

(d) an agency of a foreign country, or of part of a foreign country, that:

(i) is a law enforcement agency; or

(ii) is a regulatory agency responsible for scam prevention;

if subsection (3) applies to a disclosure of information to the agency.

(3) This subsection applies to a disclosure of information to a foreign agency if the SPF general regulator is satisfied that:

(a) the agency has given an undertaking for the following:

(i) controlling the storage and handling of the information;

(ii) controlling the use that will be made of the information;

(iii) ensuring that the information will be used only for the purpose for which it is disclosed to the agency; and

(b) it is appropriate, in all the circumstances, to disclose the information to the agency.

(4) SPF personal information may be disclosed under subsection (1). However, for a disclosure to an entity mentioned in paragraph (2)(b) such information must be de-identified unless the SPF general regulator reasonably believes that doing so would not achieve the object of this Part.

Authorised Version C2026C00323 registered 22/07/2026

Subdivision F—SPF principle 5: Disrupt

58BW Simplified outline of this Subdivision

Each regulated entity for a regulated sector must take reasonable steps to:

(a) disrupt an activity that is the subject of actionable scam intelligence; and

(b) prevent losses from such an activity.

The entity will also need to report to the SPF general regulator the outcomes of the entity's investigation about whether such an activity is a scam. The report may also need to describe any disruptive actions the entity has taken in relation to the activity.

The entity is not liable for damages etc. in taking certain actions to disrupt such an activity.

The SPF code for the sector may include sector-specific provisions for this principle.

58BX Taking reasonable steps to disrupt activities that are the subjects of actionable scam intelligence—civil penalty provision

(1) A regulated entity contravenes this subsection if the entity:

(a) has actionable scam intelligence about an activity relating to, connected with, or using a regulated service of the entity; and

(b) fails to take reasonable steps within a reasonable time to:

(i) disrupt the activity; or

(ii) prevent loss or harm (including further loss or harm) arising from the activity.

(2) Subsection (1) is a civil penalty provision.

Note: This means subsection (1) is a ***civil penalty provision of an SPF principle*** for the purposes of section 58FJ (about civil penalties).

Authorised Version C2026C00323 registered 22/07/2026

(3) For the purposes of subsection (1), the steps taken should be proportionate to the actionable scam intelligence that the entity has.

Note 1: For example, if a bank has received a substantial number of similar reports of suspicious activities, it may be appropriate to pause or delay authorised push payments while the bank investigates these suspicious activities.

Note 2: For further details about the meaning of reasonable steps, see sections 58BB and 58BZ.

58BY Reporting about the outcomes of investigations of activities that are the subjects of actionable scam intelligence—civil penalty provision

(1) This section applies if a regulated entity has actionable scam intelligence about an activity relating to, connected with, or using a regulated service of the entity.

Civil penalty provision

(2) The entity contravenes this subsection if the entity fails to give a report about the actionable scam intelligence:

(a) to the SPF general regulator:

(i) before the end of the period prescribed by the SPF rules that starts at the end of the period referred to in paragraph 58BZA(2)(d) for that intelligence; and

(ii) in the manner and form prescribed by the SPF rules; and

(b) that contains the kinds of information prescribed by the SPF rules.

Note: This subsection only applies to the entity when the SPF rules prescribe matters for paragraphs (a) and (b) that apply to the entity.

(3) Subsection (2) is a civil penalty provision.

Note: This means subsection (2) is a ***civil penalty provision of an SPF principle*** for the purposes of section 58FJ (about civil penalties).

(4) For the purposes of (but without limiting) subsection (2), the SPF rules may prescribe:

Authorised Version C2026C00323 registered 22/07/2026

(a) that the report may be given via access to a specified data gateway, portal or website; and
(b) that the report set out whether the entity reasonably believes that the activity that is the subject of the intelligence is a scam; and
(c) different matters for different kinds of regulated entities.

Note: For more about the data gateways, portals or websites referred to in paragraph (a), see section 58BT.

(5) The report may be required to include SPF personal information.

(6) A duty of confidence owed under an agreement or arrangement is of no effect to the extent that it is contrary to this section.

58BZ Sector-specific details can be set out in SPF codes

For the purposes of (but without limiting) subsection 58CC(1), the SPF code for a regulated sector may include sector-specific provisions:

(a) describing what are reasonable steps (see also section 58BB), or what is a reasonable time, for the purposes of this Subdivision; or
(b) requiring each regulated entity for the sector to provide its SPF consumers with information about activities that are the subjects of the entity's actionable scam intelligence.

58BZA Safe harbour for taking actions to disrupt an activity while investigating whether the activity is a scam

(1) This section applies if a regulated entity has actionable scam intelligence about an activity relating to, connected with, or using a regulated service of the entity.

(2) The regulated entity is not liable in a civil action or civil proceeding for taking action to disrupt the activity if the action:
(a) is taken in good faith; and
(b) is taken in compliance with the SPF provisions; and

Authorised Version C2026C00323 registered 22/07/2026

(c) is reasonably proportionate to the activity, and to information that would reasonably be expected to be available to the entity about the activity; and

(d) is taken during the period:

(i) starting on the day that the intelligence becomes actionable scam intelligence for the entity; and

(ii) ending when the entity reasonably believes that the activity is or is not a scam, or after 28 days, whichever is the earlier; and

(e) is promptly reversed if:

(i) the entity identifies that the activity is not a scam; and

(ii) it is reasonably practicable to reverse the action.

Note: Assume the regulated entity temporarily blocks an SPF consumer's website while investigating whether an activity relating to the website is a scam. This subsection protects the regulated entity from civil actions brought by the consumer when the regulated entity is acting appropriately.

(3) For the purposes of paragraph (2)(c), matters relevant to whether the action is reasonably proportionate to the activity include:

(a) the potential loss or damage to SPF consumers, or to persons carrying on the activity, if the action is not taken; and

(b) the potential loss or damage to SPF consumers, or to persons carrying on the activity, if the action is taken and the activity is not a scam.

Subdivision G—SPF principle 6: Respond

58BZB Simplified outline of this Subdivision

Each regulated entity must have an accessible mechanism for its consumers to report activities that are or may be scams.

The entity must have an accessible and transparent internal dispute resolution mechanism for its consumers to complain about:

(a) activities that are or may be scams; or

(b) the entity's conduct relating to such activities.

Authorised Version C2026C00323 registered 22/07/2026

The entity must publish information about these mechanisms.

When undertaking such internal dispute resolution about a complaint, the entity must give a statement, relevant to the complaint, about whether it has complied with its obligations.

When undertaking such internal dispute resolution, the entity must have regard to:

(a) any processes prescribed by the SPF rules; and

(b) any guidelines prescribed by the SPF rules for apportioning any liability.

The entity must become a member of an authorised external dispute resolution scheme for dealing with complaints about scams if the entity provides services regulated by the Scams Prevention Framework.

The SPF code for the sector may include sector-specific provisions for this principle.

58BZC Enabling SPF consumers to easily report activities that are or may be scams—civil penalty provision

(1) A regulated entity contravenes this subsection if the entity does not have an accessible mechanism for a person to report to the entity an activity that:

(a) is or may be a scam; and

(b) relates to, is connected with, or uses a regulated service of the entity; and

(c) impacts the person at a time when the person is an SPF consumer of the service.

Note: The reporting mechanism will need to extend to scams impacting the person at a time when the regulated service is only purportedly being provided to the person (see subsection 58AH(1) (about the meaning of SPF consumer)).

(2) Subsection (1) is a civil penalty provision.

Authorised Version C2026C00323 registered 22/07/2026

Note: This means subsection (1) is a ***civil penalty provision of an SPF principle*** for the purposes of section 58FJ (about civil penalties).

58BZD Having an accessible and transparent internal dispute resolution mechanism—civil penalty provision

(1) A regulated entity contravenes this subsection if the entity does not have an accessible and transparent internal dispute resolution mechanism to deal with a person's complaint about:

(a) an activity that:

(i) is or may be a scam; and

(ii) relates to, is connected with, or uses a regulated service of the entity; and

(iii) impacts the person at a time when the person is an SPF consumer of the service; or

(b) the entity's conduct relating to an activity of a kind described in paragraph (a).

(2) Subsection (1) is a civil penalty provision.

Note: This means subsection (1) is a ***civil penalty provision of an SPF principle*** for the purposes of section 58FJ (about civil penalties).

58BZDA Giving a statement of compliance—civil penalty provision

(1) A regulated entity contravenes this subsection if the entity:

(a) is undertaking internal dispute resolution in dealing with a person's complaint of a kind described in paragraph 58BZD(1)(a) or (b); and

(b) does not give the person a statement of compliance in accordance with subsection (2).

Note: This subsection only applies to the entity when the SPF rules prescribe matters for paragraphs (2)(b), (d) and (e) that are relevant to the complaint.

(2) For the purposes of paragraph (1)(b), the statement of compliance must:

(a) include a statement by the regulated entity about whether, based on information reasonably available to the entity at the

Authorised Version C2026C00323 registered 22/07/2026

time of making the statement, it has complied with its obligations under the SPF provisions that are relevant to the complaint; and

(b) contain the kinds of information prescribed by the SPF rules that are relevant to the complaint; and

(c) not contain the kinds of information (if any) prescribed by the SPF rules that are relevant to the complaint; and

(d) be in writing and signed by a person who is an authorised representative of the entity of a kind prescribed by the SPF rules; and

(e) be given in accordance with the timeframes, and in the manner and form, prescribed by the SPF rules.

(3) Subsection (1) is a civil penalty provision.

Note: This means subsection (1) is a ***civil penalty provision of an SPF principle*** for the purposes of section 58FJ (about civil penalties).

(4) A statement of compliance given by the entity under this section is admissible, in any proceeding that:

(a) relates to the complaint; and

(b) is under or relates to an SPF EDR scheme;

as prima facie evidence of the entity's position, at the time of making the statement, on the matters in the statement.

(5) Nothing in this section limits or affects the admissibility in a proceeding of any other statement or evidence.

58BZE Having regard to processes and guidelines when undertaking internal dispute resolution—civil penalty provision

(1) A regulated entity contravenes this subsection if the entity:

(a) is undertaking internal dispute resolution in dealing with a person's complaint of a kind described in paragraph 58BZD(1)(a) or (b); and

(b) in doing so, the entity fails to have regard to:

Authorised Version C2026C00323 registered 22/07/2026

(i) any process prescribed by the SPF rules for undertaking internal dispute resolution; or

(ii) any guidelines prescribed by the SPF rules for apportioning any liability arising from the complaint.

(1A) To avoid doubt, guidelines prescribed for the purposes of subparagraph (1)(b)(ii) do not have to be consistent with sections 58FZD to 58FZK (about proportionate liability for concurrent wrongdoers in actions for damages).

(2) Subsection (1) is a civil penalty provision.

Note: This means subsection (1) is a ***civil penalty provision of an SPF principle*** for the purposes of section 58FJ (about civil penalties).

58BZF Publishing information about reporting and dispute resolution mechanisms—civil penalty provision

(1) A regulated entity for a regulated sector contravenes this subsection if the entity fails to make publicly accessible information about the rights of SPF consumers of the entity's regulated services for the sector under:

(a) the reporting mechanism required by subsection 58BZC(1); or

(b) the internal dispute resolution mechanism required by subsection 58BZD(1); or

(c) if the entity is a member of an SPF EDR scheme for the sector—the SPF EDR scheme.

(2) Subsection (1) is a civil penalty provision.

Note: This means subsection (1) is a ***civil penalty provision of an SPF principle*** for the purposes of section 58FJ (about civil penalties).

Authorised Version C2026C00323 registered 22/07/2026

58BZG SPF external dispute resolution schemes—civil penalty provisions

Regulated entity must not provide a regulated service if the entity is not a member of an SPF EDR scheme

(1) A regulated entity for a regulated sector contravenes this subsection if the entity:

(a) provides a regulated service for the sector that has one or more SPF consumers; and

(b) is not a member of an SPF EDR scheme for the sector.

Regulated entity that is a member of an SPF EDR scheme must give reasonable assistance to, and cooperate with, the scheme operator

(2) A regulated entity for a regulated sector contravenes this subsection if the entity:

(a) is a member of an SPF EDR scheme for the sector; and

(b) fails to give reasonable assistance to, or cooperate with, the operator of the scheme.

Regulated entity that is a member of an SPF EDR scheme must comply with related obligations in an SPF code

(3) A regulated entity for a regulated sector contravenes this subsection if the entity:

(a) is a member of an SPF EDR scheme for the sector; and

(b) fails to comply with an obligation in the SPF code for the sector that relates to the scheme.

Civil penalty provisions

(4) Subsections (1), (2) and (3) are civil penalty provisions.

Note: This means these subsections are ***civil penalty provisions of an SPF principle*** for the purposes of section 58FJ (about civil penalties).

Authorised Version C2026C00323 registered 22/07/2026

58BZH Sector-specific details can be set out in SPF codes

For the purposes of (but without limiting) subsection 58CC(1), the SPF code for a regulated sector may include sector-specific provisions setting out:

(a) conditions that must be met for a reporting mechanism required by subsection 58BZC(1); or

(b) conditions (such as standards and requirements) that must be met for an internal dispute resolution mechanism required by subsection 58BZD(1); or

(c) obligations that must be met in relation to an SPF EDR scheme for the sector by a regulated entity for the sector that is a member of the scheme.

Authorised Version C2026C00323 registered 22/07/2026

Division 3—Sector-specific codes for the Scams Prevention Framework

58CA Simplified outline of this Division

The Minister may make a code for each regulated sector.

Each code is to include sector-specific provisions for the following overarching principles of the Scams Prevention Framework (see Subdivisions B, C, D, F and G of Division 2):

(a) SPF principle 1—governance;
(b) SPF principle 2—prevent;
(c) SPF principle 3—detect;
(d) SPF principle 5—disrupt;
(e) SPF principle 6—respond.

Requirements in a code can be civil penalty provisions. The relevant SPF sector regulator will monitor, investigate and enforce compliance with these provisions. Division 6 sets out remedies for non-compliance with these provisions.

58CB Sector-specific codes (SPF codes)

The Minister may, by legislative instrument, make a code (an ***SPF code***) for a regulated sector.

58CC Content of SPF codes

Main rule about the content of SPF codes

(1) An SPF code must:
  (a) be consistent with the SPF principles; and
  (b) deal with only:
    (i) the themes or matters covered by Subdivisions B, C, D, F and G of Division 2; and

Authorised Version C2026C00323 registered 22/07/2026

(ii) related or incidental matters; and

(c) subject to paragraphs (a) and (b), include provisions about matters of a kind (if any) prescribed by the SPF rules.

Related or incidental matters in SPF codes

(2) Without limiting subparagraph (1)(b)(ii), an SPF code for a regulated sector may include the following:

(a) provisions relating to only certain kinds of regulated services for the sector;

(b) provisions relating to only certain kinds of SPF consumers of regulated services for the sector;

(c) provisions dealing with the circumstances in which entities are, or may be, relieved from complying with requirements in the SPF code that would otherwise apply to them;

(d) a provision that:

(i) confers powers on the SPF sector regulator for the sector or on another person; or

(ii) depends on the SPF sector regulator for the sector, or another person, being satisfied of one or more specified matters;

(e) provisions for the making of applications for internal review, or of applications to the Administrative Review Tribunal for review, of decisions of a person under the SPF code;

(f) provisions about the manner or form in which persons or bodies:

(i) may exercise powers under the SPF code; or

(ii) must comply with requirements imposed by the SPF code;

which could include requiring the use of a form approved by the SPF sector regulator for the sector or by the SPF general regulator;

(g) provisions about the following matters:

(i) whether a regulated entity for the sector may charge (or cause to be charged) a fee for a matter covered by the SPF code;

Authorised Version C2026C00323 registered 22/07/2026

(ii) the manner in which such a fee may be charged;
(iii) the time for paying such a fee;
(iv) giving notice of, or publicising, such a fee or matters about such a fee;

(h) provisions requiring agents of a regulated entity for the sector to do or not to do specified things when acting on behalf of the regulated entity and within the scope of the agent's actual or apparent authority;

(i) provisions authorising a regulated entity for the sector to use or disclose SPF personal information to the extent necessary to comply with the entity's obligations under the code;

(j) provisions about any other matters that the provisions of this Part provide may be included, or otherwise dealt with, in the SPF code.

Civil penalty provisions of the SPF code

(3) An SPF code may provide that specified provisions of the SPF code are civil penalty provisions (within the meaning of the Regulatory Powers Act).

Note: Division 6 of this Part deals with enforcing the civil penalty provisions.

Adopting matters in instruments as in force from time to time etc.

(4) An SPF code may make provision in relation to a matter by applying, adopting or incorporating (with or without modification) any matter contained in any other instrument or writing:
(a) as in force or existing at a particular time; or
(b) as in force or existing from time to time.

(5) Subsection (4) has effect despite subsection 14(2) of the *Legislation Act 2003*.

58CD Delegation

The Minister may, in writing, delegate the Minister's power under section 58CB to make a code for a regulated sector to:

Authorised Version C2026C00323 registered 22/07/2026

(a) another Minister; or
(b) the Commission; or
(c) the entity that is, or is to be, the SPF sector regulator for the sector.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

Authorised Version C2026C00323 registered 22/07/2026

Division 4—External dispute resolution for the Scams Prevention Framework

58DA Simplified outline of this Division

One or more external dispute resolution schemes may be authorised for dealing with consumer complaints about scams relating to, connected with, or using regulated services.

An existing scheme like the AFCA scheme could be authorised for this purpose, or new schemes could be developed and authorised.

58DB Minister may authorise external dispute resolution schemes for a regulated sector

(1) The Minister may, by legislative instrument, authorise an external dispute resolution scheme (an ***SPF EDR scheme***) for the purposes of this Part and one or more regulated sectors if:

(a) the scheme is already authorised under a Commonwealth law for another purpose; or

(b) the Minister is satisfied that the requirements prescribed by the SPF rules for the purposes of subsection 58DC(1) are met for the scheme.

Note 1: For paragraph (a), the Minister could, for example, authorise the AFCA scheme (within the meaning of the *Corporations Act 2001*) to apply for the purposes of this Part and a regulated sector. If that happens, ASIC's functions and powers relating to the AFCA scheme (for example, under section 1052A of that Act) will also apply for the purposes of this Part and the regulated sector.

Note 2: For variation and repeal, see subsection 33(3) of the *Acts Interpretation Act 1901*.

(2) Before authorising a scheme, the Minister must consider:

(a) the accessibility of the scheme; and

(b) the independence of the scheme; and

Authorised Version C2026C00323 registered 22/07/2026

(c) the fairness of the scheme; and
(d) the accountability of the scheme; and
(e) the efficiency of the scheme; and
(f) the effectiveness of the scheme; and
(g) any other matters the Minister considers relevant.

A failure to comply with this subsection does not invalidate an instrument made under subsection (1) authorising the scheme.

(3) An instrument made under subsection (1) may make the authorisation of the scheme subject to specified conditions.

(4) An instrument made under subsection (1) authorising a scheme for which paragraph (1)(b) applies must set out the scheme.

(5) More than one scheme may be authorised under subsection (1).

58DC Content, including requirements, of a scheme that is not already authorised under a Commonwealth law

(1) The SPF rules may prescribe the following requirements for a scheme for which paragraph 58DB(1)(b) is to apply:
(a) organisational requirements for membership of the scheme;
(b) requirements for the operator (the ***operator***) of the scheme;
(c) requirements for how the scheme is to operate;
(d) requirements to be complied with by members of the scheme;
(e) requirements for making changes to the scheme.

(2) A scheme for which paragraph 58DB(1)(b) is to apply may also include provisions dealing with the following:
(a) powers of one or more of the following under the scheme:
(i) the Minister;
(ii) an SPF regulator;
(iii) a Commonwealth entity (within the meaning of the *Public Governance, Performance and Accountability Act 2013*);
(b) powers of the operator under the scheme, including powers to:

Authorised Version C2026C00323 registered 22/07/2026

(i) seek information; and
(ii) make determinations of complaints; and
(iii) make determinations imposing financial and non-financial remedies; and

(c) appeals to the Federal Court from such determinations by the operator;
(d) information sharing and reporting;
(e) a provision that depends on the operator or another person being satisfied of one or more specified matters;
(f) provisions about the following matters:
(i) the manner in which the operator may charge (or cause to be charged) a fee under the scheme;
(ii) the time for paying such a fee;
(iii) giving notice of, or publicising, such a fee or matters about such a fee;
(g) provisions about any other matters that the provisions of this Part provide may be specified, or otherwise dealt with, in the scheme.

58DD Scheme operator to report to SPF regulators

Referring contraventions, failures and systemic issues

(1) If the operator of an SPF EDR scheme for a regulated sector becomes aware that:
(a) a serious contravention of any law may have occurred in connection with a complaint under the scheme; or
(b) a party to a complaint under the scheme may have failed to give effect to a determination by the operator relating to the complaint; or
(c) there is a systemic issue arising from the consideration of complaints under the scheme;

the operator must give particulars of the contravention, failure or issue to the SPF general regulator and to the SPF sector regulator for the sector.

Authorised Version C2026C00323 registered 22/07/2026

Referring settled complaints

(2) If:

(a) the parties to a complaint made under an SPF EDR scheme for a regulated sector agree to a settlement of the complaint; and

(b) the operator of the scheme thinks the settlement may require investigation;

the operator may give particulars of the settlement to the SPF general regulator and to the SPF sector regulator for the sector.

De-identifying any SPF personal information

(3) If any SPF personal information is to be given under subsection (1) or (2) by the operator of the scheme, the operator must de-identify the information unless the operator reasonably believes that doing so would not achieve the object of this Part.

58DE Disclosing information to the operator of an SPF EDR scheme

(1) An SPF regulator may disclose information to the operator of an SPF EDR scheme for the purposes of enabling or assisting the operator to perform any of the operator's functions or powers.

(2) The SPF regulator may impose conditions to be complied with by the operator in relation to the information.

(3) If an SPF regulator is to disclose SPF personal information under subsection (1), the SPF regulator must de-identify the information unless the SPF regulator reasonably believes that doing so would not achieve the object of this Part.

Authorised Version C2026C00323 registered 22/07/2026

Division 5—Regulating the Scams Prevention Framework

Subdivision A—Preliminary

58EA Simplified outline of this Division

The Commission is the regulator (the ***SPF general regulator***) of most aspects of the Scams Prevention Framework, in particular of the overarching principles of the Framework.

Other Commonwealth entities may be selected to be regulators (***SPF sector regulators***) of each of the SPF codes.

The SPF general regulator must enter into arrangements with the SPF sector regulators about the regulation and enforcement of the Framework. These regulators may disclose relevant information and documents to each other for this purpose.

Subdivision B—Regulators of the Scams Prevention Framework

58EB General regulator of the Scams Prevention Framework

(1) The Commission is the ***SPF general regulator*** for all SPF provisions apart from the provisions of SPF codes.

(2) The functions and powers of the SPF general regulator include:

(a) reviewing, and advising the Minister about, the operation of the SPF provisions; and

(ab) monitoring, investigating and enforcing compliance with the SPF provisions, other than the provisions of SPF codes; and

(b) the Commission's powers under section 155 to the extent that section 155 relates to:

(i) the SPF provisions, other than the provisions of SPF codes; or

Authorised Version C2026C00323 registered 22/07/2026

(ii) a designated scams prevention framework matter (within the meaning of that section) of a kind not mentioned in subparagraph 58ED(3)(c)(ii); and

(c) developing and publishing non-binding guidance material relating to the SPF provisions, other than the provisions of SPF codes; and

(d) the functions and powers of the SPF general regulator conferred by any other SPF provisions.

Note: Paragraph (d) includes the SPF general regulator's powers under the Regulatory Powers Act that are referred to in Division 6.

58EC Delegation of the SPF general regulator's functions and powers

(1) The Commission may, by resolution, delegate any of:

(a) the Commission's functions and powers (as the SPF general regulator) under an SPF provision; or

(b) the Commission's powers under section 155 as described in paragraph 58EB(2)(b);

to a person to whom subsection (3) applies.

(2) A member of the Commission may, by writing, delegate any of the member's powers under section 155 to the extent that section 155 relates to:

(a) the SPF provisions, other than the provisions of SPF codes; or

(b) a designated scams prevention framework matter (within the meaning of that section) of a kind not mentioned in subparagraph 58ED(3)(c)(ii);

to a person to whom any of paragraphs (3)(b) to (e) applies.

(3) This subsection applies to the following persons:

(a) a member of the Commission;

(b) person who is an employee of the Commission who:

(i) is an SES employee or acting SES employee; or

(ii) holds or performs the duties of an Executive Level 1 or 2 position;

Authorised Version C2026C00323 registered 22/07/2026

and who the Commission is satisfied has appropriate qualifications, training, skills or experience to perform the functions or exercise the powers;

(c) an SPF sector regulator;

(d) a member (if any) of an SPF sector regulator;

(e) an employee of an SPF sector regulator who holds or performs the duties of a position that is equivalent to a position mentioned in subparagraph (b)(i) or (ii).

(4) A delegation of functions or powers must not be made under subsection (1) or (2) to a person to whom paragraph (3)(c), (d) or (e) applies unless the relevant SPF sector regulator:

(a) has agreed to the delegation in writing; and

(b) in the case of a person to whom paragraph (3)(e) applies—is satisfied that the person has appropriate qualifications, training, skills or experience to perform the functions or exercise the powers.

(5) In performing any functions or exercising any powers under a delegation under subsection (1) or (2), the delegate must comply with any directions of the delegator.

58ED Regulator of a regulated sector

(1) The Minister may, by legislative instrument, designate an entity that:

(a) is a Commonwealth entity (within the meaning of the *Public Governance, Performance and Accountability Act 2013*); and

(b) is already conferred functions by or under a law;

to be the ***SPF sector regulator*** for a regulated sector.

(2) The Commission is the ***SPF sector regulator*** for a regulated sector if (and while) no instrument under subsection (1) is in force for the sector.

Note: The Commission could also be designated under subsection (1) to be the SPF sector regulator for a regulated sector.

Authorised Version C2026C00323 registered 22/07/2026

(3) The functions and powers of the SPF sector regulator for a regulated sector include:

(a) those conferred by:

(i) the SPF code for the sector; and

(ii) any other SPF provisions; and

(b) monitoring, investigating and enforcing compliance with the provisions of the SPF code for the sector; and

(c) if the SPF sector regulator is the Commission—the Commission's powers under section 155 to the extent that section 155 relates to:

(i) the provisions of the SPF code for the sector; or

(ii) a designated scams prevention framework matter (within the meaning of that section) involving the performance of a function, or the exercise of a power, mentioned in paragraph (a) or (b) of this subsection.

Note: The functions and powers of SPF regulators other than the Commission include the monitoring and investigating functions and powers referred to in Division 6 (see subparagraph (a)(ii) of this subsection).

(4) The Minister may, in writing, delegate the Minister's power under subsection (1) to another Minister.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

58EE Delegation of an SPF sector regulator's functions and powers

(1) An SPF sector regulator may, by writing, delegate any of the SPF sector regulator's functions and powers under:

(a) an SPF provision, other than a provision of the Regulatory Powers Act; or

(b) if the SPF sector regulator is the Commission—the Commission's powers under section 155 as described in paragraph 58ED(3)(c);

to a person to whom subsection (3) applies.

Note: A function or power of the SPF sector regulator under a provision of the Regulatory Powers Act may be able to be delegated under the

Authorised Version C2026C00323 registered 22/07/2026

Subdivision of Division 6 of this Part that refers to that provision of that Act (for example, see subsection 58FE(5) of this Act).

(2) If an SPF sector regulator is the Commission, a member of the Commission may, by writing, delegate any of the member's powers under section 155 to the extent that section 155 relates to:

(a) the provisions of the SPF code for the sector; or

(b) a designated scams prevention framework matter (within the meaning of that section) of a kind mentioned in subparagraph 58ED(3)(c)(ii);

to a person to whom paragraph (3)(b) applies.

(3) This subsection applies to the following persons:

(a) a member (if any) of the SPF sector regulator;

(b) person who is an employee of the SPF sector regulator who:

(i) is an SES employee or acting SES employee; or

(ii) holds or performs the duties of an Executive Level 1 or 2 position; or

(iii) holds or performs the duties of a position that is equivalent to a position mentioned in subparagraph (i) or (ii);

and who the SPF sector regulator is satisfied has appropriate qualifications, training, skills or experience to perform the functions or exercise the powers.

(4) In performing any functions or exercising any powers under a delegation under subsection (1) or (2), the delegate must comply with any directions of the delegator.

58EF Arrangements for regulating the Scams Prevention Framework

(1) The SPF general regulator, and each SPF sector regulator, must enter into an arrangement relating to the regulation and enforcement of the SPF provisions.

(2) The SPF general regulator may choose to comply with subsection (1) by entering into:

Authorised Version C2026C00323 registered 22/07/2026

(a) a single arrangement with all, or one or more, SPF sector regulators; or

(b) a separate arrangement with each SPF sector regulator.

However, subsection (1) does not apply to the extent that the Commission is an SPF sector regulator.

(3) The arrangement must include provisions relating to the matters (if any) prescribed by the SPF rules.

Note: For example, the SPF rules could require an SPF regulator that requests a scam report under subsection 58BS(1) to:

(a) notify each other SPF regulator of the request; and

(b) give a copy of the scam report to any of those other SPF regulators that asks for one.

(4) Each SPF regulator that is a party to such an arrangement must publish the arrangement on its website.

(5) A failure to comply with this section does not invalidate the performance or exercise of a function or power by an SPF regulator.

58EFA Roles and responsibilities statement

(1) The SPF general regulator must publish a statement on its website summarising, in general terms, the roles and responsibilities of:

(a) each SPF regulator; and

(b) each operator of an SPF EDR scheme; and

(c) any other entity the SPF general regulator considers appropriate;

with respect to the regulation, enforcement and administration of the SPF provisions.

Note: The purpose of the statement is to explain these matters at a high level.

(2) Before publishing the statement, the SPF general regulator must consult the entities mentioned in subsection (1).

(3) The statement is not a legislative instrument.

Authorised Version C2026C00323 registered 22/07/2026

Subdivision C—Information sharing between SPF regulators

58EG SPF regulators may disclose information to each other

(1) An SPF regulator may disclose to another SPF regulator:

(a) particular information or documents; or

(b) information or documents of a particular kind;

held by the first-mentioned SPF regulator that are relevant to the operation (including enforcement) of the SPF provisions.

(2) An SPF regulator may make a disclosure under subsection (1) on request or on its own initiative.

Note: This section means such a disclosure is permitted by provisions like:

(a) paragraph 155AAA(1)(b); and

(b) section 59DB of the *Australian Communications and Media Authority Act 2005*; and

(c) subsection 127(2) of the *Australian Securities and Investments Commission Act 2001*.

Similarly, the exception in paragraph 6.2(b) of Australian Privacy Principle 6 will apply to such a disclosure.

(3) SPF personal information may be disclosed under subsection (1).

58EH Regard must be had to the object of this Part when considering whether to make such a disclosure

An SPF regulator must have regard to the object of this Part when deciding whether to make a disclosure under this Subdivision.

Note: Arrangements made under section 58EF between SPF regulators could deal with when disclosures should be made (see subsection 58EF(3) in particular).

58EI Notice need not be given of a collection, use or disclosure of information or documents under this Part

An SPF regulator need not notify any person that the SPF regulator:

(a) has collected SPF personal information under this Part; or

Authorised Version C2026C00323 registered 22/07/2026

(b) plans to make a disclosure of information or documents under this Part; or
(c) has made such a disclosure under this Part; or
(d) plans to use information or documents disclosed under this Part; or
(e) has used such information or documents under this Part.

58EJ Information that need not be disclosed

Nothing in this Part requires an SPF regulator to disclose information or documents that:

(a) concern the internal administrative functioning of that regulator; or
(b) disclose a matter in respect of which that regulator or any other person has claimed legal professional privilege; or
(c) are of a kind prescribed by the SPF rules.

Authorised Version C2026C00323 registered 22/07/2026

Division 6—Enforcing the Scams Prevention Framework

Subdivision A—Preliminary

58FA Simplified outline of this Division

The Commission, in its role as the SPF general regulator or an SPF sector regulator, may use its powers under this Act (including section 155) to monitor and investigate compliance with the aspects of the Scams Prevention Framework that are relevant for that role.

If the ACMA or ASIC is an SPF sector regulator, it must use powers in its own legislation to monitor and investigate compliance with an SPF code for the sector. Other SPF sector regulators may monitor and investigate compliance with an SPF code either using the powers in Subdivision B or, with the Minister's permission, powers in their own legislation.

The maximum penalties for contraventions of the civil penalty provisions of the Scams Prevention Framework are set out in Subdivision C.

Other remedies for contraventions of the Framework are set out in later Subdivisions of this Division, and include:

(a) infringement notices; and
(b) enforceable undertakings; and
(c) injunctions; and
(d) actions for damages; and
(e) public warning notices; and
(f) remedial directions; and
(g) adverse publicity orders; and
(h) other punitive and non-punitive orders.

Authorised Version C2026C00323 registered 22/07/2026

Some of these remedies may also be available against a person involved in a contravention of the Framework by a regulated entity, such as a senior officer of the regulated entity (for example, see subsection 58FW(1)).

Note: Sections 58GA to 58GC extend the meaning of ***person*** for partnerships, unincorporated associations and trusts.

58FB Appointment of inspectors

(1) An SPF regulator may, in writing, appoint a person who is one of the following to be an ***inspector*** of that regulator for the purposes of one or more Subdivisions of this Division:

(a) a person who is an employee of that regulator who:

(i) is an SES employee or acting SES employee; or

(ii) holds or performs the duties of an Executive Level 1 or 2 position; or

(iii) holds or performs the duties of a position that is equivalent to a position mentioned in subparagraph (i) or (ii);

(b) a member or special member of the Australian Federal Police.

(2) However, the SPF regulator must not appoint a person as an inspector unless the SPF regulator is satisfied that the person has appropriate qualifications, training, skills or experience to exercise the powers of an inspector.

(3) A person must, in exercising powers as an inspector of an SPF regulator, comply with any directions of the SPF regulator that are of an administrative character.

(4) If (and while) no appointments under subsection (1) by an SPF regulator are in force for the purposes of a Subdivision of this Division, the SPF regulator is an ***inspector*** of the SPF regulator for the purposes of that Subdivision.

Authorised Version C2026C00323 registered 22/07/2026

58FC Multiple remedies can be sought for a single contravention

Subject to section 58FM (about civil penalties), a provision of this Division does not limit a court's powers under any other provision of this Act or of any other Act.

58FD Preference must be given to compensation for victims

If a court considers that:

(a) it is appropriate to order a person (the ***defendant***) to pay a pecuniary penalty under an SPF civil penalty order in relation to a contravention or conduct; and

(b) it is appropriate to order under Subdivision G the defendant to pay compensation to a person who has suffered loss or damage as result of that contravention or conduct; and

(c) the defendant does not have sufficient financial resources to pay both the pecuniary penalty and the compensation;

the court must give preference to making an order for compensation.

Subdivision B—Monitoring or investigating compliance with an SPF code

58FE Monitoring compliance with an SPF code—default

No alternative monitoring powers apply

(1) This section applies for the SPF code for a regulated sector unless:

(a) the ACMA, ASIC or the Commission is the SPF sector regulator for the sector; or

(b) a declaration is in force under subsection 58FI(2) declaring that provisions that include monitoring powers of the kind mentioned in subparagraph 58FI(1)(a)(i) apply in relation to provisions of the SPF code.

Authorised Version C2026C00323 registered 22/07/2026

Provisions subject to monitoring

(2) Each provision of the SPF code is subject to monitoring under Part 2 of the Regulatory Powers Act.

Note: Part 2 of the Regulatory Powers Act creates a framework for monitoring whether these provisions have been complied with. That Part includes powers of entry and inspection.

Information subject to monitoring

(3) Information given in compliance or purported compliance with the SPF code is subject to monitoring under Part 2 of the Regulatory Powers Act.

Note: Part 2 of the Regulatory Powers Act creates a framework for monitoring whether the information is correct. It includes powers of entry and inspection.

Related provisions, authorised applicant, authorised person, issuing officer, relevant chief executive and relevant court

(4) For the purposes of Part 2 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (2) and the information mentioned in subsection (3):

(a) there are no related provisions; and

(b) an inspector of the SPF sector regulator is an authorised applicant; and

(c) an inspector of the SPF sector regulator is an authorised person; and

(d) a magistrate is an issuing officer; and

(e) the SPF sector regulator is the relevant chief executive; and

(f) each of the following courts is a relevant court:

(i) the Federal Court;

(ii) the Federal Circuit and Family Court of Australia (Division 2);

(iii) a court of a State or Territory that has jurisdiction in relation to the matter.

Authorised Version C2026C00323 registered 22/07/2026

(5) The relevant chief executive may, in writing, delegate the powers and functions mentioned in subsection (6) to:

(a) an SES employee, or acting SES employee, of the SPF sector regulator; or

(b) an employee of the SPF sector regulator who holds or performs the duties of a position that is equivalent to an SES employee;

if the relevant chief executive is satisfied that the employee has appropriate qualifications, training, skills or experience to exercise the powers and perform the functions.

(6) The powers and functions that may be delegated are:

(a) powers and functions under Part 2 of the Regulatory Powers Act in relation to the provisions mentioned in subsection (2) and the information mentioned in subsection (3); and

(b) powers and functions under the Regulatory Powers Act that are incidental to a power or function mentioned in paragraph (a) of this subsection.

(7) A person exercising powers or performing functions under a delegation under subsection (5) must comply with any directions of the relevant chief executive.

Person assisting

(8) An authorised person may be assisted by other persons in exercising powers or performing functions or duties under Part 2 of the Regulatory Powers Act in relation to the provisions mentioned in subsection (2) and the information mentioned in subsection (3).

58FF Investigating compliance with an SPF code—default

No alternative investigation powers apply

(1) This section applies for the SPF code for a regulated sector unless:

(a) the ACMA, ASIC or the Commission is the SPF sector regulator for the sector; or

Authorised Version C2026C00323 registered 22/07/2026

(b) a declaration is in force under subsection 58FI(2) declaring that provisions that include investigation powers of the kind mentioned in subparagraph 58FI(1)(a)(ii) apply in relation to provisions of the SPF code.

Provisions subject to investigation

(2) Each civil penalty provision of the SPF code is subject to investigation under Part 3 of the Regulatory Powers Act.

Note: Part 3 of the Regulatory Powers Act creates a framework for investigating whether a provision has been contravened. It includes powers of entry, search and seizure.

Related provisions, authorised applicant, authorised person, issuing officer, relevant chief executive and relevant court

(3) For the purposes of Part 3 of the Regulatory Powers Act, as that Part applies in relation to evidential material that relates to a provision mentioned in subsection (2):

(a) there are no related provisions; and

(b) an inspector of the SPF sector regulator is an authorised applicant; and

(c) an inspector of the SPF sector regulator is an authorised person; and

(d) a magistrate is an issuing officer; and

(e) the SPF sector regulator is the relevant chief executive; and

(f) each of the following courts is a relevant court:

(i) the Federal Court;

(ii) the Federal Circuit and Family Court of Australia (Division 2);

(iii) a court of a State or Territory that has jurisdiction in relation to the matter.

(4) The relevant chief executive may, in writing, delegate the powers and functions mentioned in subsection (5) to:

(a) an SES employee, or acting SES employee, of the SPF sector regulator; or

Authorised Version C2026C00323 registered 22/07/2026

(b) an employee of the SPF sector regulator who holds or performs the duties of a position that is equivalent to an SES employee.

if the relevant chief executive is satisfied that the employee has appropriate qualifications, training, skills or experience to exercise the powers and perform the functions.

(5) The powers and functions that may be delegated are:

(a) powers and functions under Part 3 of the Regulatory Powers Act in relation to evidential material that relates to a provision mentioned in subsection (2); and

(b) powers and functions under the Regulatory Powers Act that are incidental to a power or function mentioned in paragraph (a).

(6) A person exercising powers or performing functions under a delegation under subsection (4) must comply with any directions of the relevant chief executive.

Person assisting

(7) An authorised person may be assisted by other persons in exercising powers or performing functions or duties under Part 3 of the Regulatory Powers Act in relation to evidential material that relates to a provision mentioned in subsection (2).

58FG Monitoring or investigating—the ACMA

(1) This section applies if the ACMA is the SPF sector regulator for a regulated sector.

(2) Part 26 of the *Telecommunications Act 1997* also applies:

(a) to the ACMA in the ACMA's capacity as the SPF sector regulator; and

(b) in relation to a contravention of the SPF code for the sector in a corresponding way to the way that Part applies in relation to a contravention of that Act that does not relate to the content of a content service.

Authorised Version C2026C00323 registered 22/07/2026

(3) Part 27 of the *Telecommunications Act 1997* also applies:

(a) to the ACMA in the ACMA's capacity as the SPF sector regulator; and

(b) in relation to the performance of any of the ACMA's functions under the SPF code for the sector in a corresponding way to the way that Part applies in relation to the performance of any of the ACMA's telecommunications functions; and

(c) in relation to the exercise of any of the ACMA's powers under the SPF code for the sector in a corresponding way to the way that Part applies in relation to the exercise of any of the ACMA's telecommunications powers.

(3) For the purposes of this additional application of Parts 26 and 27 of the *Telecommunications Act 1997*, the Minister may, by legislative instrument, specify modifications of one or more provisions of those Parts to remove any doubt about how those provisions apply in such a corresponding way in relation to the SPF code.

Note: The modifications are for this additional application of those Parts, and are not modifications of those Parts as they ordinarily apply.

(4) The instrument has effect accordingly.

(5) In this section:

ACMA's telecommunications functions has the same meaning as in the *Telecommunications Act 1997*.

ACMA's telecommunications powers has the same meaning as in the *Telecommunications Act 1997*.

content service has the same meaning as in the *Telecommunications Act 1997*.

58FH Monitoring or investigating—ASIC

(1) This section applies if ASIC is the SPF sector regulator for a regulated sector.

(2) ASIC's alternative power provisions also apply:

Authorised Version C2026C00323 registered 22/07/2026

(a) to ASIC in ASIC's capacity as the SPF sector regulator; and
(b) in relation to the provisions of the SPF code for the sector in a corresponding way to the way:
(i) ASIC's alternative power provisions (other than those mentioned in subparagraph (ii)) apply in relation to the corporations legislation (other than the excluded provisions); and
(ii) sections 28, 30, 31 to 39, 39B and 39C and subsection 67(2) of the ASIC Act apply in relation to the corporations legislation.

(3) For the purposes of this additional application of ASIC's alternative power provisions, the Minister may, by legislative instrument, specify modifications of one or more of those provisions to remove any doubt about how those provisions apply in such a corresponding way in relation to the provisions of the SPF code.

Note: The modifications are for this additional application of ASIC's alternative power provisions, and are not modifications of those provisions as they ordinarily apply.

(4) The instrument has effect accordingly.

(5) In this section:

ASIC Act means the *Australian Securities and Investments Commission Act 2001*.

ASIC's alternative power provisions means Divisions 1, 2, 3 (other than sections 30A, 30B and 39A), 7, 9 and 10 of Part 3 of the ASIC Act.

corporations legislation has the same meaning as in the ASIC Act.

excluded provisions has the same meaning as in the ASIC Act.

Authorised Version C2026C00323 registered 22/07/2026

58FI Monitoring or investigating—Minister may declare that alternative powers apply for other SPF sector regulators

(1) This section applies if provisions of another law (the ***alternative power provisions***):

(a) provide an entity with powers to:

(i) monitor compliance or purported compliance with provisions of a law (the ***alternative regulatory provisions***); or

(ii) investigate provisions of a law (also the ***alternative regulatory provisions***); or

(b) enable the effective operation and enforcement of such powers.

Note: Paragraph (b) covers, for example, a provision making it an offence to fail to appear to answer questions in relation to an investigation.

(2) The Minister may, by legislative instrument, declare that specified alternative power provisions (that relate to a specified entity and specified alternative regulatory provisions) also apply:

(a) to the entity in the entity's capacity as the SPF sector regulator for a regulated sector; and

(b) in relation to specified provisions of the SPF code for the sector in a corresponding way to the way the alternative power provisions apply in relation to the alternative regulatory provisions.

(3) For the purposes of this additional application of the alternative power provisions, the instrument may specify modifications of one or more of those provisions to remove any doubt about how those provisions apply in such a corresponding way in relation to the specified provisions of the SPF code.

Note: The modifications are for this additional application of the alternative power provisions, and are not modifications of those provisions as they ordinarily apply.

(4) The instrument has effect accordingly.

Authorised Version C2026C00323 registered 22/07/2026

Subdivision C—Civil penalty provisions

58FJ Civil penalty provisions

Enforcing civil penalty provisions

(1) Each of the following is enforceable under Part 4 of the Regulatory Powers Act:

(a) a civil penalty provision of an SPF principle;

(b) a civil penalty provision of an SPF code.

Note: Part 4 of the Regulatory Powers Act allows a civil penalty provision to be enforced by obtaining an order for a person to pay a pecuniary penalty for the contravention of the provision.

Authorised applicant

(2) For the purposes of Part 4 of the Regulatory Powers Act:

(a) the SPF general regulator is an authorised applicant in relation to each civil penalty provision of an SPF principle; and

(b) the SPF sector regulator for a regulated sector is an authorised applicant in relation to each civil penalty provision of the SPF code for the sector.

Relevant court

(3) For the purposes of Part 4 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to each provision referred to in subsection (1):

(a) the Federal Court;

(b) the Federal Circuit and Family Court of Australia (Division 2);

(c) a court of a State or Territory that has jurisdiction in relation to the matter.

Authorised Version C2026C00323 registered 22/07/2026

58FK Maximum penalty for tier 1 contraventions

(1) Despite subsection 82(5) of the Regulatory Powers Act, the pecuniary penalty payable by a person:

(a) under an SPF civil penalty order; and

(b) for a contravention of a civil penalty provision of an SPF principle in any of Subdivisions C, D, F or G of Division 2 of this Part;

must not be more than the maximum penalty amount worked out under this section for such a contravention by the person.

Maximum amount of civil penalty for bodies corporate

(2) For the purposes of subsection (1), the maximum penalty amount for such a contravention by a body corporate is the greater of the following:

(a) 159,745 penalty units;

(b) if the relevant court (see subsection 58FJ(3)) can determine the total value of the benefit that:

(i) the body corporate; and

(ii) any body corporate related to the body corporate;

have obtained directly or indirectly and that is reasonably attributable to the contravention—3 times that total value;

(c) if that court cannot determine that total value—30% of the adjusted turnover of the body corporate during the breach turnover period for the contravention.

Maximum amount of civil penalty for other persons

(3) For the purposes of subsection (1), the maximum penalty amount for such a contravention by a person other than a body corporate is 7,990 penalty units.

58FL Maximum penalty for tier 2 contraventions

(1) Despite subsection 82(5) of the Regulatory Powers Act, the pecuniary penalty payable by a person:

Authorised Version C2026C00323 registered 22/07/2026

(a) under an SPF civil penalty order; and
(b) for a contravention of:
(i) a civil penalty provision of an SPF principle in Subdivision B or E of Division 2 of this Part; or
(ii) a civil penalty provision of an SPF code;

must not be more than the maximum penalty amount worked out under this section for such a contravention by the person.

Maximum amount of civil penalty for bodies corporate

(2) For the purposes of subsection (1), the maximum penalty amount for such a contravention by a body corporate is the greater of the following:
(a) 31,950 penalty units;
(b) if the relevant court (see subsection 58FJ(3)) can determine the total value of the benefit that:
(i) the body corporate; and
(ii) any body corporate related to the body corporate;
have obtained directly or indirectly and that is reasonably attributable to the contravention—3 times that total value;
(c) if that court cannot determine that total value—10% of the adjusted turnover of the body corporate during the breach turnover period for the contravention.

Maximum amount of civil penalty for other persons

(3) For the purposes of subsection (1), the maximum penalty amount for such a contravention by a person other than a body corporate is 1,600 penalty units.

58FM Civil penalty double jeopardy

If a person is ordered under an SPF civil penalty order to pay a pecuniary penalty in respect of particular conduct, the person is not liable to:
(a) a pecuniary penalty for contravening another civil penalty provision of an SPF principle or of an SPF code; or

Authorised Version C2026C00323 registered 22/07/2026

(b) a pecuniary penalty under some other provision of a law of the Commonwealth;

in respect of that conduct.

Note: A court may make other kinds of orders under this Division, for example under section 58FZC (actions for damages), in relation to particular conduct even if the court has made an SPF civil penalty order in relation to that conduct.

Subdivision D—Infringement notices

58FN Purpose and effect of this Subdivision

(1) The purpose of this Subdivision is to provide for the issue of an infringement notice to a person for an alleged contravention of:

(a) a civil penalty provision of an SPF principle in Subdivision B or E of Division 2 of this Part; or

(b) a civil penalty provision of an SPF code;

as an alternative to proceedings for an SPF civil penalty order.

(2) This Subdivision does not:

(a) require an SPF infringement notice to be issued for an alleged contravention of such a civil penalty provision; or

(b) affect a person's liability to proceedings for an SPF civil penalty order in relation to an alleged contravention of a civil penalty provision if:

(i) an SPF infringement notice is not issued to the person for the contravention; or

(ii) an SPF infringement notice issued to the person for the contravention is withdrawn under section 58FU; or

(c) prevent a court from imposing a higher penalty than the penalty specified in the SPF infringement notice if the person does not comply with the notice.

Authorised Version C2026C00323 registered 22/07/2026

58FO Issuing an SPF infringement notice

Notices for contraventions of certain SPF principles

(1) If an inspector of the SPF general regulator reasonably believes that a person has contravened a civil penalty provision of an SPF principle in Subdivision B or E of Division 2 of this Part, the inspector may issue a notice (an ***SPF infringement notice***) to the person.

Notices for contraventions of SPF codes

(2) If an inspector of the SPF sector regulator for a regulated sector reasonably believes that a person has contravened a civil penalty provision of the SPF code for the sector, the inspector may issue a notice (an ***SPF infringement notice***) to the person.

Only one notice for each contravention

(3) Inspectors for an SPF regulator must not issue more than one SPF infringement notice to the person for the same alleged contravention of a civil penalty provision.

When notices do not have any effect

(4) An SPF infringement notice does not have any effect if the notice:
  (a) is issued more than 12 months after the day that the relevant contravention is alleged to have occurred; or
  (b) relates to more than one alleged contravention of a civil penalty provision by the person.

58FP Matters to be included in an SPF infringement notice

An SPF infringement notice must:
  (a) be identified by a unique number; and
  (b) state the day on which it is issued; and
  (c) state the name of the person to whom it is issued; and

Authorised Version C2026C00323 registered 22/07/2026

(d) state the name of the inspector who issued the notice, that the inspector is an inspector of the applicable SPF regulator, and how that SPF regulator may be contacted; and

(e) give details of the alleged contravention, including:

(i) the day of the alleged contravention; and

(ii) the civil penalty provision that was allegedly contravened; and

(f) state the maximum pecuniary penalty that a court could order the person to pay if the court were to make an SPF civil penalty order for the alleged contravention; and

(g) specify the penalty that is payable in relation to the alleged contravention; and

(h) state that the penalty is payable within the infringement notice compliance period for the notice; and

(i) state that the penalty is payable to the SPF regulator on behalf of the Commonwealth; and

(j) explain how payment of the penalty is to be made; and

(k) explain the effect of sections 58FR to 58FU.

58FQ Amount of penalty

The penalty to be specified in an SPF infringement notice that is to be issued to a person must be equal to the following amount:

(a) if the person is a body corporate—60 penalty units;

(b) otherwise—12 penalty units.

58FR Effect of compliance with an SPF infringement notice

(1) This section applies if:

(a) an SPF infringement notice for an alleged contravention of a civil penalty provision is issued to a person; and

(b) the person pays the penalty specified in the notice within the infringement notice compliance period and in accordance with the notice; and

(c) the notice is not withdrawn under section 58FU.

Authorised Version C2026C00323 registered 22/07/2026

(2) The person is not, merely because of the payment, regarded as having contravened the civil penalty provision.

(3) No proceedings (whether criminal or civil) may be started or continued against the person, by or on behalf of the Commonwealth, in relation to the alleged contravention of the civil penalty provision.

58FS Effect of failure to comply with an SPF infringement notice

If:

(a) an SPF infringement notice for an alleged contravention of a civil penalty provision is issued to a person; and

(b) the person fails to pay the penalty specified in the notice within the infringement notice compliance period and in accordance with the notice; and

(c) the notice is not withdrawn under section 58FU;

the person is liable to proceedings for an SPF civil penalty order in relation to the alleged contravention of the civil penalty provision.

58FT Infringement notice compliance period for infringement notice

(1) Subject to this section, the ***infringement notice compliance period***, for an SPF infringement notice issued to a person, is the period of 28 days beginning on the day after the day that the notice is so issued by an inspector of an SPF regulator.

(2) The SPF regulator may, by giving written notice to the person, extend that infringement notice compliance period if the SPF regulator is satisfied that it is appropriate to do so.

(3) Only one extension may be given and the extension must not be for longer than 28 days.

(4) A failure to give the person written notice of the extension does not affect the validity of the extension.

(5) If an infringement notice compliance period for an SPF infringement notice is extended under this section, a reference in

Authorised Version C2026C00323 registered 22/07/2026

this Subdivision to the infringement notice compliance period is taken to be a reference to that period as so extended.

58FU Withdrawal of an infringement notice

Representations to the SPF regulator

(1) A person to whom an SPF infringement notice has been issued:
  (a) by an inspector of an SPF regulator; and
  (b) for an alleged contravention of a civil penalty provision;
may make written representations to the SPF regulator seeking the withdrawal of the notice.

(2) Evidence or information that:
  (a) the person; or
  (b) a representative of the person;
gives to the SPF regulator in the course of making representations under subsection (1) is not admissible in evidence against the person or representative in any proceedings (other than proceedings for an offence based on the evidence or information given being false or misleading).

Withdrawal by the SPF regulator

(3) If an inspector of an SPF regulator issues an SPF infringement notice to a person, the SPF regulator may, by giving written notice (a ***withdrawal notice***) to the person, withdraw the SPF infringement notice if the SPF regulator is satisfied that it is appropriate to do so.

(4) Subsection (3) applies whether or not the person has made representations seeking the withdrawal.

Content of withdrawal notices

(5) The withdrawal notice must state:
  (a) the name and address of the person; and

Authorised Version C2026C00323 registered 22/07/2026

(b) the day on which the SPF infringement notice was issued to the person; and
(c) that the SPF infringement notice is withdrawn; and
(d) that proceedings for an SPF civil penalty order may be started or continued against the person in relation to the alleged contravention of the civil penalty provision.

Time limit for giving withdrawal notices

(6) To be effective, the withdrawal notice must be given to the person within the infringement notice compliance period for the SPF infringement notice.

Refunds

(7) If an SPF regulator withdraws an SPF infringement notice given to a person after the person has paid the penalty specified in the SPF infringement notice, the SPF regulator must refund to the person an amount equal to the amount paid.

Subdivision E—Enforceable undertakings

58FV Enforceable undertakings

Accepting an undertaking

(1) The SPF general regulator may accept a written undertaking given by a person for the purposes of this section in connection with compliance with a provision of the SPF principles.

(2) The SPF sector regulator for a regulated sector may accept a written undertaking given by a person for the purposes of this section in connection with compliance with a provision of the SPF code for the sector.

Authorised Version C2026C00323 registered 22/07/2026

Withdrawing or varying the undertaking

(3) The person who gave the undertaking may withdraw or vary it at any time, but only with the consent of the SPF regulator who accepted it.

Orders for enforcing the undertaking

(4) If an SPF regulator considers that the person who gave the SPF regulator an undertaking has breached any of its terms, the SPF regulator may apply to the Court for an order under subsection (5).

(5) If the Court is satisfied that the person has breached a term of the undertaking, the Court may make all or any of the following orders:

(a) an order directing the person to comply with that term of the undertaking;

(b) an order directing the person to pay to the Commonwealth an amount up to the amount of any financial benefit that the person has obtained directly or indirectly and that is reasonably attributable to the breach;

(c) any order that the Court considers appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the breach;

(d) any other order that the Court considers appropriate.

Definitions

(6) In this section:

Court, in relation to a matter, means any court having jurisdiction in the matter.

Subdivision F—Injunctions

58FW Granting injunctions

(1) The Court may, on application, grant an injunction in such terms as the Court considers appropriate if the Court is satisfied that a

Authorised Version C2026C00323 registered 22/07/2026

person has engaged, or is proposing to engage, in conduct that constitutes or would constitute:

(a) a contravention of:
  (i) a civil penalty provision of an SPF principle; or
  (ii) a civil penalty provision of an SPF code; or
(b) attempting to contravene such a provision; or
(c) aiding, abetting, counselling or procuring a person to contravene such a provision; or
(d) inducing, or attempting to induce, whether by threats, promises or otherwise, a person to contravene such a provision; or
(e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of such a provision; or
(f) conspiring with others to contravene such a provision.

(2) In this Subdivision:

Court, in relation to a matter, means any court having jurisdiction in the matter.

58FX Particular kinds of injunctions

(1) The Court may grant an injunction under section 58FW restraining a person from engaging in conduct:
(a) whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of that kind; and
(b) whether or not the person has previously engaged in conduct of that kind; and
(c) whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person engages in conduct of that kind.

(2) The Court may grant an injunction under section 58FW requiring a person to do an act or thing:

Authorised Version C2026C00323 registered 22/07/2026

(a) whether or not it appears to the Court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; and

(b) whether or not the person has previously refused or failed to do that act or thing; and

(c) whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person refuses or fails to do that act or thing.

(3) The Court may grant an injunction under section 58FW by consent of all the parties to the proceedings whether or not the Court is satisfied that a person has engaged, or is proposing to engage, in conduct of a kind mentioned in that section.

58FY Interim injunctions

The Court may, if in the opinion of the Court it is desirable to do so, grant an interim injunction pending determination of an application for an injunction under section 58FW.

58FZ Rescinding or varying injunctions

The Court may rescind or vary an injunction granted under this Subdivision.

58FZA Applying for injunctions

(1) An application for an injunction under this Subdivision may be made by an SPF regulator or any other person.

(2) If an SPF regulator applies for such an injunction, the Court must not require the applicant or any other person, as a condition of granting an interim injunction, to give any undertakings as to damages.

(3) If:

(a) a person other than an SPF regulator:

(i) applies for such an injunction; and

Authorised Version C2026C00323 registered 22/07/2026

(ii) apart from this subsection, would be required by the Court to give an undertaking as to damages or costs; and

(b) an SPF regulator gives the undertaking;

the Court must accept the undertaking by the SPF regulator and must not require a further undertaking from any other person.

58FZB Other powers of the Court unaffected

The powers conferred on the Court by this Subdivision are in addition to, and not instead of, any other powers of the Court, whether conferred by this Act or otherwise.

Subdivision G—Actions for damages

58FZC Actions for damages—general rule

(1) A person (the ***victim***) who suffers loss or damage by conduct of another person that was done in contravention of:

(a) a civil penalty provision of an SPF principle; or

(b) a civil penalty provision of an SPF code;

may recover the amount of the loss or damage by action against that other person.

(2) An SPF regulator may make a claim under subsection (1) on behalf of the victim if the SPF regulator has the victim's written consent to do so.

(3) A claim under subsection (1) may be made at any time within 6 years after the day the cause of action that relates to the conduct accrued.

(4) However, this section applies subject to sections 58FZD to 58FZK (about proportionate liability for concurrent wrongdoers).

Note: See subsection 58FZF(1) in particular.

Authorised Version C2026C00323 registered 22/07/2026

58FZD Meaning of *concurrent wrongdoers*

(1) In this Subdivision, a ***concurrent wrongdoer***, in relation to a claim under subsection 58FZC(1), is a person who is one of 2 or more persons:

(a) who each contravened a civil penalty provision of an SPF principle or a civil penalty provision of an SPF code (whether or not the same civil penalty provision); and

(b) whose contraventions caused, independently of each other or jointly, the loss or damage that is the subject of the claim.

(2) For the purposes of this Subdivision, a person can be a concurrent wrongdoer if the person is insolvent, is being wound up or has ceased to exist or died.

58FZE Certain concurrent wrongdoers not to have benefit of apportionment

(1) Nothing in this Subdivision operates to exclude the liability of a concurrent wrongdoer (an ***excluded concurrent wrongdoer***) in proceedings involving a claim under subsection 58FZC(1) to recover an amount of loss or damage if:

(a) the concurrent wrongdoer intended to cause the loss or damage; or

(b) the concurrent wrongdoer fraudulently caused the loss or damage.

(2) The liability of an excluded concurrent wrongdoer is to be determined in accordance with the legal rules (if any) that (apart from sections 58FZD to 58FZK) are relevant.

(3) The liability of any other concurrent wrongdoer who is not an excluded concurrent wrongdoer is to be determined in accordance with the other provisions of this Subdivision.

Authorised Version C2026C00323 registered 22/07/2026

58FZF Proportionate liability for claims involving concurrent wrongdoers

(1) In any proceedings involving a claim under subsection 58FZC(1) to recover an amount of loss or damage:

(a) the liability of a defendant who is a concurrent wrongdoer in relation to the claim is limited to an amount reflecting that proportion of the loss or damage that the court considers just having regard to the extent of the defendant's responsibility for the loss or damage; and

(b) the court may give judgment against the defendant for not more than that amount.

(2) If the proceedings also involve another claim that is not a claim under subsection 58FZC(1), liability for the other claim is to be determined in accordance with the legal rules, if any, that (apart from this Subdivision) are relevant.

(3) In apportioning responsibility between defendants in the proceedings:

(a) the court is to exclude that proportion of the loss or damage in relation to which the victim is contributorily negligent under any relevant law; and

(b) the court may have regard to the comparative responsibility of any concurrent wrongdoer who is not a party to the proceedings.

(4) This section applies in proceedings whether or not all concurrent wrongdoers are parties to the proceedings.

(5) A reference in this Subdivision to a defendant in proceedings includes any person joined as a defendant or other party in the proceedings (except as a plaintiff) whether joined under this Subdivision, under rules of court or otherwise.

58FZG Defendant to notify plaintiff of concurrent wrongdoer of whom defendant aware

(1) If:

Authorised Version C2026C00323 registered 22/07/2026

(a) a defendant in proceedings involving a claim under subsection 58FZC(1) has reasonable grounds to believe that a particular person (the ***other person***) may be a concurrent wrongdoer in relation to the claim; and

(b) the defendant fails to give the plaintiff, as soon as practicable, written notice of the information that the defendant has about:

(i) the identity of the other person; and

(ii) the circumstances that may make the other person a concurrent wrongdoer in relation to the claim; and

(c) the plaintiff unnecessarily incurs costs in the proceedings because the plaintiff was not aware that the other person may be a concurrent wrongdoer in relation to the claim;

the court hearing the proceedings may order that the defendant pay all or any of those costs of the plaintiff.

Note: The plaintiff is the victim or an SPF regulator (see subsections 58FZC(1) and (2)).

(2) The court may order that the costs to be paid by the defendant be assessed on an indemnity basis or otherwise.

58FZH Contribution not recoverable from defendant

A defendant against whom judgment is given under this Subdivision as a concurrent wrongdoer in relation to a claim under subsection 58FZC(1):

(a) cannot be required to contribute to any damages or contribution recovered from another concurrent wrongdoer in respect of the claim (whether or not the damages or contribution are recovered in the same proceedings in which judgment is given against the defendant); and

(b) cannot be required to indemnify any such wrongdoer.

58FZI Subsequent actions

(1) For a claim under subsection 58FZC(1), nothing in this Subdivision or any other law prevents a plaintiff (or a victim) who

Authorised Version C2026C00323 registered 22/07/2026

has previously recovered judgment against a concurrent wrongdoer for an apportionable part of any loss or damage from bringing another action against any other concurrent wrongdoer for that loss or damage.

(2) However, in any proceedings in respect of any such action, an amount of damages cannot be recovered by or for the victim that, having regard to any damages previously recovered by or for the victim in respect of the loss or damage, would result in the victim receiving compensation for loss or damage that is greater than the loss or damage actually sustained by the victim.

58FZJ Joining non-party concurrent wrongdoer in the action

(1) The court may give leave for any one or more persons to be joined as defendants in proceedings involving a claim under subsection 58FZC(1).

(2) The court is not to give leave for the joinder of any person who was a party to any previously concluded proceedings in respect of the claim.

58FZK Application of this Subdivision

Nothing in this Subdivision:

(a) prevents a person being held vicariously liable for a proportion of a claim under subsection 58FZC(1) for which another person is liable; or

(b) prevents a person from being held severally liable with another person for that proportion of a claim under subsection 58FZC(1) for which the other person is liable; or

(c) affects the operation of any other provision of this Act or of any other Act to the extent that the provision imposes several liability on any person in respect of what would otherwise be a claim under subsection 58FZC(1).

Authorised Version C2026C00323 registered 22/07/2026

Subdivision H—Public warning notices

58FZL Public warning notices

Suspected contraventions of a provision of the SPF principles

(1) The SPF general regulator may issue to the public a written notice containing a warning about the conduct of a person if the SPF general regulator:

(a) reasonably suspects that the person's conduct may constitute a contravention of a specified provision of the SPF principles; and

(b) is satisfied that one or more persons has suffered, or is likely to suffer, detriment as a result of the conduct; and

(c) is satisfied that it is in the public interest to issue the notice.

Suspected contraventions of a provision of an SPF code

(2) The SPF sector regulator for a regulated sector may issue to the public a written notice containing a warning about the conduct of a person if the SPF sector regulator:

(a) reasonably suspects that the person's conduct may constitute a contravention of a specified provision of the SPF code for the sector; and

(b) is satisfied that one or more persons has suffered, or is likely to suffer, detriment as a result of the conduct; and

(c) is satisfied that it is in the public interest to issue the notice.

Related matters

(3) An SPF regulator that issues a notice under subsection (1) or (2) must publish the notice on the SPF regulator's website.

(4) A notice under subsection (1) or (2) is not a legislative instrument.

Authorised Version C2026C00323 registered 22/07/2026

Subdivision I—Remedial directions

58FZM Remedial directions

Giving directions—to comply with an SPF principle

(1) If the SPF general regulator reasonably suspects that a regulated entity:

(a) is failing to comply with an SPF principle; or

(b) will fail to comply with an SPF principle;

the SPF general regulator may, by written notice given to the entity, direct the entity to take specified action to comply with that SPF principle.

Giving directions—to comply with an SPF code

(2) If the SPF sector regulator for a regulated sector reasonably suspects that a regulated entity for the sector:

(a) is failing to comply with a provision of the SPF code for the sector; or

(b) will fail to comply with such a provision;

the SPF sector regulator may, by written notice given to the entity, direct the entity to take specified action to comply with that provision of the SPF code.

Complying with a direction

(3) A regulated entity given a direction under subsection (1) or (2) must comply with the direction.

(a) within the time specified in the direction, which must be a reasonable time; or

(b) if the direction does not specify a reasonable time—within a reasonable time.

(4) Subsection (3) is a civil penalty provision.

Note: To work out how sections 58FJ to 58FL (about civil penalties) apply to subsection (3), see the definitions of ***civil penalty provision of an***

Authorised Version C2026C00323 registered 22/07/2026

SPF principle, and ***civil penalty provision of an SPF code*** in subsection 4(1).

Extending the time for complying with a direction

(5) The SPF regulator who gives a direction under subsection (1) or (2) to an entity may extend the time for complying with the direction by written notice given to the entity.

Before giving a direction

(6) Before an SPF regulator gives an entity a direction under subsection (1) or (2), the SPF regulator must give the entity an opportunity to make submissions to the SPF regulator on the matter.

Varying and revoking directions

(7) An SPF regulator may vary or revoke a direction given by the SPF regulator under subsection (1) or (2) in like manner and subject to like conditions.

Publishing directions

(8) As soon as practicable after an SPF regulator gives, varies or revokes a direction under subsection (1) or (2), the SPF regulator must publish a notice of its action on its website.

Subdivision J—Adverse publicity orders

58FZN Adverse publicity orders

Making adverse publicity orders

(1) The Court may, on application, make an adverse publicity order against a person who has been ordered to pay a pecuniary penalty under an SPF civil penalty order.

(2) Such an order may require the person to:

Authorised Version C2026C00323 registered 22/07/2026

(a) disclose, in the way and to the persons specified in the order, specified information that the person has possession of or access to; and

(b) publish, at the person's expense and in in a specified way, an advertisement in the terms specified in, or determined in accordance with, the order.

Applying for adverse publicity orders

(3) An application for such an order may be made by:

(a) if the SPF civil penalty order was for a contravention of a civil penalty provision of an SPF principle—the SPF general regulator; or

(b) if the SPF civil penalty order was for a contravention of a civil penalty provision of an SPF code for a regulated sector—the SPF sector regulator for the sector.

Definitions

(4) In this section:

Court, in relation to a matter, means any court having jurisdiction in the matter.

Subdivision K—Non-punitive orders

58FZO Non-punitive orders

Making non-punitive orders

(1) The Court may, on application, make one or more of the following orders in relation to a person who has engaged in conduct contravening an SPF principle or a provision of an SPF code:

(a) a community service order;

(b) a probation order for a period of no longer than 3 years;

(c) an order requiring the person to disclose, in the way and to the persons specified in the order, specified information that the person has possession of or access to;

Authorised Version C2026C00323 registered 22/07/2026

(d) an order requiring the person to publish, at the person's expense and in a specified way, an advertisement in the terms specified in, or determined in accordance with, the order.

Applying for non-punitive orders

(2) An application for such an order may be made by:
(a) for conduct contravening an SPF principle—the SPF general regulator; or
(b) for conduct contravening a provision of the SPF code for a regulated sector—the SPF sector regulator for the sector.

Definitions

(3) For the purposes of this section, a ***probation order*** is an order made to ensure that a person does not engage in:
(a) the conduct that resulted in the order; or
(b) similar conduct or related conduct;
during the period of the order.

(4) Without limiting subsection (3), a ***probation order*** includes:
(a) an order directing a person to establish a compliance program, or an education and training program, that:
(i) is for employees or other persons involved in the person's business; and
(ii) is designed to ensure awareness of responsibilities and obligations relating to conduct covered by paragraph (3)(a) or (b); and
(b) an order directing a person to revise the internal operations of the person's business that lead to conduct covered by paragraph (3)(a) or (b).

(5) In this section:

community service order means an order directing a person to perform a service that:
(a) is specified in the order; and
(b) is or relates to the conduct that resulted in the order;

Authorised Version C2026C00323 registered 22/07/2026

for the benefit of the community or a section of the community.

contravening: conduct ***contravening*** an SPF principle or a provision of an SPF code includes conduct that constitutes being involved in such a contravention.

Note: For the meaning of ***involved***, see subsection 4(1).

Court, in relation to a matter, means any court having jurisdiction in the matter.

Subdivision L—Orders (other than awards of damages) to redress loss or damage

58FZP Orders (other than awards of damages) to redress loss or damage—making such orders

Making orders

(1) The Court may, on application, make such orders (other than an award of damages) as the Court thinks appropriate against a person who:

(a) engaged in conduct (the ***contravening conduct***) contravening a civil penalty provision of an SPF principle or a civil penalty provision of an SPF code; or

(b) is involved in the contravening conduct;

if the contravening conduct caused, or is likely to cause, a class of persons (the ***victims***) to suffer loss or damage.

Note 1: The orders that the court may make include all or any of the orders set out in section 58FZQ.

Note 2: For the meaning of ***involved***, see subsection 4(1).

(2) Subsection (1) applies whether or not the victims include persons (***non-parties***) who are not, or have not been, parties to a proceeding (an ***enforcement proceeding***) instituted under another provision in or referred to in this Division in relation to the contravening conduct.

Authorised Version C2026C00323 registered 22/07/2026

(3) The Court must not make such an order unless the Court considers that the order will:

(a) redress, in whole or in part, the loss or damage suffered by the victims in relation to the contravening conduct; or

(b) prevent or reduce the loss or damage suffered, or likely to be suffered, by the victims in relation to the contravening conduct.

Applying for orders

(4) An application for such an order may be made:

(a) by the following:

(i) if the contravening conduct contravened a civil penalty provision of an SPF principle—the SPF general regulator;

(ii) if the contravening conduct contravened a civil penalty provision of an SPF code for a regulated sector—the SPF sector regulator for the sector; and

(b) even if an enforcement proceeding in relation to the contravening conduct has not been instituted; and

(c) at any time within 6 years after the day on which the cause of action that relates to the contravening conduct accrues.

Working out whether to make an order

(5) In working out whether to make such an order against a person referred to in paragraph (1)(a) or (b), the Court may have regard to the conduct of:

(a) the person; and

(b) the victims;

in relation to the contravening conduct since the contravention occurred.

(6) However, the Court need not make a finding about either of the following matters:

(a) which persons are victims in relation to the contravening conduct;

Authorised Version C2026C00323 registered 22/07/2026

(b) the nature of the loss or damage suffered, or likely to be suffered, by such persons.

When a non-party victim is bound by an order etc.

(7) If all of the following happen:

(a) such an order is made against a person;

(b) the loss or damage suffered, or likely to be suffered, by a non-party victim in relation to the contravening conduct has been redressed, prevented or reduced in accordance with the order;

(c) the non-party victim has accepted the redress, prevention or reduction;

then:

(d) the non-party victim is bound by the order; and

(e) any other order made under subsection (1) relating to that loss or damage has no effect in relation to the non-party victim; and

(f) despite any other provision of this Act or any other law of the Commonwealth, or a State or Territory, no claim, action or demand may be made or taken against the person by the non-party victim in relation to that loss or damage.

Definitions

(8) In this section:

Court, in relation to a matter, means any court having jurisdiction in the matter.

58FZQ Orders (other than awards of damages) to redress loss or damage—kinds of such orders

(1) Without limiting subsection 58FZP(1), the orders that the Court may make under that subsection against a person (the ***respondent***) include all or any of the following:

(a) an order declaring the whole or any part of a contract made between the respondent and a victim referred to in that

Authorised Version C2026C00323 registered 22/07/2026

subsection, or a collateral arrangement relating to such a contract:

(i) to be void; and

(ii) if the Court thinks fit—to have been void ab initio or void at all times on and after such date as is specified in the order (which may be a date that is before the date on which the order is made);

(b) an order:

(i) varying such a contract or arrangement in such manner as is specified in the order; and

(ii) if the Court thinks fit—declaring the contract or arrangement to have had effect as so varied on and after such date as is specified in the order (which may be a date that is before the date on which the order is made);

(c) an order refusing to enforce any or all of the provisions of such a contract or arrangement;

(d) an order directing the respondent to refund money or return property to a victim referred to in that subsection;

(e) an order directing the respondent, at the respondent's own expense, to repair, or provide parts for, goods that have been supplied under the contract or arrangement to a victim referred to in that subsection;

(f) an order directing the respondent, at the respondent's own expense, to supply specified services to a victim referred to in that subsection;

(g) an order, in relation to an instrument creating or transferring an interest in land, directing the respondent to execute an instrument that:

(i) varies, or has the effect of varying, the first-mentioned instrument; or

(ii) terminates or otherwise affects, or has the effect of terminating or otherwise affecting, the operation or effect of the first-mentioned instrument.

(2) In this section:

interest, in land, means:

Authorised Version C2026C00323 registered 22/07/2026

(a) a legal or equitable estate or interest in the land; or
(b) a right of occupancy of the land, or of a building or part of a building erected on the land, arising by virtue of the holding of shares, or by virtue of a contract to purchase shares, in an incorporated company that owns the land or building; or
(c) a right, power or privilege over, or in connection with, the land.

Authorised Version C2026C00323 registered 22/07/2026

Division 7—Other provisions

58GA Treatment of partnerships

(1) The SPF provisions apply to a partnership as if it were a person, but with the changes set out in this section.

(2) An obligation that would otherwise be imposed on the partnership by an SPF provision is imposed on each partner instead, but may be discharged by any of the partners.

(3) If an SPF provision would otherwise permit something to be done by the partnership, the thing may be done by one or more of the partners on behalf of the partnership.

(4) For the purposes of the SPF provisions, a change in the composition of a partnership does not affect the continuity of the partnership.

58GB Treatment of unincorporated associations

(1) The SPF provisions apply to an unincorporated association as if it were a person, but with the changes set out in this section.

(2) An obligation that would otherwise be imposed on the association by an SPF provision is imposed on each member of the association's committee of management instead, but may be discharged by any of the members.

(3) If an SPF provision would otherwise permit something to be done by the unincorporated association, the thing may be done by one or more of the members of the association's committee of management on behalf of the association.

58GC Treatment of trusts

(1) The SPF provisions apply to a trust as if it were a person, but with the changes set out in this section.

Authorised Version C2026C00323 registered 22/07/2026

Trusts with a single trustee

(2) If the trust has a single trustee:

(a) an obligation that would otherwise be imposed on the trust by an SPF provision is imposed on the trustee instead; and

(b) if an SPF provision would otherwise permit something to be done by the trust, the thing may be done by the trustee.

Trusts with multiple trustees

(3) If the trust has 2 or more trustees:

(a) an obligation that would otherwise be imposed on the trust by an SPF provision is imposed on each trustee instead, but may be discharged by any of the trustees; and

(b) if an SPF provision would otherwise permit something to be done by the trust, the thing may be done by any of the trustees.

58GD Compensation for acquisition of property

(1) This section applies if the operation of the SPF provisions would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph).

(2) The person who acquires the property is liable to pay a reasonable amount of compensation to the first-mentioned person.

(3) If the 2 persons do not agree on the amount of the compensation, the person to whom compensation is payable may institute proceedings in:

(a) the Federal Court; or

(b) the Supreme Court of a State or Territory;

for the recovery from the other person of such reasonable amount of compensation as the Court determines.

Authorised Version C2026C00323 registered 22/07/2026

58GE Rules for the purposes of this Part

(1) The Minister may, by legislative instrument, make rules (the ***SPF rules***) prescribing matters:

(a) required or permitted by this Part to be prescribed by the SPF rules; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

Note: A matter may be prescribed by the SPF rules by class (see subsection 13(3) of the *Legislation Act 2003*). For example, a specific regulated entity or a class of regulated entities may be able to be prescribed in some cases.

(2) The Minister may, in writing, delegate the Minister's power to make SPF rules to another Minister or to an SPF regulator.

(3) To avoid doubt, the SPF rules may not do the following:

(a) create an offence or civil penalty;

(b) provide powers of:

(i) arrest or detention; or

(ii) entry, search or seizure;

(c) impose a tax;

(d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;

(e) directly amend the text of this Act.

58GF Report of the operation of the SPF provisions

(1) The Minister must cause a review to be conducted of the operation of the SPF provisions.

(2) The review must be conducted as soon as practicable after the end of the 3-year period starting on the day the first SPF code is made under section 58CB.

(3) The persons who conduct the review must give the Minister a written report of the review.

Authorised Version C2026C00323 registered 22/07/2026

(4) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

Authorised Version C2026C00323 registered 22/07/2026

Part V—Carbon tax price reduction obligation

Division 1—Preliminary

60 Simplified outline of this Part

- An entity must not engage in price exploitation in relation to the carbon tax repeal.
- The Commission may monitor prices in relation to the carbon tax repeal and the carbon tax scheme.
- An entity must not make false or misleading representations about the effect of the carbon tax repeal, or the carbon tax scheme, on the price for the supply of goods or services.
- An entity that sells electricity or natural gas, or an entity that is a bulk SGG importer and sells synthetic greenhouse gas, will be required to explain and substantiate:
  (a) how the carbon tax repeal has affected, or is affecting, the entity's regulated supply input costs; and
  (b) how reductions in the entity's regulated supply input costs that are directly or indirectly attributable to the carbon tax repeal are reflected in the prices charged by the entity for regulated supplies of electricity, natural gas or synthetic greenhouse gas.
- An entity that sells electricity or natural gas to customers, or an entity that is a bulk SGG importer and sells synthetic greenhouse gas to customers, must:
  (a) give a carbon tax removal substantiation statement to the Commission; and
  (b) include in the statement the entity's estimate, on an average annual percentage price basis, or an average

Authorised Version C2026C00323 registered 22/07/2026

annual dollar price basis, of the entity's cost savings that have been, are, or will be, attributable to the carbon tax repeal and that have been, are being, or will be, passed on to customers during the financial year that began on 1 July 2014; and

(c) provide information with the statement that substantiates such an estimate; and

(d) in a case where the entity sells electricity or natural gas to customers—communicate to customers a statement that identifies, on an average annual percentage price basis, or an average annual dollar price basis, the estimated cost savings to customers that are for the financial year that began on 1 July 2014.

- Infringement notices may be issued for certain contraventions of this Part.

60AA Objects etc.

(1) The main objects of this Part are:

(a) to deter price exploitation in relation to the carbon tax repeal at each point in the supply chain for regulated goods; and

(b) to ensure that all cost savings attributable to the carbon tax repeal are passed through the supply chain for regulated goods.

(2) The intention of the Parliament in enacting this Part is to ensure that all cost savings attributable to the carbon tax repeal are passed on to consumers of regulated goods through lower prices.

60A Definitions

In this Part:

applicable compliance period, for a carbon tax removal substantiation notice, has the meaning given by subsection 60FC(2).

Authorised Version C2026C00323 registered 22/07/2026

bulk SGG importer means an entity that:

(a) holds a controlled substances licence under the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* that allows the entity to import synthetic greenhouse gases; and

(b) supplies synthetic greenhouse gas to SGG customers.

carbon charge component of levy means so much of the amount of the levy as is calculated by multiplying the number of tonnes of carbon dioxide equivalence by a per unit charge applicable under subsection 100(1) of the *Clean Energy Act 2011* for the issue of a carbon unit.

carbon tax removal substantiation notice has the meaning given by subsection 60FA(3).

carbon tax removal substantiation statement has the meaning given by subsection 60FD(3).

carbon tax repeal means:

(a) the repeal of the following Acts by the *Clean Energy Legislation (Carbon Tax Repeal) Act 2014*:

(i) the *Clean Energy Act 2011*;

(ii) the *Clean Energy (Charges—Customs) Act 2011*;

(iii) the *Clean Energy (Charges—Excise) Act 2011*;

(iv) the *Clean Energy (Unit Issue Charge—Auctions) Act 2011*;

(v) the *Clean Energy (Unit Issue Charge—Fixed Charge) Act 2011*;

(vi) the *Clean Energy (Unit Shortfall Charge—General) Act 2011*; and

(b) the amendments of the following Acts made by the *Clean Energy Legislation (Carbon Tax Repeal) Act 2014*:

(i) the *Fuel Tax Act 2006*;

(ii) the *Fuel Tax (Consequential and Transitional Provisions) Act 2006*; and

(c) the amendments made by the following Acts:

Authorised Version C2026C00323 registered 22/07/2026

(i) the *Customs Tariff Amendment (Carbon Tax Repeal) Act 2014*;
(ii) the *Excise Tariff Amendment (Carbon Tax Repeal) Act 2014*;
(iii) the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment (Carbon Tax Repeal) Act 2014*;
(iv) the *Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment (Carbon Tax Repeal) Act 2014*.

carbon tax repeal transition period means the period:
(a) beginning at the start of 1 July 2014; and
(b) ending at the end of 30 June 2015.

carbon tax scheme means the scheme embodied in the following:
(a) the *Clean Energy Act 2011*, as in force at the start of 1 January 2014;
(b) the associated provisions (within the meaning of that Act as in force at that time);
(c) the following provisions of the *Fuel Tax Act 2006,* as in force at the start of 1 January 2014:
(i) Division 42A;
(ii) section 43-5, so far as that section relates to a carbon reduction;
(iii) section 43-8;
(iv) section 43-11;
(d) section 3A of the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995*, as in force at the start of 1 January 2014, so far as that section relates to carbon charge component;
(e) section 4A of the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995*, as in force at the start of 1 January 2014, so far as that section relates to carbon charge component;

Authorised Version C2026C00323 registered 22/07/2026

(f) section 3A of the *Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995*, as in force at the start of 1 January 2014, so far as that section relates to carbon charge component;
(g) sections 6FA, 6FB and 6FC of the *Excise Tariff Act 1921*, as in force at the start of 1 January 2014;
(h) section 19A of the *Customs Tariff Act 1995*, as in force at the start of 1 January 2014.

electricity customer means an entity that purchases electricity.

electricity retailer means:
(a) an entity who:
(i) is a retailer within the meaning of the *National Energy Retail Law* as it applies in a State or a Territory; and
(ii) sells electricity to electricity customers; or
(b) an entity who is a retailer within the meaning of the *Electricity Industry Act 2000* (Vic.); or
(c) an entity who is a retail entity within the meaning of the *Electricity Act 1994* (Qld); or
(d) an entity who:
(i) holds a retail licence within the meaning of the *Electricity Industry Act 2004* (WA); or
(ii) holds an integrated regional licence within the meaning of the *Electricity Industry Act 2004* (WA) that authorises the entity to sell electricity; or
(e) an entity who is an electricity entity within the meaning of the *Electricity Reform Act 2000* (NT) and whose licence under that Act authorises the entity to sell electricity; or
(f) any other entity who produces electricity in Australia.

engages in price exploitation in relation to the carbon tax repeal: see section 60C.

entity means any of the following:
(a) a corporation (as defined by section 4);
(b) an individual;

Authorised Version C2026C00323 registered 22/07/2026

(c) a body corporate;
(d) a corporation sole;
(e) a body politic;
(f) a partnership;
(g) any other unincorporated association or body of entities;
(h) a trust;
(i) any party or entity which can or does buy or sell electricity, natural gas or synthetic greenhouse gas.

infringement notice means an infringement notice issued under subsection 60L(1).

infringement notice compliance period: see section 60P.

infringement notice provision means section 60C or 60K.

listed corporation has the meaning given by section 9 of the *Corporations Act 2001*.

National Energy Retail Law means the National Energy Retail Law set out in the Schedule to the *National Energy Retail Law (South Australia) Act 2011* (SA).

natural gas has the same meaning as in the National Gas (Commonwealth) Law (as defined by the *Australian Energy Market Act 2004*).

natural gas customer means an entity that purchases natural gas.

natural gas retailer means:
(a) an entity who:
(i) is a retailer within the meaning of the *National Energy Retail Law* as it applies in a State or a Territory; and
(ii) sells natural gas to natural gas customers; or
(b) an entity who is a gas retailer within the meaning of the *Gas Industry Act 2001* (Vic.); or
(c) an entity who is a retailer within the meaning of the *Gas Supply Act 2003* (Qld); or

Authorised Version C2026C00323 registered 22/07/2026

(d) an entity who holds a trading licence under the *Energy Coordination Act 1994* (WA); or
(e) an entity who holds a licence under the *Gas Act 2000* (Tas.) to sell gas by retail.

price, in relation to a supply, includes:
(a) a charge of any description for the supply; and
(b) any pecuniary or other benefit, whether direct or indirect, received or to be received by a person for or in connection with the supply.

regulated goods: see section 60B.

regulated supply means a supply that:
(a) occurs during the carbon tax repeal transition period; and
(b) is of regulated goods.

regulated supply input costs of an entity means the entity's input costs in relation to the making by the entity of regulated supplies of electricity, natural gas or synthetic greenhouse gas.

Royal Assent day means the day on which the Act that inserted this Part receives the Royal Assent.

SGG customer means an entity that purchases synthetic greenhouse gas.

SGG equipment has the same meaning as in the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

synthetic greenhouse gas has the same meaning as in the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

60B Regulated goods

(1) For the purposes of this Part, ***regulated goods*** means:
(a) natural gas; or
(b) electricity; or
(c) synthetic greenhouse gas; or

Authorised Version C2026C00323 registered 22/07/2026

(d) SGG equipment; or

(e) other goods of a kind specified in a legislative instrument under subsection (2).

(2) The Minister may, by legislative instrument, specify one or more kinds of goods for the purposes of paragraph (1)(e).

Authorised Version C2026C00323 registered 22/07/2026

Division 2—Carbon tax price reduction obligation

60C Price exploitation in relation to the carbon tax repeal

(1) An entity must not engage in price exploitation in relation to the carbon tax repeal.

(2) For the purposes of this Part, an entity ***engages in price exploitation in relation to the carbon tax repeal*** if, and only if:
  (a) it makes a regulated supply; and
  (b) the price for the supply does not pass through all of the entity's cost savings relating to the supply that are directly or indirectly attributable to the carbon tax repeal.

(3) For the purposes of this Part, in determining whether the price for a supply made by an entity does not pass through all of the entity's cost savings relating to the supply that are directly or indirectly attributable to the carbon tax repeal, have regard to the following matters:
  (a) the entity's cost savings that are directly or indirectly attributable to the carbon tax repeal;
  (b) how the cost savings mentioned in paragraph (a) can reasonably be attributed to the different supplies that the entity makes;
  (c) the entity's costs;
  (d) any other relevant matter that may reasonably influence the price.

60CA Failure to pass on cost savings—250% penalty

(1) If:
  (a) either:
    (i) an entity contravenes subsection 60C(1) in relation to a particular supply of electricity or natural gas; or

Authorised Version C2026C00323 registered 22/07/2026

(ii) an entity that is a bulk SGG importer contravenes subsection 60C(1) in relation to a particular supply of synthetic greenhouse gas; and

(b) the contravention involved a failure to pass through all of the entity's cost savings relating to the supply that are directly or indirectly attributable to the carbon tax repeal;

there is payable by the entity to the Commonwealth, and the entity shall pay to the Commonwealth, by way of penalty, an amount equal to 250% of those cost savings that were not passed through.

When penalty becomes due and payable

(2) An amount payable by an entity under subsection (1) is due and payable on 1 July 2015.

Late payment penalty

(3) If an amount payable by an entity under subsection (1) remains unpaid after the time when it became due for payment, there is payable by the entity to the Commonwealth, and the entity shall pay to the Commonwealth, by way of penalty, an amount calculated at the rate of 6% per annum on the amount unpaid, computed from that time.

Recovery of penalties

(4) An amount payable by an entity under subsection (1) or (3):

(a) is a debt due to the Commonwealth; and

(b) shall be recovered by the Commission, on behalf of the Commonwealth, by action in a court of competent jurisdiction, unless the cost of doing so exceeds the amount.

Report to Parliament

(5) Within 13 months after the Royal Assent day, the Commission must report to Parliament in respect of penalties payable by entities.

Authorised Version C2026C00323 registered 22/07/2026

60D Notice to entity that is considered to have engaged in price exploitation in relation to the carbon tax repeal

(1) The Commission may give an entity a written notice under this section if the Commission considers that the entity has engaged in price exploitation in relation to the carbon tax repeal.

(2) The notice must:
  (a) be expressed to be given under this section; and
  (b) identify:
    (i) the entity that made the supply; and
    (ii) the kind of supply made; and
    (iii) the circumstances in which the supply was made; and
  (c) state that, in the Commission's opinion, the price for the supply did not pass through all of the entity's cost savings relating to the supply that were directly or indirectly attributable to the carbon tax repeal.

(3) In any proceedings:
  (aa) under section 60CA; or
  (a) under section 76 for a pecuniary penalty order relating to section 60C; or
  (b) under section 80 for an injunction relating to section 60C; or
  (c) under section 80A, 82, 86C, 86D or 87 for an order relating to section 60C;

the notice is prima facie evidence that the price for the supply did not pass through all of the entity's cost savings relating to the supply that were directly or indirectly attributable to the carbon tax repeal.

(4) The Commission may vary or revoke the notice on its own initiative or on application made by the entity. The Commission must give the entity written notice of the variation or revocation.

(5) A notice under this section is not a legislative instrument.

Authorised Version C2026C00323 registered 22/07/2026

60E Commission may issue notice to aid prevention of price exploitation in relation to the carbon tax repeal

(1) The Commission may give an entity a written notice under this section if the Commission considers that doing so will aid the prevention of the entity engaging in price exploitation in relation to the carbon tax repeal.

(2) The notice must:
  (a) be expressed to be given under this section; and
  (b) be expressed to relate to any supply that the entity makes that is:
    (i) of a kind specified in the notice; and
    (ii) made in circumstances specified in the notice; and
    (iii) made during the period specified in the notice (which must not be a period ending after the end of the carbon tax repeal transition period); and
  (c) specify the maximum price that, in the Commission's opinion, may be charged for a supply to which the notice is expressed to relate.

(3) The Commission may, on its own initiative or on application made by the entity:
  (a) vary the notice to:
    (i) change the period specified as required by subparagraph (2)(b)(iii); or
    (ii) change the price specified in the notice as required by paragraph (2)(c); or
  (b) revoke the notice.

  The Commission must give the entity written notice of the variation or revocation.

(4) The Commission may publish the notice, or particulars of any variation or revocation of the notice, in such manner as the Commission considers appropriate.

(5) A notice under this section is not a legislative instrument.

Authorised Version C2026C00323 registered 22/07/2026

60F Acquisition of property

Scope

(1) This section applies to the following provisions of this Act:
  (a) section 60C;
  (b) any other provision to the extent to which it relates to section 60C.

Effect of provision

(2) The provision has no effect to the extent (if any) to which its operation would result in the acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) otherwise than on just terms (within the meaning of that paragraph).

Authorised Version C2026C00323 registered 22/07/2026

Division 2A—Carbon tax removal substantiation notices

60FA Carbon tax removal substantiation notices

Scope

(1) This section applies to an entity if the entity:
  (a) is an electricity retailer that sells electricity to electricity customers; or
  (b) is a natural gas retailer that sells natural gas to natural gas customers; or
  (c) is a bulk SGG importer that sells synthetic greenhouse gas to SGG customers.

Carbon tax removal substantiation notice

(2) The Commission must, within 30 days after the Royal Assent day, by written notice given to the entity, require the entity:
  (a) to give to the Commission, within the period specified in the notice, a written statement that explains:
    (i) how the carbon tax repeal has affected, or is affecting, the entity's regulated supply input costs; and
    (ii) how reductions in the entity's regulated supply input costs that are directly or indirectly attributable to the carbon tax repeal are reflected in the prices charged by the entity for regulated supplies of electricity, natural gas or synthetic greenhouse gas; and
  (b) to do either or both of the following:
    (i) give to the Commission, within the period and in the manner and form specified in the notice, information that substantiates the explanation set out in the statement;
    (ii) produce to the Commission, within the period and in the manner specified in the notice, documents that substantiate the explanation set out in the statement.

Authorised Version C2026C00323 registered 22/07/2026

(3) A notice under subsection (2) is to be known as a ***carbon tax removal substantiation notice***.

(4) A period specified in a carbon tax removal substantiation notice must be 21 days after the notice is given.

(5) A carbon tax removal substantiation notice must explain the effect of:
  (a) section 60FB; and
  (b) section 60FC; and
  (c) sections 137.1 and 137.2 of the *Criminal Code*.

Section does not limit section 60H

(6) This section does not limit section 60H (which is about the price-related information-gathering powers of the Commission).

Section does not limit section 155

(7) This section does not limit section 155 (which is about the general information-gathering powers of the Commission).

60FB Extending periods for complying with carbon tax removal substantiation notices

(1) An entity that has been given a carbon tax removal substantiation notice may, at any time within 14 days after the notice was given to the entity by the Commission, apply in writing to the Commission for an extension of the period for complying with the notice.

(2) The Commission may, by written notice given to the entity, extend the period within which the entity must comply with the notice, so long as the extension is for a period of not more than 28 days.

60FC Compliance with carbon tax removal substantiation notices

(1) An entity that is given a carbon tax removal substantiation notice must comply with it within the applicable compliance period for the notice.

Authorised Version C2026C00323 registered 22/07/2026

(2) The ***applicable compliance period*** for a carbon tax removal substantiation notice is:

(a) the period of 21 days specified in the notice; or

(b) if the period for complying with the notice has been extended under section 60FB—the period as so extended;

and includes (if an application has been made under section 60FB for an extension of the period for complying with the notice) the period up until the time when the applicant is given notice of the Commission's decision on the application.

(3) An entity commits an offence if:

(a) the entity is subject to a requirement under subsection (1); and

(b) the entity is capable of complying with the requirement; and

(c) the entity omits to do an act; and

(d) the omission breaches the requirement.

Penalty: 200 penalty units.

(4) Subsection (3) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(5) If subsection (3) of this section applies to an individual (whether or not because of subsection 6(2)), subsection (3) of this section has effect, in relation to the individual, as if the reference to 200 penalty units were a reference to 40 penalty units.

(6) If subsection (1) of this section applies to an individual (whether or not because of subsection 6(2)), the individual is excused from giving information or producing a document in accordance with a carbon tax removal substantiation notice on the ground that the information or the production of the document might tend to incriminate the individual or expose the individual to a penalty.

Authorised Version C2026C00323 registered 22/07/2026

Division 2B—Carbon tax removal substantiation statements

60FD Carbon tax removal substantiation statements

Scope

(1) This section applies to an entity if the entity:
  (a) is an electricity retailer that sells electricity to electricity customers; or
  (b) is a natural gas retailer that sells natural gas to natural gas customers; or
  (c) is a bulk SGG importer that sells synthetic greenhouse gas to SGG customers.

Carbon tax removal substantiation statement

(2) Within 30 days after the Royal Assent day, the entity must give to the Commission:
  (a) a written statement that sets out:
    (i) if the entity has electricity customers—the entity's estimate, on an average annual percentage price basis, or an average annual dollar price basis, of the entity's cost savings that have been, are, or will be, directly or indirectly attributable to the carbon tax repeal and that have been, are being, or will be, passed on to each class of electricity customers during the financial year that began on 1 July 2014; and
    (ii) if the entity has natural gas customers—the entity's estimate, on an average annual percentage price basis, or an average annual dollar price basis, of the entity's cost savings that have been, are, or will be, directly or indirectly attributable to the carbon tax repeal and that have been, are being, or will be, passed on to each class of natural gas customers during the financial year that began on 1 July 2014; and

Authorised Version C2026C00323 registered 22/07/2026

(iii) if the entity has SGG customers—the entity's estimate, on an average annual percentage price basis, or an average annual dollar price basis, of the entity's cost savings that have been, are, or will be, directly or indirectly attributable to the carbon tax repeal and that have been, are being, or will be, passed on to each class of SGG customers during the financial year that began on 1 July 2014; and

(b) information that substantiates the estimate or estimates set out in the statement.

Note: Section 137.1 of the *Criminal Code* creates an offence of providing false or misleading information.

(3) A statement under paragraph (2)(a) is to be known as a ***carbon tax removal substantiation statement***.

(4) If the entity has given a carbon tax removal substantiation statement to the Commission, the entity must ensure that a copy of the statement is available on the entity's website, in a way that is readily accessible by the public, until the end of 30 June 2015.

Compliance

(5) An entity commits an offence if:

(a) the entity is subject to a requirement under subsection (2) or (4); and

(b) the entity is capable of complying with the requirement; and

(c) the entity omits to do an act; and

(d) the omission breaches the requirement.

Penalty: 500 penalty units.

(6) Subsection (5) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(7) If subsection (5) of this section applies to an individual (whether or not because of subsection 6(2)), subsection (5) of this section has effect, in relation to the individual, as if the reference to 500 penalty units were a reference to 40 penalty units.

Authorised Version C2026C00323 registered 22/07/2026

(8) If subsection (2) of this section applies to an individual (whether or not because of subsection 6(2)), the individual is excused from giving an estimate or information under subsection (2) of this section on the ground that the estimate or information might tend to incriminate the individual or expose the individual to a penalty.

Section does not limit section 60H

(9) This section does not limit section 60H (which is about the price-related information-gathering powers of the Commission).

Section does not limit section 155

(10) This section does not limit section 155 (which is about the general information-gathering powers of the Commission).

Report to Parliament

(11) Within 13 months after the Royal Assent day, the Commission must report to Parliament in respect of compliance by all entities.

Authorised Version C2026C00323 registered 22/07/2026

Division 2C—Statements for customers

60FE Statements for customers

Scope

(1) This section applies to an entity if the entity:
  (a) is an electricity retailer that sells electricity to electricity customers; or
  (b) is a natural gas retailer that sells natural gas to natural gas customers.

Preparation of statement

(2) Within 30 days after the Royal Assent day, the entity must prepare a statement that:
  (a) if the entity has electricity customers—identifies, on an average annual percentage price basis, or an average annual dollar price basis, the estimated cost savings, to each class of electricity customers, that:
    (i) have been, are, or will be, directly or indirectly attributable to the carbon tax repeal; and
    (ii) are for the financial year that began on 1 July 2014; and
  (b) if the entity has natural gas customers—identifies, on an average annual percentage price basis, or an average annual dollar price basis, the estimated cost savings, to each class of natural gas customers, that:
    (i) have been, are, or will be, directly or indirectly attributable to the carbon tax repeal; and
    (ii) are for the financial year that began on 1 July 2014.

Communication of contents of statement to customers

(3) During the period:
  (a) beginning 30 days after the Royal Assent day; and
  (b) ending 60 days after the Royal Assent day;

Authorised Version C2026C00323 registered 22/07/2026

the entity must ensure that the contents of the statement prepared by it under subsection (2) that relates to a class of electricity customers or natural gas customers is communicated to each customer of that class.

Note: Section 137.1 of the *Criminal Code* creates an offence of providing false or misleading information.

Compliance

(4) An entity commits an offence if:
   (a) the entity is subject to a requirement under subsection (2) or (3); and
   (b) the entity is capable of complying with the requirement; and
   (c) the entity omits to do an act; and
   (d) the omission breaches the requirement.

Penalty: 400 penalty units.

(5) Subsection (4) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(6) If subsection (4) of this section applies to an individual (whether or not because of subsection 6(2)), subsection (4) of this section has effect, in relation to the individual, as if the reference to 400 penalty units were a reference to 40 penalty units.

(7) If subsection (2) or (3) of this section applies to an individual (whether or not because of subsection 6(2)), the individual is excused from:
   (a) preparing a statement under subsection (2) of this section; or
   (b) communicating the contents of a statement under subsection (3) of this section;

on the ground that the information in the statement might tend to incriminate the individual or expose the individual to a penalty.

Authorised Version C2026C00323 registered 22/07/2026

Division 3—Price monitoring in relation to the carbon tax repeal etc.

60G Commission may monitor prices in relation to the carbon tax repeal etc.

Price monitoring—carbon tax repeal transition period

(1) The Commission may monitor prices to assess the general effect of the carbon tax repeal on prices charged by entities for supplies, in the carbon tax repeal transition period, of relevant goods.

Note: For ***relevant goods***, see subsection (11).

(2) The Commission may monitor prices to assess the general effect of the carbon tax repeal on prices:

(a) advertised; or

(b) displayed; or

(c) offered;

for supplies, in the carbon tax repeal transition period, of relevant goods by entities.

Note: For ***relevant goods***, see subsection (11).

(3) The Commission may monitor prices to assess the general effect of the carbon tax repeal on prices charged for supplies, in the carbon tax repeal transition period, of goods by an entity for which there is an entry in the Information Database (within the meaning of the *Clean Energy Act 2011*).

(4) The Commission may monitor prices to assess the general effect of the carbon tax repeal on prices:

(a) advertised; or

(b) displayed; or

(c) offered;

for supplies, in the carbon tax repeal transition period, of goods by an entity for which there is an entry in the Information Database (within the meaning of the *Clean Energy Act 2011*).

Authorised Version C2026C00323 registered 22/07/2026

Price monitoring—price exploitation

(5) The Commission may monitor prices to assist the Commission's consideration of whether an entity has engaged, is engaging, or may in the future engage, in price exploitation in relation to the carbon tax repeal.

Price monitoring—pre-repeal transition period

(6) The Commission may monitor prices to assess the general effect of the carbon tax scheme on prices charged by entities for supplies, in the pre-repeal transition period, of relevant goods.

Note 1: For ***pre-repeal transition period***, see subsection (13).

Note 2: For ***relevant goods***, see subsection (11).

(7) The Commission may monitor prices to assess the general effect of the carbon tax scheme on prices:

(a) advertised; or

(b) displayed; or

(c) offered;

for supplies, in the pre-repeal transition period, of relevant goods by entities.

Note 1: For ***pre-repeal transition period***, see subsection (13).

Note 2: For ***relevant goods***, see subsection (11).

(8) The Commission may monitor prices to assess the general effect of the carbon tax scheme on prices charged for supplies, in the pre-repeal transition period, of goods by an entity for which there is an entry in the Information Database (within the meaning of the *Clean Energy Act 2011*).

Note: For ***pre-repeal transition period***, see subsection (13).

(9) The Commission may monitor prices to assess the general effect of the carbon tax scheme on prices:

(a) advertised; or

(b) displayed; or

(c) offered;

Authorised Version C2026C00323 registered 22/07/2026

for supplies, in the pre-repeal transition period, of goods by an entity for which there is an entry in the Information Database (within the meaning of the *Clean Energy Act 2011*).

Note: For ***pre-repeal transition period***, see subsection (13).

Section does not limit Part VIIA

(10) This section does not limit Part VIIA (which is about prices surveillance).

Relevant goods

(11) For the purposes of this section, the following are ***relevant goods***:
  (a) regulated goods;
  (b) other goods of a kind specified in a legislative instrument under subsection (12).

(12) The Minister may, by legislative instrument, specify one or more kinds of goods for the purposes of paragraph (11)(b).

Pre-repeal transition period

(13) For the purposes of this section, ***pre-repeal transition period*** means the period:
  (a) beginning at the commencement of this section; and
  (b) ending at the end of 30 June 2014.

60H Information-gathering powers

(1) A member of the Commission may, by written notice given to a person, require the person:
  (a) to give the Commission specified information in writing signed by:
    (i) the person; or
    (ii) if the person is a body corporate—a competent officer of the body corporate; or
  (b) to produce to the Commission specified documents;

if:

Authorised Version C2026C00323 registered 22/07/2026

(c) the information, or information contained in the documents, relates to prices or the setting of prices; and

(d) the member reasonably believes that the information, or information contained in the documents, will or may be useful to the Commission in monitoring prices as mentioned in any of subsections 60G(1) to (9).

Note: Sections 137.1 and 137.2 of the *Criminal Code* create offences for providing false or misleading information or documents.

(2) Information or documents that may be required under subsection (1) may relate to prices, or the setting of prices:

(a) before or after the carbon tax repeal; and

(b) before or after the start of the carbon tax repeal transition period; and

(c) in a situation, or during a period, specified in the notice.

(3) Subsection (2) does not limit subsection (1).

(4) A person commits an offence if:

(a) the person is subject to a requirement under subsection (1); and

(b) the person is capable of complying with the requirement; and

(c) the person omits to do an act; and

(d) the omission breaches the requirement.

Penalty: 20 penalty units.

(5) An individual is excused from giving information or producing a document in accordance with a requirement under subsection (1) on the ground that the information or the production of the document might tend to incriminate the individual or expose the individual to a penalty.

Section does not limit section 60FA

(5A) This section does not limit section 60FA (which is about carbon tax removal substantiation notices).

Authorised Version C2026C00323 registered 22/07/2026

Section does not limit section 155

(6) This section does not limit section 155 (which is about the general information-gathering powers of the Commission).

60J Reporting

(1) The Commission must, within 28 days after the end of each quarter, give the Minister a written report about the operations of the Commission under this Part during the quarter.

(2) A report under subsection (1) must include particulars of:
  (a) all notices given under section 60E during the quarter; and
  (b) all variations or revocations during the quarter of notices given under section 60E.

(3) Subsection (2) does not limit subsection (1).

(4) For the purposes of this section, a ***quarter*** is a period of 3 months:
  (a) that occurs wholly or partly during the carbon tax repeal transition period; and
  (b) that starts on any of the following days in a year:
    (i) 1 January;
    (ii) 1 April;
    (iii) 1 July;
    (iv) 1 October.

(5) As soon as practicable after the Minister receives a report under subsection (1), the Minister must make the report public by such means as the Minister considers appropriate.

(6) If this section commences during a quarter (but not on the first day of a quarter):
  (a) no report is to be made at the end of the quarter; but
  (b) the report made at the end of the next quarter is also to include the information required by subsections (1) and (2) in relation to the previous quarter.

Authorised Version C2026C00323 registered 22/07/2026

Division 4—False or misleading representations about the effect of the carbon tax repeal etc. on prices

60K False or misleading representations about the effect of the carbon tax repeal etc. on prices

An entity must not, in trade or commerce, in connection with:

(a) the supply or possible supply of goods or services; or

(b) the promotion by any means of the supply or use of goods or services;

make a false or misleading representation, during the carbon tax repeal transition period, concerning the effect of:

(c) the carbon tax repeal or a part of the carbon tax repeal; or

(d) the carbon tax scheme or a part of the carbon tax scheme;

on the price for the supply of the goods or services.

Authorised Version C2026C00323 registered 22/07/2026

Division 5—Infringement notices

60L Issuing an infringement notice

Issuing an infringement notice

(1) If the Commission has reasonable grounds to believe that a person has contravened an infringement notice provision, the Commission may issue an infringement notice to the person.

(2) The Commission must not issue more than one infringement notice to the person for the same alleged contravention of the infringement notice provision.

(3) The infringement notice does not have any effect if the notice:
  (a) is issued more than 12 months after the day on which the contravention of the infringement notice provision is alleged to have occurred; or
  (b) relates to more than one alleged contravention of an infringement notice provision by the person.

Matters to be included in an infringement notice

(4) An infringement notice must:
  (a) be identified by a unique number; and
  (b) state the day on which it is issued; and
  (c) state the name and address of the person to whom it is issued; and
  (d) identify the Commission; and
  (e) state how the Commission may be contacted; and
  (f) give details of the alleged contravention by the person, including:
    (i) the date of the alleged contravention; and
    (ii) the particular infringement notice provision that was allegedly contravened; and

Authorised Version C2026C00323 registered 22/07/2026

(g) state the maximum pecuniary penalty that the court could order the person to pay under section 76 for the alleged contravention; and

(h) specify the penalty that is payable in relation to the alleged contravention; and

(i) state that the penalty is payable within the infringement notice compliance period for the notice; and

(j) state that the penalty is payable to the Commission on behalf of the Commonwealth; and

(k) explain how payment of the penalty is to be made; and

(l) explain the effect of sections 60M, 60N, 60P and 60Q.

Amount of penalty

(5) The penalty to be specified in an infringement notice that is to be issued to a person in relation to an alleged contravention of an infringement notice provision must be:

(a) if the person is a listed corporation—600 penalty units; or

(b) if the person is a body corporate other than a listed corporation—60 penalty units; or

(c) if the person is not a body corporate—12 penalty units.

60M Effect of compliance with an infringement notice

Scope

(1) This section applies if:

(a) an infringement notice for an alleged contravention of an infringement notice provision is issued to a person; and

(b) the person pays the penalty specified in the infringement notice within the infringement notice compliance period and in accordance with the notice; and

(c) the infringement notice is not withdrawn under section 60Q.

Effect

(2) The person is not, merely because of the payment, regarded as:

Authorised Version C2026C00323 registered 22/07/2026

(a) having contravened the infringement notice provision; or
(b) having been convicted of an offence constituted by the same conduct that constituted the alleged contravention of the infringement notice provision.

(3) No proceedings (whether criminal or civil) may be started or continued against the person, by or on behalf of the Commonwealth, in relation to:
(a) the alleged contravention of the infringement notice provision; or
(b) an offence constituted by the same conduct that constituted the alleged contravention.

60N Effect of failure to comply with an infringement notice

If:
(a) an infringement notice for an alleged contravention of an infringement notice provision is issued to a person; and
(b) the person fails to pay the penalty specified in the infringement notice within the infringement notice compliance period and in accordance with the notice; and
(c) the infringement notice is not withdrawn under section 60Q;

the person is liable to proceedings under Part VI in relation to the alleged contravention of the infringement notice provision.

60P Infringement notice compliance period for infringement notice

(1) The ***infringement notice compliance period*** for an infringement notice is the period of 28 days beginning on the day after the day on which the infringement notice is issued by the Commission.

(2) Subsection (1) has effect subject to subsection (7).

(3) The Commission may extend, by notice in writing, the infringement notice compliance period for the notice if the Commission is satisfied that it is appropriate to do so.

Authorised Version C2026C00323 registered 22/07/2026

(4) Only one extension may be given, and the extension must not be for longer than 28 days.

(5) Notice of the extension must be given to the person who was issued the infringement notice.

(6) A failure to comply with subsection (5) does not affect the validity of the extension.

(7) If the Commission extends the infringement notice compliance period for an infringement notice, a reference in this Division to the infringement notice compliance period for an infringement notice is taken to be a reference to the infringement notice compliance period as so extended.

60Q Withdrawal of an infringement notice

Representations to the Commission

(1) A person to whom an infringement notice has been issued for an alleged contravention of an infringement notice provision may make written representations to the Commission seeking the withdrawal of the infringement notice.

(2) Evidence or information that the person, or a representative of the person, gives to the Commission in the course of making representations under subsection (1) is not admissible in evidence against the person or representative in any proceedings (other than proceedings for an offence based on the evidence or information given being false or misleading).

Withdrawal by the Commission

(3) The Commission may, by written notice (the ***withdrawal notice***) given to the person to whom an infringement notice was issued, withdraw the infringement notice if the Commission is satisfied that it is appropriate to do so.

(4) Subsection (3) applies whether or not the person has made representations seeking the withdrawal.

Authorised Version C2026C00323 registered 22/07/2026

Content of withdrawal notices

(5) The withdrawal notice must state:
  (a) the name and address of the person; and
  (b) the day on which the infringement notice was issued to the person; and
  (c) that the infringement notice is withdrawn; and
  (d) that proceedings under Part VI may be started or continued against the person in relation to:
    (i) the alleged contravention the infringement notice provision; or
    (ii) an offence constituted by the same conduct that constituted the alleged contravention.

Time limit for giving withdrawal notices

(6) To be effective, the withdrawal notice must be given to the person within the infringement notice compliance period for the infringement notice.

Refunds

(7) If the infringement notice is withdrawn after the person has paid the penalty specified in the infringement notice, the Commission must, on behalf of the Commonwealth, refund to the person an amount equal to the amount paid.

Note: For the appropriation for the refund, see section 77 of the *Public Governance, Performance and Accountability Act 2013*.

60R Effect of this Division

This Division does not:
  (a) require an infringement notice to be issued to a person for an alleged contravention of an infringement notice provision; or
  (b) affect the liability of a person to proceedings under Part VI in relation to an alleged contravention of an infringement notice provision if:

Authorised Version C2026C00323 registered 22/07/2026

(i) an infringement notice is not issued to the person for the alleged contravention; or

(ii) an infringement notice issued to a person for the alleged contravention is withdrawn under section 60Q; or

(c) prevent a court from imposing a higher penalty than the penalty specified in the infringement notice if the person does not comply with the notice.

Authorised Version C2026C00323 registered 22/07/2026

Chapter 5—Enforcement and remedies

Part VI—Enforcement and remedies

Division 1—Preliminary

75B Interpretation

(1) A reference in this Part to a person involved in a contravention of a provision of Part IV, IVB, IVBA, IVBB or IVE, or of section 55B, subsection 56BN(1), 56BO(1) or 56BU(1), section 56BZA, 56BZB or 56BZC, subsection 56BZD(1) or 56BZI(1), section 56BZJ, 60C, 60K or 92, a civil penalty provision of a gas market instrument or a civil penalty provision of the consumer data rules, shall be read as a reference to a person who:

(a) has aided, abetted, counselled or procured the contravention;

(b) has induced, whether by threats or promises or otherwise, the contravention;

(c) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or

(d) has conspired with others to effect the contravention.

(2) In this Part, unless the contrary intention appears:

(a) a reference to the Court in relation to a matter is a reference to any court having jurisdiction in the matter;

(b) a reference to the Federal Court is a reference to the Federal Court of Australia; and

(c) a reference to a judgment is a reference to a judgment, decree or order, whether final or interlocutory.

Authorised Version C2026C00323 registered 22/07/2026

Division 2—Pecuniary penalties

76 Pecuniary penalties

(1) If the Court is satisfied that a person:

(a) has contravened any of the following provisions:

(i) a provision of Part IV (other than section 45AF or 45AG);

(iaa) a provision of Part IVBA specified in subsection (4A);

(iab) subsection 53ZQ(1), (2) or (3), section 53ZV, subsection 53ZW(1) or a civil penalty provision of a gas market instrument; or

(ia) section 55B;

(ib) subsection 56BO(1) or 56BU(1), section 56BZA, 56BZB or 56BZC, subsection 56BZD(1), section 56BZJ or a civil penalty provision of the consumer data rules;

(ic) a provision of Part IVE;

(ii) section 60C;

(iia) section 60K;

(iii) section 92;

(iiia) a provision of Division 2 of Part XICA;

(iiib) subsection 153ZEL(2);

(iiic) paragraph 155(5)(b);

(iv) a civil penalty provision of an industry code; or

(b) has attempted to contravene such a provision; or

(c) has aided, abetted, counselled or procured a person to contravene such a provision; or

(d) has induced, or attempted to induce, a person, whether by threats or promises or otherwise, to contravene such a provision; or

(e) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of such a provision; or

Authorised Version C2026C00323 registered 22/07/2026

(f) has conspired with others to contravene such a provision;

the Court may order the person to pay to the Commonwealth such pecuniary penalty, in respect of each act or omission by the person to which this section applies, as the Court determines to be appropriate having regard to all relevant matters including the nature and extent of the act or omission and of any loss or damage suffered as a result of the act or omission, the circumstances in which the act or omission took place and whether the person has previously been found by the Court in proceedings under this Part or Part XIB to have engaged in any similar conduct.

Note: Section 87AA provides that, if boycott conduct is involved in proceedings, the Court must have regard to certain matters in exercising its powers under this Part. (***Boycott conduct*** is defined in subsection 87AA(2).)

(1A) The pecuniary penalty payable by a person under subsection (1) is not to exceed the amount worked out using the following table.

Amount of pecuniary penalty			
Item	**For each act or omission to which this section applies that relates to …**	**if the person is a body corporate—the pecuniary penalty is not to exceed …**	**if the person is not a body corporate—the pecuniary penalty is not to exceed …**
1	section 45AJ or 45AK	the greater of the amounts mentioned in subsection (1B)	$2,500,000
2	section 45D, 45DB, 45E or 45EA	$750,000	(see subsection (2))
3	any provision of Part IV not covered by items 1 and 2 of this table (see note 1)	the greater of the amounts mentioned in subsection (1B)	$2,500,000 (for acts or omissions relating to section 45DA, see subsection (2))

Authorised Version C2026C00323 registered 22/07/2026

Amount of pecuniary penalty			
Item	**For each act or omission to which this section applies that relates to …**	**if the person is a body corporate—the pecuniary penalty is not to exceed …**	**if the person is not a body corporate—the pecuniary penalty is not to exceed …**
4	a civil penalty provision of an industry code	the amount set out in the civil penalty provision of the industry code	the amount set out in the civil penalty provision of the industry code
5	a provision of Division 4 of Part IVBA	6,000 penalty units	$500,000
6	section 52ZC, 52ZH, 52ZS or 52ZZE	the greater of the amounts mentioned in subsection (1B)	$2,500,000
7	any provision of Part IVBA not covered by items 5 and 6 of this table	600 penalty units	$500,000
7A	subsection 53ZQ(1), (2) or (3)	the greater of the amounts mentioned in subsection (1B)	$2,500,000
7B	section 53ZV or subsection 53ZW(1)	3,000 penalty units	600 penalty units
7C	a civil penalty provision of a gas market instrument not covered by item 7D of this table	the greater of the amounts mentioned in subsection (1B)	$2,500,000
7D	a civil penalty provision of a gas market instrument that sets out at its foot a pecuniary penalty indicated by the words “Civil penalty”	the lesser of: (a) the amount of the pecuniary penalty for a body corporate set out at the foot of the provision; and (b) the greater of the amounts	the lesser of: (a) the amount of the pecuniary penalty for a person other than a body corporate set out at the foot of the provision; and (b) $2,500,000

Authorised Version C2026C00323 registered 22/07/2026

Amount of pecuniary penalty			
Item	**For each act or omission to which this section applies that relates to …**	**if the person is a body corporate—the pecuniary penalty is not to exceed …**	**if the person is not a body corporate—the pecuniary penalty is not to exceed …**
		mentioned in subsection (1B)	
8	section 55B, 60C or 60K	6,471 penalty units	1,295 penalty units
9	subsection 56BO(1) or 56BU(1), section 56BZA, 56BZB or 56BZC, subsection 56BZD(1), section 56BZJ or a civil penalty provision of the consumer data rules not covered by item 10 of this table	the greater of the amounts mentioned in subsection (1C)	$500,000
10	a civil penalty provision of the consumer data rules that sets out at its foot a pecuniary penalty indicated by the words "Civil penalty"	the amount of the pecuniary penalty for a body corporate set out at the foot of the provision	the amount of the pecuniary penalty for a person other than a body corporate set out at the foot of the provision
11	a civil penalty provision of Part IVE described by section 57GA	the number of penalty units for a body corporate set out at the foot of the provision	the number of penalty units for a person other than a body corporate set out at the foot of the provision
12	section 92	$33,000	$6,600
13	a provision of Division 2 of Part XICA	the greater of the amounts mentioned in subsection (1B)	$2,500,000 (see note 2)
13A	subsection 153ZEL(2)	600 penalty units	$500,000
13B	paragraph 155(5)(b)	1,000 penalty units	200 penalty units

Authorised Version C2026C00323 registered 22/07/2026

Amount of pecuniary penalty			
Item	**For each act or omission to which this section applies that relates to …**	**if the person is a body corporate—the pecuniary penalty is not to exceed …**	**if the person is not a body corporate—the pecuniary penalty is not to exceed …**
14	any other provision to which this section applies	$10,000,000	$500,000

Note 1: Item 3 also applies to pecuniary penalties ordered under subsection (1) in respect of an act or omission that relates to subsection 10.49A(1), 10.60(1) or 10.65(1): see subsection 10.49A(2), 10.60(2) or 10.65(2).

Note 2: Pecuniary penalties may not be ordered under subsection (1) against certain individuals in relation to contraventions of section 153E, 153F, 153G or 153H in certain circumstances: see section 153ZD.

(1B) For the purposes of items 1, 3, 6, 7A, 7C, 7D and 13 of the table in subsection (1A), the amounts are as follows:

(a) $100,000,000;

(b) if item 1 or 13 of the table applies, and the Court can determine the total value of the benefits that have been obtained (within the meaning of Division 1 of Part IV) by one or more persons and that are reasonably attributable to the act or omission—3 times that total value;

(c) if item 3, 6, 7A, 7C or 7D of the table applies, and the Court can determine the value of the benefit that the body corporate, and any body corporate related to the body corporate, have obtained directly or indirectly and that is reasonably attributable to the act or omission—3 times the value of that benefit;

(d) if the Court cannot determine the value of those benefits or that benefit—30% of the body corporate's adjusted turnover during the breach turnover period for the act or omission.

(1C) For the purposes of item 9 of the table in subsection (1A), the amounts are as follows:

(a) $10,000,000;

Authorised Version C2026C00323 registered 22/07/2026

(b) if the Court can determine the value of the benefit that the body corporate, and any body corporate related to the body corporate, have obtained directly or indirectly and that is reasonably attributable to the act or omission—3 times the value of that benefit;

(c) if the Court cannot determine the value of that benefit—10% of the body corporate's adjusted turnover during the 12-month period ending at the end of the month in which the act or omission occurred or started to occur.

(2) Nothing in subsection (1) authorises the making of an order against an individual because the individual has contravened or attempted to contravene, or been involved in a contravention of, section 45D, 45DA, 45DB, 45E or 45EA.

(3) If conduct constitutes a contravention of two or more provisions of Part IV (other than section 45AF or 45AG), or two or more provisions of section 53ZQ, a proceeding may be instituted under this Act against a person in relation to the contravention of any one or more of the provisions but a person is not liable to more than one pecuniary penalty under this section in respect of the same conduct.

(4) The single pecuniary penalty that may be imposed in accordance with subsection (3) in respect of conduct that contravenes provisions to which 2 or more of the limits in items 1, 2 and 3 of the table in subsection (1A) apply is an amount up to the highest of those limits.

(4AA) Subsection (3) does not apply to conduct to the extent it constitutes a contravention of both:

(a) section 45AW; and

(b) section 45AY.

Specified provisions of Part IVBA

(4A) For the purposes of subparagraph 76(1)(a)(iaa), the following provisions of Part IVBA are specified:

(a) section 52J;

Authorised Version C2026C00323 registered 22/07/2026

(b) section 52ZI;
(c) a provision of Division 4 of Part IVBA;
(d) section 52ZC;
(e) section 52ZH;
(f) section 52ZS;
(g) subsection 52ZT(5);
(h) subsection 52ZV(3);
(i) section 52ZZE;
(j) subsection 52ZZF(1).

76A Defence to proceedings under section 76 relating to a contravention of section 92

(1) In this section:

contravention, in relation to a section, includes conduct referred to in paragraph 76(1)(b), (c), (d), (e) or (f) that relates to a contravention of the section.

(2) In proceedings against a person (the ***respondent***) under section 76 in relation to an alleged contravention of section 92, it is a defence if the respondent establishes:
(a) that the contravention in respect of which the proceedings were instituted was due to reasonable mistake; or
(b) that the contravention in respect of which the proceedings were instituted was due to reasonable reliance on information supplied by another person; or
(c) that:
(i) the contravention in respect of which the proceedings were instituted was due to the act or default of another person, to an accident or to some other cause beyond the respondent's control; and
(ii) the respondent took reasonable precautions and exercised due diligence to avoid the contravention.

(3) In paragraphs (2)(b) and (c), ***another person*** does not include a person who was:

Authorised Version C2026C00323 registered 22/07/2026

(a) a servant or agent of the respondent; or
(b) if the respondent is a body corporate—a director, servant or agent of the respondent;

at the time when the alleged contravention occurred.

76B Consequences in some cases if substantially the same conduct contravenes a provision of this Act and is an offence

(1) In this section:

contravention, in relation to a section or Part, includes conduct referred to in paragraph 76(1)(b), (c), (d), (e) or (f) that relates to a contravention of the section or Part.

pecuniary penalty order means an order under section 76 for the payment of a pecuniary penalty.

(2) The Court must not make a pecuniary penalty order against a person in relation to a contravention of Part IV, subsection 56BO(1) or section 56BZJ or 92 if the person has been convicted of an offence constituted by conduct that is substantially the same as the conduct constituting the contravention.

(3) Proceedings for a pecuniary penalty order against a person in relation to a contravention of Part IV, subsection 56BO(1) or section 56BZJ or 92 are stayed if:
(a) criminal proceedings are started or have already been started against the person for an offence; and
(b) the offence is constituted by conduct that is substantially the same as the conduct alleged to constitute the contravention.

The proceedings for the pecuniary penalty order may be resumed if the person is not convicted of the offence. Otherwise, the proceedings are dismissed.

(4) Criminal proceedings may be started against a person for conduct that is substantially the same as conduct constituting a contravention of Part IV, subsection 56BO(1) or section 56BZJ or 92 regardless of whether a pecuniary penalty order has been made against the person in respect of the contravention.

Authorised Version C2026C00323 registered 22/07/2026

(5) Evidence of information given, or evidence of production of documents, by an individual is not admissible in criminal proceedings against the individual if:

(a) the individual previously gave the evidence or produced the documents in proceedings for a pecuniary penalty order against the individual for a contravention of Part IV, subsection 56BO(1) or section 56BZJ or 92 (whether or not the order was made); and

(b) the conduct alleged to constitute the offence is substantially the same as the conduct that was claimed to constitute the contravention.

However, this does not apply to a criminal proceeding in respect of the falsity of the evidence given by the individual in the proceedings for the pecuniary penalty order.

(6) In this section:

offence means an offence against a law of the Commonwealth, a State or a Territory.

77 Civil action for recovery of pecuniary penalties

(1) The Commission may institute a proceeding in the Court for the recovery on behalf of the Commonwealth of a pecuniary penalty referred to in section 76.

(2) A proceeding under subsection (1) may be commenced within 6 years after the contravention.

77A Indemnification of officers

(1) A body corporate (the ***first body***), or a body corporate related to the first body, must not indemnify a person (whether by agreement or by making a payment and whether directly or through an interposed entity) against any of the following liabilities incurred as an officer of the first body:

(a) a civil liability;

Authorised Version C2026C00323 registered 22/07/2026

(b) legal costs incurred in defending or resisting proceedings in which the person is found to have such a liability.

Penalty: 25 penalty units.

(2) For the purposes of subsection (1), the outcome of proceedings is the outcome of the proceedings and any appeal in relation to the proceedings.

Definitions

(3) In this section:

civil liability means a liability to pay a pecuniary penalty under section 76 for a contravention of a provision of Part IV or Part V.

officer has the same meaning as in the *Corporations Act 2001*.

77B Certain indemnities not authorised and certain documents void

(1) Section 77A does not authorise anything that would otherwise be unlawful.

(2) Anything that purports to indemnify a person against a liability is void to the extent that it contravenes section 77A.

77C Application of section 77A to a person other than a body corporate

If, as a result of the operation of Part 2.4 of the *Criminal Code*, a person other than a body corporate is:

(a) convicted of an offence (the ***relevant offence***) against subsection 77A(1) of this Act; or

(b) convicted of an offence (the ***relevant offence***) against section 11.4 of the *Criminal Code* in relation to an offence referred to in subsection 77A(1) of this Act;

the relevant offence is taken to be punishable on conviction by a fine not exceeding 5 penalty units.

Authorised Version C2026C00323 registered 22/07/2026

Division 3—Orders relating to acquisitions

77D Orders relating to void acquisitions

(1) This section applies if an acquisition:
  (a) is void to any extent by force of subsection 45AZA(2); or
  (b) would be void to any extent by force of that subsection apart from an order under this section.

(2) The Federal Court may, on the application of the Commission or any other person, make any of the following orders that the Court believes appropriate:
  (a) an order that subsection 45AZA(2) is to be taken not to apply, and never to have applied, to the acquisition;
  (b) such other order as the Court believes appropriate (including, if the Court does not make any order under paragraph (a), such other order as the Court believes appropriate to give effect to the voiding or to deal with the consequences of the voiding).

(3) The application must be made no later than 6 years after the acquisition was put into effect or purportedly put into effect.

(4) Before making an order under paragraph (2)(a), the Court must have regard to the seriousness of the related contravention of section 45AY, including the effect of the contravention on persons who are not parties to the acquisition.

(5) If an application is made under subsection (2) by a person other than the Commission:
  (a) the Court must give a copy of the application to the Commission; and
  (b) the Commission may intervene in the proceedings on the application.

(6) If the Commission intervenes in a proceeding under paragraph (5)(b), the Commission is taken to be a party to the

Authorised Version C2026C00323 registered 22/07/2026

proceeding and has all the rights, duties and liabilities of such a party.

Authorised Version C2026C00323 registered 22/07/2026

Division 4—Offences

78 Criminal proceedings not to be brought for contraventions of Part IV

Criminal proceedings do not lie against a person by reason only that the person:

(a) has contravened a provision of Part IV (other than section 45AF or 45AG); or

(b) has attempted to contravene such a provision;

(c) has aided, abetted, counselled or procured a person to contravene such a provision;

(d) has induced, or attempted to induce, a person, whether by threats or promises or otherwise, to contravene such a provision;

(e) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of such a provision; or

(f) has conspired with others to contravene such a provision.

79 Offences against section 45AF or 45AG

(1) A person who:

(aa) attempts to contravene; or

(a) aids, abets, counsels or procures a person to contravene; or

(b) induces, or attempts to induce, a person (whether by threats or promises or otherwise) to contravene; or

(c) is in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of; or

(d) conspires with others to contravene;

a cartel offence provision is taken to have contravened that provision and is punishable:

(e) in a case where:

(i) the provision is a cartel offence provision; and

(ii) the person is not a body corporate;

Authorised Version C2026C00323 registered 22/07/2026

by a term of imprisonment not exceeding 10 years or a fine not exceeding 2,000 penalty units, or both; or

(f) in any other case—accordingly.

(1AA) For the purposes of the application of subsection (1) to a case where:

(a) the provision is a cartel offence provision; and

(b) the person is a body corporate other than a corporation;

assume that each reference in paragraph 45AF(3)(c) or 45AG(3)(c) to a corporation were read as a reference to a body corporate.

(1AB) Subsections 11.1(2) to (6) (inclusive) of the *Criminal Code* apply in relation to paragraph (1)(aa) in the same way that they apply in relation to the offence of attempt under subsection 11.1(1) of the *Criminal Code*.

(1A) Subsections 11.2(2) to (5) (inclusive) of the *Criminal Code* apply in relation to paragraph (1)(a) in the same way that they apply in relation to subsection 11.2(1) of the *Criminal Code*.

(1B) Subsections 11.5(2) to (5) (inclusive) of the *Criminal Code* apply in relation to paragraph (1)(d) in the same way that they apply in relation to the offence of conspiracy under subsection 11.5(1) of the *Criminal Code*.

(5) Subsections 11.1(1), 11.2(1), 11.2A(1), 11.4(1) and 11.5(1) of the *Criminal Code* do not apply in relation to an offence against a cartel offence provision.

(7) In this section:

cartel offence provision means section 45AF or 45AG.

Authorised Version C2026C00323 registered 22/07/2026

Division 5—Other provisions

79A Enforcement and recovery of certain fines

(1) If:

(a) a fine has been imposed on a person for:

(i) an offence against section 44AAFB, 45AF or 45AG, subsection 56BN(1) or 56BZI(1) or section 154Q or 155; or

(ii) an offence against section 149.1 of the *Criminal Code* that relates to Part XID; and

(b) the person defaults in payment of the fine;

a Court may:

(c) exercise any power that the Court has apart from this section with respect to the enforcement and recovery of fines imposed by the Court; or

(d) make an order, on the application of the Minister, the Commission or (in the case of an offence against section 44AAFB) the AER declaring that the fine is to have effect, and may be enforced, as if it were a judgment debt under a judgment of the Court.

(2) Where a person in relation to whom an order is made under subsection (1) in respect of a fine gives security for the payment of the fine, the Court shall cancel the order in respect of the fine.

(3) Where the Court makes an order in relation to a person in respect of a fine, the Court may, at any time before the order is executed in respect of the fine, allow the person a specified time in which to pay the fine or allow the person to pay the fine by specified instalments, and, in that case:

(a) the order shall not be executed unless the person fails to pay the fine within that time or fails to pay an instalment at or before the time when it becomes payable, as the case may be; and

Authorised Version C2026C00323 registered 22/07/2026

(b) if the person pays the fine within that time or pays all the instalments, as the case may be, the order shall be deemed to have been discharged in respect of the fine.

(4) Subject to subsection (7), an order under subsection (1) in respect of a fine ceases to have effect:
(a) on payment of the fine; or
(b) if the fine is not paid—on full compliance with the order.

(5) The term of a sentence of imprisonment imposed by an order under a law of a State or Territory applied by section 15A of the *Crimes Act 1914* (including an order described in subsection 15A(1AA) of that Act) in respect of a fine shall be calculated at the rate of one day's imprisonment for each $25 of the amount of the fine that is from time to time unpaid.

(6) Subject to subsection (7), where a person is required to serve periods of imprisonment by virtue of an order or orders under subsection (1) in respect of 2 or more fines, those periods of imprisonment shall be served consecutively.

(7) Subject to subsection (8), where:
(a) a person would, but for this subsection, be required by virtue of an order or orders under subsection (1) in respect of 3 or more fines to serve periods of imprisonment in respect of those fines exceeding in the aggregate 3 years; and
(b) those fines were imposed (whether or not in the same proceedings) for offences constituted by contraventions that occurred within a period of 2 years, being contraventions that appear to the Court to have been of the same nature or a substantially similar nature;

the Court shall, by order, declare that the order or orders shall cease to have effect in respect of those fines after the person has served an aggregate of 3 years' imprisonment in respect of those fines.

(8) Where subsection (7) would, but for this subsection, apply to a person with respect to offences committed by the person within 2 or more overlapping periods of 2 years, the Court shall make an

Authorised Version C2026C00323 registered 22/07/2026

order under that subsection with respect to one only of those periods, being whichever period would give the person the maximum benefit from the application of that subsection.

(9) For the purposes of subsection (8), the Court may vary or revoke an order made under subsection (7).

(11) This section applies only in relation to fines imposed for offences committed after the commencement of this section.

79B Preference must be given to compensation for victims

If the Court considers that:

(a) it is appropriate to order a person (the ***defendant***):

(i) to pay a pecuniary penalty under section 76; or

(ii) to impose a fine under section 45AF or 45AG or subsection 56BN(1) or 56BZI(1);

in respect of a contravention, or an involvement in a contravention, of this Act, a gas market instrument or the consumer data rules; and

(b) it is appropriate to order the defendant to pay compensation to a person who has suffered loss or damage in respect of the contravention or the involvement; and

(c) the defendant does not have sufficient financial resources to pay both the pecuniary penalty or fine and the compensation;

the Court must give preference to making an order for compensation.

80 Injunctions

(1) Subject to subsections (1A), (1AAA) and (1B), where, on the application of the Commission or any other person, the Court is satisfied that a person has engaged, or is proposing to engage, in conduct that constitutes or would constitute:

(a) a contravention of any of the following provisions:

(i) a provision of Part IV;

(ii) a provision of Division 2 or 5 of Part IVB;

Authorised Version C2026C00323 registered 22/07/2026

(iiaa) a provision of Part IVBA;
(iiab) subsection 53ZQ(1), (2) or (3), section 53ZV, subsection 53ZW(1) or a civil penalty provision of a gas market instrument;
(iia) section 55B;
(iib) subsection 56BN(1), 56BO(1) or 56BU(1), section 56BZA, 56BZB or 56BZC, subsection 56BZD(1) or 56BZI(1), section 56BZJ or a civil penalty provision of the consumer data rules;
(iic) a provision of Division 3 of Part IVE;
(iii) section 60C;
(iv) section 60K;
(v) a provision of Division 2 of Part XICA;
(vi) section 153ZEL; or

(b) attempting to contravene such a provision; or
(c) aiding, abetting, counselling or procuring a person to contravene such a provision; or
(d) inducing, or attempting to induce, whether by threats, promises or otherwise, a person to contravene such a provision; or
(e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of such a provision; or
(f) conspiring with others to contravene such a provision;

the Court may grant an injunction in such terms as the Court determines to be appropriate.

Note: Section 87AA provides that, if boycott conduct is involved in proceedings, the Court must have regard to certain matters in exercising its powers under this Part. (***Boycott conduct*** is defined in subsection 87AA(2).)

(1AA) Where an application for an injunction under subsection (1) has been made, whether before or after the commencement of this subsection, the Court may, if the Court determines it to be appropriate, grant an injunction by consent of all the parties to the proceedings, whether or not the Court is satisfied that a person has

Authorised Version C2026C00323 registered 22/07/2026

engaged, or is proposing to engage, in conduct of a kind mentioned in subsection (1).

(1A) A person other than the Commission is not entitled to make an application under subsection (1) for an injunction by reason that a person has contravened or attempted to contravene or is proposing to contravene, or has been or is proposing to be involved in a contravention of, Subdivision B of Division 1A of Part IV or section 50, 60C or 60K.

(1AAA) Subject to subsection (1B), a person other than the Minister or the Commission may not apply for an injunction on the ground of:

(a) a person's actual, attempted or proposed contravention of section 50A; or

(b) a person's actual or proposed involvement in a contravention of section 50A.

(1B) Where the Tribunal has, on the application of a person (in this subsection referred to as the ***applicant***) other than the Minister or the Commission, made a declaration under subsection 50A(1) in relation to the acquisition by a person of a controlling interest in a corporation, the applicant is entitled to make an application under subsection (1) for an injunction by reason that the corporation has contravened or attempted to contravene or is proposing to contravene subsection 50A(6) in relation to that declaration.

(2) Where in the opinion of the Court it is desirable to do so, the Court may grant an interim injunction pending determination of an application under subsection (1).

(3) The Court may rescind or vary an injunction granted under subsection (1) or (2).

(4) The power of the Court to grant an injunction restraining a person from engaging in conduct may be exercised:

(a) whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of that kind;

Authorised Version C2026C00323 registered 22/07/2026

(b) whether or not the person has previously engaged in conduct of that kind; and

(c) whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person engages in conduct of that kind.

(5) The power of the Court to grant an injunction requiring a person to do an act or thing may be exercised:

(a) whether or not it appears to the Court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing;

(b) whether or not the person has previously refused or failed to do that act or thing; and

(c) whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person refuses or fails to do that act or thing.

(6) Where the Minister or the Commission makes an application to the Court for the grant of an injunction under this section, the Court shall not require the applicant or any other person, as a condition of granting an interim injunction, to give any undertakings as to damages.

(6A) Subsection (6) does not apply to an application by the Minister for an injunction relating to Part IV.

(7) Where:

(a) in a case to which subsection (6) does not apply the Court would, but for this subsection, require a person to give an undertaking as to damages or costs; and

(b) the Minister gives the undertaking;

the Court shall accept the undertaking by the Minister and shall not require a further undertaking from any other person.

(8) Subsection (7) does not apply in relation to an application for an injunction relating to Part IV.

(9) If the Director of Public Prosecutions makes an application to the Court for the grant of an injunction under this section in relation to:

Authorised Version C2026C00323 registered 22/07/2026

(a) a person's contravention, or proposed contravention, of section 45AF or 45AG or subsection 56BN(1) or 56BZI(1); or

(b) a person's involvement, or proposed involvement, in a contravention of section 45AF or 45AG or subsection 56BN(1) or 56BZI(1);

the Court must not require the Director of Public Prosecutions or any other person, as a condition of granting an interim injunction, to give any undertakings as to damages.

80A Price exploitation in relation to the carbon tax repeal—orders limiting prices or requiring refunds of money

(1) If, on the application of the Commission, the Court is satisfied that a person has engaged in conduct constituting a contravention of section 60C, the Court may make either or both of the following orders:

(a) an order requiring that person, or a person involved in the contravention, not to make a regulated supply of a kind specified in the order for a price in excess of the price specified in the order while the order remains in force;

(b) an order requiring that person, or a person involved in the contravention, to refund money to a person specified in the order.

Note: Section 60C is about price exploitation in relation to the carbon tax repeal.

(2) This section does not limit section 80.

(3) In this section:

price has the same meaning as in Part V.

regulated supply has the same meaning as in Part V.

Authorised Version C2026C00323 registered 22/07/2026

80AB Stay of injunctions

(1) The Court may stay the operation of an injunction granted under section 80 if:

(a) the injunction is in respect of conduct that constitutes or would constitute a contravention of subsection 45D(1), 45DA(1), 45DB(1), 45E(2) or 45E(3) or section 45EA or an associated contravention; and

(b) there is a proceeding in respect of a dispute relating to the conduct pending before a court, tribunal or authority of a State or Territory under a prescribed provision of a law of the State or Territory; and

(c) the conduct relates to the supply of goods or services to, or the acquisition of goods or services from, a person who is or becomes a party to the proceeding referred to in paragraph (b); and

(d) any of the following has applied for the stay:

(i) a Minister of the Commonwealth;

(ii) if subparagraph (b)(ii) applies—a Minister of the State or Territory concerned;

(iii) a party to the proceeding for the injunction; and

(e) the Court considers that granting the stay:

(i) would be likely to facilitate the settlement of the dispute by conciliation; and

(ii) would, in all the circumstances, be just.

(2) An order staying the operation of the injunction may be expressed to have effect for a specified period and may be varied or rescinded by the Court at any time.

(3) If the proceeding referred to in paragraph (1)(b) is terminated because the State or Territory court, tribunal or authority has settled the dispute to which the conduct relates by conciliation, the Court must not make any order in relation to the costs of the proceedings in respect of the granting of the injunction or in relation to the costs of any proceedings for the rescission of the injunction.

Authorised Version C2026C00323 registered 22/07/2026

(4) Nothing in this section affects other powers of the Court.

(5) In this section:

associated contravention means:

(a) attempting to contravene subsection 45D(1), 45DA(1), 45DB(1), 45E(2) or 45E(3) or section 45EA; or

(b) aiding, abetting, counselling or procuring a person to contravene any of those provisions; or

(c) inducing, or attempting to induce, a person (whether by threats, promises or otherwise) to contravene any of those provisions; or

(d) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of any of those provisions; or

(e) conspiring with others to contravene any of those provisions.

injunction includes an interim injunction.

80AC Injunctions to prevent mergers if authorisation granted on the basis of false or misleading information

If, on the application of the Commission, the Court is satisfied that:

(a) a person is proposing to acquire shares in the capital of a body corporate or assets of a person; and

(b) the person was granted a merger authorisation for the proposed acquisition on the basis of information that was false or misleading in a material particular; and

(c) that information was given by the person or a body corporate that was related to the person; and

(d) if that information had not been given, the authorisation would not have been granted; and

(e) apart from the authorisation, the acquisition would contravene section 50 if it occurred;

then the Court may grant an injunction in such terms as the Court determines to be appropriate.

Authorised Version C2026C00323 registered 22/07/2026

80AD Injunctions if acquisition determinations made on the basis of false or misleading information

If, on the application of the Commission, the Federal Court is satisfied that:

(a) a person is proposing to put an acquisition into effect; and

(b) the Commission made an acquisition determination under paragraph 51ABZE(1)(a) or 51ABZW(1)(a) in respect of a notification of the acquisition on the basis of information that was false or misleading in a material particular; and

(c) the information was material to the Commission making the determination; and

(d) that information was given by:

(i) the person; or

(ii) if the person is a body corporate—a body corporate that was related to the person; and

(e) apart from the determination, putting the acquisition into effect would contravene Subdivision B of Division 1A of Part IV;

then the Court may grant an injunction in such terms as the Court determines to be appropriate.

81 Divestiture where merger contravenes section 50 or 50A

(1) The Court may, on the application of the Commission or any other person, if it finds, or has in another proceeding instituted under this Part found, that a person has contravened section 50, by order, give directions for the purpose of securing the disposal by the person of all or any of the shares or assets acquired in contravention of that section.

(1A) Where:

(a) the Court finds, in a proceeding instituted under this Part, that a person (in this subsection referred to as the ***acquirer***) has acquired shares in the capital of a body corporate or any assets of a person in contravention of section 50;

Authorised Version C2026C00323 registered 22/07/2026

(b) the Court finds, whether in that proceeding or any other proceeding instituted under this Part, that the person (in this section referred to as the ***vendor***) from whom the acquirer acquired those shares or those assets, as the case may be, was involved in the contravention; and

(c) at the time when the finding referred to in paragraph (b) is made, any of those shares or those assets, as the case may be, are vested in the acquirer or, if the acquirer is a body corporate, in any body corporate that is related to the acquirer;

the Court may, on the application of the Commission, declare that the acquisition, in so far as it relates to the shares or assets referred to in paragraph (c), is void as from the day on which it took place and, where the Court makes such a declaration:

(d) the shares or the assets to which the declaration relates shall be deemed not to have been disposed of by the vendor; and

(e) the vendor shall refund to the acquirer any amount paid to the vendor in respect of the acquisition of the shares or assets to which the declaration relates.

(1B) Where a declaration has been made under subsection 50A(1) in relation to the obtaining of a controlling interest in a corporation, or in each of 2 or more corporations, the Court may, on the application of the Minister or the Commission, if it finds, or has in a proceeding instituted under section 80 found, that that corporation, or any of those corporations, as the case may be (in this subsection referred to as the ***relevant corporation***), has contravened subsection 50A(6), by order, for the purpose of ensuring that the obtaining of that controlling interest ceases to have the result referred to in paragraph 50A(1)(a), direct the relevant corporation to dispose of such of its assets as are specified in the order within such period as is so specified.

(1C) Where an application is made to the Court for an order under subsection (1) or a declaration under subsection (1A), the Court may, instead of making an order under subsection (1) for the purpose of securing the disposal by a person of shares or assets or an order under subsection (1A) that the acquisition by a person of

Authorised Version C2026C00323 registered 22/07/2026

shares or assets is void, accept, upon such conditions (if any) as the Court thinks fit, an undertaking by the person to dispose of other shares or assets owned by the person.

(2) An application under subsection (1), (1A) or (1B) may be made at any time within 3 years after the date on which the contravention occurred.

(3) Where an application for directions under subsection (1) or for a declaration under subsection (1A) has been made, whether before or after the commencement of this subsection, the Court may, if the Court determines it to be appropriate, give directions or make a declaration by consent of all the parties to the proceedings, whether or not the Court has made the findings referred to in subsections (1) and (1A).

81A Divestiture where merger done under authorisation granted on false etc. information

Circumstances when this section applies

(1) This section applies if the Court is satisfied that:
  (a) a person (the ***acquirer***) has acquired shares in the capital of a body corporate or assets of another person; and
  (b) before the acquisition, the acquirer was granted a merger authorisation for the acquisition on the basis of information that was false or misleading in a material particular; and
  (c) that information was provided by the acquirer or a body corporate that was related to the acquirer; and
  (d) the Court or another court has found that the acquirer or related body corporate has contravened section 92 or Part 7.4 of the *Criminal Code* by giving that information; and
  (e) if that information had not been given, the authorisation would not have been granted; and
  (f) apart from the authorisation, the acquisition would have contravened section 50; and

Authorised Version C2026C00323 registered 22/07/2026

(g) any or all of those shares or assets are vested in the acquirer, the related body corporate or any other body corporate that is related to the acquirer.

Divestiture by the acquirer and related bodies corporate

(2) The Court may, on the application of the Commission, by order, give directions for the purpose of securing the disposal of all or any of those shares or assets by the acquirer, the related body corporate or any other body corporate that is related to the acquirer.

Declaration that acquisition void—when vendor involved

(4) In addition to being satisfied of the matters in subsection (1), if the Court, or another court, has found that the person (the ***vendor***) from whom the acquirer acquired the shares or assets was involved in the contravention referred to in paragraph (1)(d), then the Court may, on the application of the Commission, by order, declare that the acquisition, in so far as it relates to those shares or assets, is void as from the day on which it occurred.

(5) If the Court makes an order under subsection (4), then:
(a) the shares or assets to which the declaration relates are taken not to have been disposed of by the vendor; and
(b) the vendor must refund to the acquirer any amount paid to the vendor for acquiring the shares or assets.

Alternative to orders under subsections (2) and (4)

(7) If an application is made to the Court for an order under subsection (2) or (4) against a person, the Court may, instead of making an order of the kind mentioned in that subsection, accept, upon such conditions (if any) as the Court thinks fit, an undertaking by the person to dispose of other shares or assets owned by the person.

Authorised Version C2026C00323 registered 22/07/2026

When application for orders under this section must be made

(8) An application under subsection (2) or (4) may be made at any time within 3 years after the day on which the acquisition occurred.

Court may make orders even if not satisfied of all matters

(9) If an application for an order under subsection (2) or (4) is made, the Court may, if the Court determines it to be appropriate, make an order by consent of all the parties to the proceedings, whether or not the Court is satisfied of:
  (a) for an order under subsection (2)—the matters in subsection (1); and
  (b) for an order under subsection (4)—the matters in subsections (1) and (4).

81B Divestiture etc. if acquisition determinations made on false etc. information or conditions not complied with

(1) This section applies in relation to a notification of an acquisition if the Federal Court is satisfied that:
  (a) as part of putting the acquisition into effect, a notifying party of the notification, or a related body corporate, acquired a thing (including a share in the capital of a body corporate, any assets of a person or a thing determined under paragraph 51ABB(2)(a)); and
  (b) the Commission made an acquisition determination in respect of the notification; and
  (c) apart from the determination, putting the acquisition into effect would have contravened Subdivision B of Division 1A of Part IV; and
  (d) subsection (2) or (3) applies.

(2) This subsection applies if:
  (a) the Commission made the determination on the basis of information that was false or misleading in a material particular; and

Authorised Version C2026C00323 registered 22/07/2026

(b) the information was material to the Commission making the acquisition determination; and

(c) the information was given by:

(i) the notifying party of the notification; or

(ii) a related body corporate; and

(d) the Court or another court has found that the person who gave the information contravened section 45AZB of this Act or Part 7.4 of the *Criminal Code* by giving that information.

(3) This subsection applies if:

(a) putting the acquisition into effect is subject to a condition; and

(b) the condition is not complied with.

Divestiture

(4) The Federal Court may, on the application of the Commission, by order, give directions for the purpose of securing the disposal of anything acquired as mentioned in paragraph (1)(a).

Declaration that acquisition void

(5) The Federal Court may, on the application of the Commission, by order, declare that the acquisition mentioned in paragraph (1)(a) is void as from the day on which it occurred.

(6) However, the Court may make an order under subsection (5) only if, in addition to the Court being satisfied of the matters in subsection (1), the Court, or another court, has found that the person (the ***vendor***) from whom the thing was acquired was involved in:

(a) the contravention mentioned in paragraph (2)(d); or

(b) the non-compliance mentioned in paragraph (3)(b).

(7) If the Court makes an order under subsection (5) in relation to the acquisition of a thing, then:

(a) the thing is taken not to have been disposed of by the vendor; and

Authorised Version C2026C00323 registered 22/07/2026

(b) the vendor must refund to the acquirer any amount paid to the vendor for acquiring the thing.

Alternative to orders under subsections (4) and (5)

(8) If an application is made to the Court for an order under subsection (4) or (5) against a person, the Court may, instead of making an order of the kind mentioned in that subsection, accept, upon such conditions (if any) as the Court thinks fit, an undertaking by the person to dispose of any other thing owned by the person.

When application for orders under this section must be made

(9) An application under subsection (4) or (5) may be made at any time within 3 years after the day on which the acquisition was put into effect.

Court may make orders even if not satisfied of all matters

(10) If an application for an order under subsection (4) or (5) is made, the Court may, if the Court determines it to be appropriate, make an order by consent of all the parties to the proceedings, whether or not the Court is satisfied of:

(a) for an order under subsection (4)—the matters in subsection (1); and

(b) for an order under subsection (5)—the matters in subsections (1) and (6).

82 Actions for damages

(1) A person who suffers loss or damage by conduct of another person that was done in contravention of:

(a) a provision of Part IV, IVB, IVBA, IVBB or IVE; or

(b) section 55B, 60C or 60K; or

(c) subsection 56BN(1), 56BO(1) or 56BU(1), section 56BZA, 56BZB or 56BZC, subsection 56BZD(1) or 56BZI(1) or section 56BZJ; or

Authorised Version C2026C00323 registered 22/07/2026

(ca) a civil penalty provision of a gas market instrument; or

(d) a civil penalty provision of the consumer data rules;

may recover the amount of the loss or damage by action against that other person or against any person involved in the contravention.

(2) An action under subsection (1) may be commenced at any time within 6 years after the day on which the cause of action that relates to the conduct accrued.

No adverse costs orders

(3) A person who brings an action under subsection (1) in relation to a contravention of a provision of Part IV may at any time during proceedings on the matter seek an order under subsection (4) from the court hearing, or that will hear, the matter.

(4) The court may order that the applicant is not liable for the costs of any respondent to the proceedings, regardless of the outcome or likely outcome of the proceedings.

(5) The court may only make an order under subsection (4) if the court is satisfied that:

(a) the action raises a reasonable issue for trial; and

(b) the action raises an issue that is not only significant for the applicant, but may also be significant for other persons or groups of persons; and

(c) the disparity between the financial position of the applicant and the financial position of the respondent or respondents is such that the possibility of a costs order that does not favour the applicant might deter the applicant from pursuing the action.

(6) The court may satisfy itself of the matters in subsection (5) by having regard only to the documents filed with the court in the proceedings.

(7) A person who appeals a decision of the court under subsection (4) is liable for any costs in relation to the appeal.

Authorised Version C2026C00323 registered 22/07/2026

83 Findings and admissions of fact in proceedings to be evidence

(1) In a proceeding against a person under section 82 or in an application under subsection 51ADB(1), 53ZO(1) or 87(1A) for an order against a person, a finding of any fact made by a court, or an admission of any fact made by the person, is prima facie evidence of that fact if the finding or admission is made in proceedings:

(a) that are proceedings:

(i) under section 77, 80, 81, 86C, 86D or 86E; or

(ii) for an offence against section 45AF or 45AG or subsection 56BN(1) or 56BZI(1); and

(b) in which that person has been found to have contravened, or to have been involved in a contravention of:

(i) a provision of Part IV, IVB, IVBA, IVBB or IVE; or

(ii) section 55B, 60C or 60K; or

(iia) a civil penalty provision of a gas market instrument; or

(iii) subsection 56BO(1) or 56BU(1), section 56BZA, 56BZB or 56BZC, subsection 56BZD(1), section 56BZJ or a civil penalty provision of the consumer data rules.

(2) The finding or admission may be proved by production of:

(a) in any case—a document under the seal of the court from which the finding or admission appears; or

(b) in the case of an admission—a document from which the admission appears that is filed in the court.

84 Conduct by directors, employees or agents

(1) If, in:

(a) a prosecution for an offence against section 45AF or 45AG or subsection 56BN(1) or 56BZI(1) in respect of conduct engaged in by a body corporate; or

(b) a proceeding under this Part in respect of conduct engaged in by a body corporate, being conduct in relation to which section 45AJ, 45AK, 46 or 46A, Part IVB, IVBA, IVBB or IVE, section 55B, Part V, subsection 56BN(1), 56BO(1) or 56BU(1), section 56BZA, 56BZB or 56BZC,

Authorised Version C2026C00323 registered 22/07/2026

subsection 56BZD(1) or 56BZI(1), section 56BZJ, a civil penalty provision of a gas market instrument or a civil penalty provision of the consumer data rules applies; or

(ba) a proceeding in respect of conduct engaged in by a body corporate, being conduct in relation to which section 153E, 153F, 153G or 153H applies;

it is necessary to establish the state of mind of the body corporate, it is sufficient to show that:

(c) a director, employee or agent of the body corporate engaged in that conduct; and

(d) the director, employee or agent was, in engaging in that conduct, acting within the scope of his or her actual or apparent authority; and

(e) the director, employee or agent had that state of mind.

(2) Any conduct engaged in on behalf of a body corporate:

(a) by a director, employee or agent of the body corporate within the scope of the person's actual or apparent authority; or

(b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, employee or agent of the body corporate, where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the director, employee or agent;

shall be deemed, for the purposes of this Act, a gas market instrument and the consumer data rules, to have been engaged in also by the body corporate.

(3) If, in:

(a) a prosecution for an offence against section 45AF or 45AG or subsection 56BN(1) or 56BZI(1) in respect of conduct engaged in by a person other than a body corporate; or

(b) a proceeding under this Part in respect of conduct engaged in by a person other than a body corporate, being conduct in relation to which section 45AJ or 45AK, Part IVB, IVBA, IVBB or IVE, section 55B, Part V, subsection 56BN(1), 56BO(1) or 56BU(1), section 56BZA, 56BZB or 56BZC,

Authorised Version C2026C00323 registered 22/07/2026

subsection 56BZD(1) or 56BZI(1), section 56BZJ, a civil penalty provision of a gas market instrument or a civil penalty provision of the consumer data rules applies;

it is necessary to establish the state of mind of the person, it is sufficient to show that:

(c) an employee or agent of the person engaged in that conduct; and

(d) the employee or agent was, in engaging in that conduct, acting within the scope of his or her actual or apparent authority; and

(e) the employee or agent had that state of mind.

(4) Conduct engaged in on behalf of a person other than a body corporate:

(a) by an employee or agent of the person within the scope of the actual or apparent authority of the employee or agent; or

(b) by any other person at the direction or with the consent or agreement (whether express or implied) of an employee or agent of the first-mentioned person, where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the employee or agent;

shall be deemed, for the purposes of this Act, a gas market instrument and the consumer data rules, to have been engaged in also by the first-mentioned person.

(4A) If:

(a) a person other than a body corporate is convicted of an offence; and

(b) subsection (3) or (4) applied in relation to the conviction on the basis that the person was the person first mentioned in that subsection; and

(c) the person would not have been convicted of the offence if that subsection had not been enacted;

the person is not liable to be punished by imprisonment for that offence.

Authorised Version C2026C00323 registered 22/07/2026

(5) A reference in this section to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person's reasons for the person's intention, opinion, belief or purpose.

85 Defences

If, in any proceedings under this Part against a person other than a body corporate, it appears to the Court that the person has or may have:

(a) engaged in conduct in contravention of a provision of Part IV; or

(aa) engaged in conduct in contravention of section 60C or 60K; or

(b) engaged in conduct referred to in paragraph 76(1)(b), (c), (d), (e) or (f);

but that the person acted honestly and reasonably and, having regard to all the circumstances of the case, ought fairly to be excused, the Court may relieve the person either wholly or partly from liability to any penalty or damages on such terms as the Court thinks fit.

86 Jurisdiction of courts

(1AA) A reference in this section to this Act, or to a Part, Division or section of this Act, is a reference to this Act, or to that Part, Division or section, as it has effect as a law of the Commonwealth.

(1) Jurisdiction is conferred on the Federal Court in any matter arising under this Act, a gas market instrument or the consumer data rules in respect of which a civil proceeding has, whether before or after the commencement of this section, been instituted under this Part.

(1A) Jurisdiction is conferred on the Federal Circuit and Family Court of Australia (Division 2) in any matter arising under section 46, Part IVB or IVBB, section 55B, subsection 56BO(1) or 56BU(1), section 56BZA, 56BZB or 56BZC, subsection 56BZD(1), section 56BZJ, Part IVE, a civil penalty provision of a gas market

Authorised Version C2026C00323 registered 22/07/2026

instrument or a civil penalty provision of the consumer data rules in respect of which a civil proceeding is instituted by a person other than the Minister.

(2) The several courts of the States are invested with federal jurisdiction within the limits of their several jurisdictions, whether those limits are as to locality, subject-matter or otherwise, and, subject to the Constitution, jurisdiction is conferred on the several courts of the Territories, with respect to any matter arising under Part IVB or IVBB, section 55B, subsection 56BO(1) or 56BU(1), section 56BZA, 56BZB or 56BZC, subsection 56BZD(1), section 56BZJ, Part IVE, a civil penalty provision of a gas market instrument or a civil penalty provision of the consumer data rules in respect of which a civil proceeding is instituted by a person other than the Minister or the Commission.

(3) Nothing in subsection (2) shall be taken to enable an inferior court of a State or Territory to grant a remedy other than a remedy of a kind that the court is able to grant under the law of that State or Territory.

(3A) The Supreme Court of a State is invested with federal jurisdiction with respect to any matter in respect of which a civil proceeding covered by section 45AI is instituted in that Court.

(3B) Subject to the Constitution, the Supreme Court of a Territory is conferred with jurisdiction with respect to any matter in respect of which a civil proceeding covered by section 45AI is instituted in that Court.

(4) The jurisdiction conferred by subsection (1) on the Federal Court is exclusive of the jurisdiction of any other court other than:

(a) the jurisdiction of the Federal Circuit and Family Court of Australia (Division 2) under subsection (1A); and

(b) the jurisdiction of the several courts of the States and Territories under subsection (2); and

(ba) the jurisdiction of the Supreme Courts of the States under subsection (3A); and

Authorised Version C2026C00323 registered 22/07/2026

(bb) the jurisdiction of the Supreme Courts of the Territories under subsection (3B); and

(c) the jurisdiction of the High Court under section 75 of the Constitution.

86AA Limit on jurisdiction of Federal Circuit and Family Court of Australia (Division 2)

If proceedings under section 82 are instituted in, or transferred to, the Federal Circuit and Family Court of Australia (Division 2), the Court does not have jurisdiction to award an amount for loss or damage that exceeds:

(a) $750,000; or

(b) if another amount is specified in the regulations—that other amount.

Note 1: For transfers of proceedings from the Federal Circuit and Family Court of Australia (Division 2) to the Federal Court, see section 153 of the *Federal Circuit and Family Court of Australia Act 2021* and section 32AC of the *Federal Court of Australia Act 1976*.

Note 2: For transfers of proceedings from the Federal Court to the Federal Circuit and Family Court of Australia (Division 2), see section 32AB of the *Federal Court of Australia Act 1976*.

86A Transfer of matters

(1) Where:

(a) a civil proceeding instituted (whether before or after the commencement of this section) by a person other than the Minister or the Commission is pending in the Federal Court; and

Authorised Version C2026C00323 registered 22/07/2026

(b) a matter for determination in the proceeding arose under Part IVB or IVBB, section 55B, subsection 56BO(1) or 56BU(1), section 56BZA, 56BZB or 56BZC, subsection 56BZD(1), section 56BZJ, Part IVE, a civil penalty provision of a gas market instrument or a civil penalty provision of the consumer data rules;

the Federal Court may, subject to subsection (2), upon the application of a party or of the Federal Court's own motion, transfer to a court of a State or Territory the matter referred to in paragraph (b) and may also transfer to that court any other matter for determination in the proceeding.

(2) The Federal Court shall not transfer a matter to another court under subsection (1) unless the other court has power to grant the remedies sought before the Federal Court in the matter and it appears to the Federal Court that:

(a) the matter arises out of or is related to a proceeding that is pending in the other court; or

(b) it is otherwise in the interests of justice that the matter be determined by the other court.

(3) Where the Federal Court transfers a matter to another court under subsection (1):

(a) further proceedings in the matter shall be as directed by the other court; and

(b) the judgment of the other court in the matter is enforceable throughout Australia and the external Territories as if it were a judgment of the Federal Court.

86C Non-punitive orders

(1) The Court may, on application by the Commission, make one or more of the orders mentioned in subsection (2) in relation to a person who has engaged in contravening conduct.

(1A) The Court may, on application by the Director of Public Prosecutions, make one or more of the orders mentioned in

Authorised Version C2026C00323 registered 22/07/2026

subsection (2) in relation to a person who has engaged in contravening conduct that is:

(a) a contravention of section 45AF or 45AG; or

(b) an involvement in a contravention of section 45AF or 45AG.

(2) The orders that the Court may make in relation to the person are:

(a) except in the case of contravening conduct that relates to section 60C or 60K or Part IVE—a community service order; and

(b) except in the case of contravening conduct that relates to section 60C or 60K or Part IVE—a probation order for a period of no longer than 3 years; and

(c) an order requiring the person to disclose, in the way and to the persons specified in the order, such information as is so specified, being information that the person has possession of or access to; and

(d) an order requiring the person to publish, at the person's expense and in the way specified in the order, an advertisement in the terms specified in, or determined in accordance with, the order.

(3) This section does not limit the Court's powers under any other provision of this Act.

(4) In this section:

community service order, in relation to a person who has engaged in contravening conduct, means an order directing the person to perform a service that:

(a) is specified in the order; and

(b) relates to the conduct;

for the benefit of the community or a section of the community.

Example: The following are examples of community service orders:

(a) an order requiring a person who has made false representations to make available a training video which explains advertising obligations under this Act; and

(b) an order requiring a person who has engaged in misleading or deceptive conduct in relation to a product to carry out a

Authorised Version C2026C00323 registered 22/07/2026

community awareness program to address the needs of consumers when purchasing the product.

contravening conduct means conduct that:

(a) contravenes Part IV, IVB, IVBA, IVBB or IVE, section 55B, subsection 56BN(1), 56BO(1) or 56BU(1), section 56BZA, 56BZB or 56BZC, subsection 56BZD(1) or 56BZI(1), section 56BZJ, 60C, 60K or 92, a civil penalty provision of a gas market instrument or a civil penalty provision of the consumer data rules; or

(b) constitutes an involvement in a contravention of any of those provisions.

probation order, in relation to a person who has engaged in contravening conduct, means an order that is made by the Court for the purpose of ensuring that the person does not engage in the contravening conduct, similar conduct or related conduct during the period of the order, and includes:

(a) an order directing the person to establish a compliance program for employees or other persons involved in the person's business, being a program designed to ensure their awareness of the responsibilities and obligations in relation to the contravening conduct, similar conduct or related conduct; and

(b) an order directing the person to establish an education and training program for employees or other persons involved in the person's business, being a program designed to ensure their awareness of the responsibilities and obligations in relation to the contravening conduct, similar conduct or related conduct; and

(c) an order directing the person to revise the internal operations of the person's business which lead to the person engaging in the contravening conduct.

86D Punitive orders—adverse publicity

(1) The Court may, on application by the Commission, make an adverse publicity order in relation to a person who:

Authorised Version C2026C00323 registered 22/07/2026

(a) has been ordered to pay a pecuniary penalty under section 76; or

(b) is guilty of an offence against section 45AF or 45AG or subsection 56BN(1) or 56BZI(1).

(1A) The Court may, on application by the Director of Public Prosecutions, make an adverse publicity order in relation to a person who is guilty of an offence against section 45AF or 45AG or subsection 56BN(1) or 56BZI(1).

(2) In this section, an ***adverse publicity order***, in relation to a person, means an order that:

(a) requires the person to disclose, in the way and to the persons specified in the order, such information as is so specified, being information that the person has possession of or access to; and

(b) requires the person to publish, at the person's expense and in the way specified in the order, an advertisement in the terms specified in, or determined in accordance with, the order.

(3) This section does not limit the Court's powers under any other provision of this Act.

86E Order disqualifying a person from managing corporations

(1) On application by the Commission, the Court may make an order disqualifying a person from managing corporations for a period that the Court considers appropriate if:

(a) the Court is satisfied that the person has contravened, has attempted to contravene or has been involved in a contravention of Part IV or IVE, subsection 56BN(1), 56BO(1) or 56BU(1), section 56BZA, 56BZB or 56BZC, subsection 56BZD(1) or 56BZI(1), section 56BZJ, a civil penalty provision of a gas market instrument, a civil penalty provision of Part 5 or 5A (other than for the purposes of Division 3 of that Part) of the *Water Act 2007* or of the Water Markets Intermediaries Code within the meaning of that Act, or a civil penalty provision of the consumer data rules; and

Authorised Version C2026C00323 registered 22/07/2026

(b) the Court is satisfied that the disqualification is justified.

Note: Section 206EA of the *Corporations Act 2001* provides that a person is disqualified from managing corporations if a court order is in force under this section. That Act contains various consequences for persons so disqualified.

(1A) On application by the Director of Public Prosecutions, the Court may make an order disqualifying a person from managing corporations for a period that the Court considers appropriate if:

(a) the Court is satisfied that the person has contravened or has been involved in a contravention of section 45AF or 45AG or subsection 56BN(1) or 56BZI(1); and

(b) the Court is satisfied that the disqualification is justified.

Note: Section 206EA of the *Corporations Act 2001* provides that a person is disqualified from managing corporations if a court order is in force under this section. That Act contains various consequences for persons so disqualified.

(2) In determining under subsection (1) or (1A) whether the disqualification is justified, the Court may have regard to:

(a) the person's conduct in relation to the management, business or property of any corporation; and

(b) any other matters that the Court considers appropriate.

(3) The Commission must notify ASIC if the Court makes an order under subsection (1). The Commission must give ASIC a copy of the order.

Note: ASIC must keep a register of persons who have been disqualified from managing corporations: see section 1274AA of the *Corporations Act 2001*.

(3A) The Director of Public Prosecutions must notify ASIC if the Court makes an order under subsection (1A). The Director of Public Prosecutions must give ASIC a copy of the order.

Note: ASIC must keep a register of persons who have been disqualified from managing corporations—see section 1274AA of the *Corporations Act 2001*.

Authorised Version C2026C00323 registered 22/07/2026

(3B) For the purposes of this Act (other than this section or section 86F), an order under this section is not a penalty.

86F Privilege against exposure to penalty—disqualification from managing corporations

Court proceeding

(1) In a civil or criminal proceeding under, or arising out of, this Act, a gas market instrument or the consumer data rules, a person is not entitled to refuse or fail to comply with a requirement:

(a) to answer a question or give information; or

(b) to produce a document or any other thing; or

(c) to do any other act;

on the ground that the answer or information, production of the document or other thing, or doing that other act, as the case may be, might tend to expose the person to a penalty by way of an order under section 86E.

(2) Subsection (1) applies whether or not the person is a defendant in the proceeding or in any other proceeding.

Statutory requirement

(3) A person is not entitled to refuse or fail to comply with a requirement under this Act, a gas market instrument or the consumer data rules:

(a) to answer a question or give information; or

(b) to produce a document or any other thing; or

(c) to do any other act;

on the ground that the answer or information, production of the document or other thing, or doing that other act, as the case may be, might tend to expose the person to a penalty by way of an order under section 86E.

Definition

(4) In this section:

Authorised Version C2026C00323 registered 22/07/2026

penalty includes forfeiture.

87 Other orders

(1) Without limiting the generality of section 80, where, in a proceeding instituted under this Part, or for an offence against section 45AF or 45AG or subsection 56BN(1) or 56BZI(1), the Court finds that a person who is a party to the proceeding has suffered, or is likely to suffer, loss or damage by conduct of another person that was engaged in (whether before or after the commencement of this subsection) in contravention of a provision of Part IV, Division 2 of Part IVB, or Part IVBA or IVE, or of section 55B, subsection 56BO(1) or 56BU(1), section 56BZA, 56BZB or 56BZC, subsection 56BZD(1), section 56BZJ, 60C or 60K, a civil penalty provision of a gas market instrument or a civil penalty provision of the consumer data rules, the Court may, whether or not it grants an injunction under section 80 or makes an order under section 82, 86C, 86D or 86E, make such order or orders as it thinks appropriate against the person who engaged in the conduct or a person who was involved in the contravention (including all or any of the orders mentioned in subsection (2) of this section) if the Court considers that the order or orders concerned will compensate the first-mentioned person in whole or in part for the loss or damage or will prevent or reduce the loss or damage.

(1A) Without limiting the generality of sections 51ADB, 53ZO and 80, the Court may:

(a) on the application of a person who has suffered, or is likely to suffer, loss or damage by conduct of another person that was engaged in in contravention of Division 2 of Part IVB, Part IVBA or IVE, subsection 56BN(1), 56BO(1) or 56BU(1), section 56BZA, 56BZB or 56BZC, subsection 56BZD(1) or 56BZI(1), section 56BZJ, 60C or 60K, a civil penalty provision of a gas market instrument or a civil penalty provision of the consumer data rules; or

(b) on the application of the Commission in accordance with subsection (1B) on behalf of one or more persons who have

Authorised Version C2026C00323 registered 22/07/2026

suffered, or who are likely to suffer, loss or damage by conduct of another person that was engaged in in contravention of Part IV (other than section 45D or 45E), Division 2 of Part IVB, Part IVBA or IVE, subsection 56BN(1), 56BO(1) or 56BU(1), section 56BZA, 56BZB or 56BZC, subsection 56BZD(1) or 56BZI(1), section 56BZJ, 60C or 60K, a civil penalty provision of a gas market instrument or a civil penalty provision of the consumer data rules; or

(baa) on the application of the Commission in accordance with subsection (1BAA) on behalf of a class of persons who have suffered, or who are likely to suffer, loss or damage by conduct of another person that was engaged in in contravention of section 55B, subsection 56BN(1), 56BO(1) or 56BU(1), section 56BZA, 56BZB or 56BZC, subsection 56BZD(1) or 56BZI(1), section 56BZJ, a civil penalty provision of a gas market instrument or a civil penalty provision of the consumer data rules; or

(ba) on the application of the Director of Public Prosecutions in accordance with subsection (1BA) on behalf of one or more persons who have suffered, or who are likely to suffer, loss or damage by conduct of another person that was engaged in in contravention of section 45AF or 45AG or subsection 56BN(1) or 56BZI(1);

make such order or orders as the Court thinks appropriate against the person who engaged in the conduct or a person who was involved in the contravention (including all or any of the orders mentioned in subsection (2)) if the Court considers that the order or orders concerned will:

(c) compensate the person who made the application, or the person or any of the persons on whose behalf the application was made, in whole or in part for the loss or damage; or

(d) prevent or reduce the loss or damage suffered, or likely to be suffered, by such a person.

(1B) The Commission may make an application under paragraph (1A)(b) on behalf of one or more persons identified in the application who:

Authorised Version C2026C00323 registered 22/07/2026

(a) have suffered, or are likely to suffer, loss or damage by conduct of another person that was engaged in in contravention of a provision referred to in that paragraph; and

(b) have, before the application is made, consented in writing to the making of the application.

(1BAA) The Commission may make an application under paragraph (1A)(baa) on behalf of a class of persons identified in the application who have suffered, or are likely to suffer, loss or damage by conduct of another person that was engaged in in contravention of a provision referred to in that paragraph.

(1BA) The Director of Public Prosecutions may make an application under paragraph (1A)(ba) on behalf of one or more persons identified in the application who:

(a) have suffered, or are likely to suffer, loss or damage by conduct of another person that was engaged in in contravention of a provision referred to in that paragraph; and

(b) have, before the application is made, consented in writing to the making of the application.

(1C) An application may be made under subsection (1A) in relation to a contravention of Part IV, Division 2 of Part IVB, Part IVBA or IVE, subsection 56BN(1), 56BO(1) or 56BU(1), section 56BZA, 56BZB or 56BZC, subsection 56BZD(1) or 56BZI(1), section 56BZJ, 60C or 60K, a civil penalty provision of a gas market instrument or a civil penalty provision of the consumer data rules even if a proceeding has not been instituted under another provision in relation to that contravention.

(1CA) An application under subsection (1A) may be made at any time within 6 years after the day on which the cause of action that relates to the conduct accrued.

(2) The orders referred to in subsections (1) and (1A) are:

(a) an order declaring the whole or any part of a contract made between the person who suffered, or is likely to suffer, the loss or damage and the person who engaged in the conduct or a person who was involved in the contravention constituted

Authorised Version C2026C00323 registered 22/07/2026

by the conduct, or of a collateral arrangement relating to such a contract, to be void and, if the Court thinks fit, to have been void *ab initio* or at all times on and after such date before the date on which the order is made as is specified in the order;

(b) an order varying such a contract or arrangement in such manner as is specified in the order and, if the Court thinks fit, declaring the contract or arrangement to have had effect as so varied on and after such date before the date on which the order is made as is so specified;

(ba) an order refusing to enforce any or all of the provisions of such a contract;

(c) an order directing the person who engaged in the conduct or a person who was involved in the contravention constituted by the conduct to refund money or return property to the person who suffered the loss or damage;

(d) an order directing the person who engaged in the conduct or a person who was involved in the contravention constituted by the conduct to pay to the person who suffered the loss or damage the amount of the loss or damage;

(e) an order directing the person who engaged in the conduct or a person who was involved in the contravention constituted by the conduct, at his or her own expense, to repair, or provide parts for, goods that had been supplied by the person who engaged in the conduct to the person who suffered, or is likely to suffer, the loss or damage;

(f) an order directing the person who engaged in the conduct or a person who was involved in the contravention constituted by the conduct, at his or her own expense, to supply specified services to the person who suffered, or is likely to suffer, the loss or damage; and

(g) an order, in relation to an instrument creating or transferring an interest in land, directing the person who engaged in the conduct or a person who was involved in the contravention constituted by the conduct to execute an instrument that:

(i) varies, or has the effect of varying, the first-mentioned instrument; or

Authorised Version C2026C00323 registered 22/07/2026

(ii) terminates or otherwise affects, or has the effect of terminating or otherwise affecting, the operation or effect of the first-mentioned instrument.

(3) Where:

(a) a provision of a contract made, whether before or after the commencement of the *Trade Practices Amendment Act 1977*, is unenforceable because of section 45 in so far as it confers rights or benefits or imposes duties or obligations on a corporation; or

(b) the engaging in conduct by a corporation in pursuance of or in accordance with a contract made before the commencement of the *Trade Practices Amendment Act 1977* would constitute a contravention of section 47;

the Court may, on the application of a party to the contract, make an order:

(c) varying the contract, or a collateral arrangement relating to the contract, in such manner as the Court considers just and equitable; or

(d) directing another party to the contract to do any act in relation to the first-mentioned party that the Court considers just and equitable.

(4) The orders that may be made under subsection (3) include an order directing the termination of a lease or the increase or reduction of any rent or premium payable under a lease.

(5) The powers conferred on the Court under this section in relation to a contract do not affect any powers that any other court may have in relation to the contract in proceedings instituted in that other court in respect of the contract.

(6) In subsection (2), ***interest***, in relation to land, means:

(a) a legal or equitable estate or interest in the land; or

(b) a right of occupancy of the land, or of a building or part of a building erected on the land, arising by virtue of the holding of shares, or by virtue of a contract to purchase shares, in an incorporated company that owns the land or building; or

Authorised Version C2026C00323 registered 22/07/2026

(c) a right, power or privilege over, or in connection with, the land.

87AA Special provision relating to Court's exercise of powers under this Part in relation to boycott conduct

(1) In exercising its powers in proceedings under this Part in relation to boycott conduct, the Court is to have regard to any action the applicant in the proceedings has taken, or could take, before an industrial authority in relation to the boycott conduct. In particular, the Court is to have regard to any application for conciliation that the applicant has made or could make.

(2) In this section:

boycott conduct means conduct that constitutes or would constitute:

(a) a contravention of subsection 45D(1), 45DA(1), 45DB(1), 45E(2) or 45E(3) or section 45EA; or

(b) attempting to contravene one of those provisions; or

(c) aiding, abetting, counselling or procuring a person to contravene one of those provisions; or

(d) inducing, or attempting to induce, a person (whether by threats, promises or otherwise) to contravene one of those provisions; or

(e) being in any way, directly or indirectly, knowingly concerned in, or party to, a contravention of one of those provisions; or

(f) conspiring with others to contravene one of those provisions.

industrial authority means:

(a) a board or court of conciliation or arbitration, or tribunal, body or persons, having authority under a law of a State to exercise any power of conciliation or arbitration in relation to industrial disputes within the limits of the State; or

(b) a special board constituted under a law of a State relating to factories; or

Authorised Version C2026C00323 registered 22/07/2026

(c) any other State board, court, tribunal, body or official prescribed by the regulations for the purposes of this definition.

87B Enforcement of undertakings

(1) The Commission may accept a written undertaking given by a person for the purposes of this section in connection with a matter in relation to which the Commission has a power or function under this Act (other than Part X), a gas market instrument or the consumer data rules.

(1A) The Commission may accept a written undertaking given by a person for the purposes of this section in connection with a merger authorisation.

(2) The person may withdraw or vary the undertaking at any time, but only with the consent of the Commission.

(3) If the Commission considers that the person who gave the undertaking has breached any of its terms, the Commission may apply to the Court for an order under subsection (4).

(4) If the Court is satisfied that the person has breached a term of the undertaking, the Court may make all or any of the following orders:

(a) an order directing the person to comply with that term of the undertaking;

(b) an order directing the person to pay to the Commonwealth an amount up to the amount of any financial benefit that the person has obtained directly or indirectly and that is reasonably attributable to the breach;

(c) any order that the Court considers appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the breach;

(d) any other order that the Court considers appropriate.

Authorised Version C2026C00323 registered 22/07/2026

87C Enforcement of undertakings—Secretary of the Department

(1) The Secretary of the Department may accept a written undertaking given by a person for the purposes of this section in connection with a matter in relation to which the Secretary has a power or function under this Act.

(2) The person may withdraw or vary the undertaking at any time, but only with the consent of the Secretary of the Department.

(3) If the Secretary of the Department considers that the person who gave the undertaking has breached any of its terms, the Secretary may apply to the Court for an order under subsection (4).

(4) If the Court is satisfied that the person has breached a term of the undertaking, the Court may make all or any of the following orders:

(a) an order directing the person to comply with that term of the undertaking;

(b) an order directing the person to pay to the Commonwealth an amount up to the amount of any financial benefit that the person has obtained directly or indirectly and that is reasonably attributable to the breach;

(c) any order that the court considers appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the breach;

(d) any other order that the Court considers appropriate.

87CA Intervention by Commission

(1) The Commission may, with the leave of the Court and subject to any conditions imposed by the Court, intervene in any proceeding instituted under this Act.

(2) If the Commission intervenes in a proceeding, the Commission is taken to be a party to the proceeding and has all the rights, duties and liabilities of such a party.

Authorised Version C2026C00323 registered 22/07/2026

Part VIA—Proportionate liability for misleading and deceptive conduct

87CB Application of Part

(1) This Part applies to a claim (an ***apportionable claim***) if the claim is a claim for damages made under section 236 of the Australian Consumer Law for:

(a) economic loss; or

(b) damage to property;

caused by conduct that was done in a contravention of section 18 of the Australian Consumer Law.

(2) For the purposes of this Part, there is a single apportionable claim in proceedings in respect of the same loss or damage even if the claim for the loss or damage is based on more than one cause of action (whether or not of the same or a different kind).

(3) In this Part, a ***concurrent wrongdoer***, in relation to a claim, is a person who is one of 2 or more persons whose acts or omissions (or act or omission) caused, independently of each other or jointly, the damage or loss that is the subject of the claim.

(4) For the purposes of this Part, apportionable claims are limited to those claims specified in subsection (1).

(5) For the purposes of this Part, it does not matter that a concurrent wrongdoer is insolvent, is being wound up or has ceased to exist or died.

87CC Certain concurrent wrongdoers not to have benefit of apportionment

(1) Nothing in this Part operates to exclude the liability of a concurrent wrongdoer (an ***excluded concurrent wrongdoer***) in proceedings involving an apportionable claim if:

Authorised Version C2026C00323 registered 22/07/2026

(a) the concurrent wrongdoer intended to cause the economic loss or damage to property that is the subject of the claim; or

(b) the concurrent wrongdoer fraudulently caused the economic loss or damage to property that is the subject of the claim.

(2) The liability of an excluded concurrent wrongdoer is to be determined in accordance with the legal rules (if any) that (apart from this Part) are relevant.

(3) The liability of any other concurrent wrongdoer who is not an excluded concurrent wrongdoer is to be determined in accordance with the provisions of this Part.

87CD Proportionate liability for apportionable claims

(1) In any proceedings involving an apportionable claim:

(a) the liability of a defendant who is a concurrent wrongdoer in relation to that claim is limited to an amount reflecting that proportion of the damage or loss claimed that the court considers just having regard to the extent of the defendant's responsibility for the damage or loss; and

(b) the court may give judgment against the defendant for not more than that amount.

(2) If the proceedings involve both an apportionable claim and a claim that is not an apportionable claim:

(a) liability for the apportionable claim is to be determined in accordance with the provisions of this Part; and

(b) liability for the other claim is to be determined in accordance with the legal rules, if any, that (apart from this Part) are relevant.

(3) In apportioning responsibility between defendants in the proceedings:

(a) the court is to exclude that proportion of the damage or loss in relation to which the plaintiff is contributorily negligent under any relevant law; and

Authorised Version C2026C00323 registered 22/07/2026

(b) the court may have regard to the comparative responsibility of any concurrent wrongdoer who is not a party to the proceedings.

(4) This section applies in proceedings involving an apportionable claim whether or not all concurrent wrongdoers are parties to the proceedings.

(5) A reference in this Part to a defendant in proceedings includes any person joined as a defendant or other party in the proceedings (except as a plaintiff) whether joined under this Part, under rules of court or otherwise.

87CE Defendant to notify plaintiff of concurrent wrongdoer of whom defendant aware

(1) If:

(a) a defendant in proceedings involving an apportionable claim has reasonable grounds to believe that a particular person (the ***other person***) may be a concurrent wrongdoer in relation to the claim; and

(b) the defendant fails to give the plaintiff, as soon as practicable, written notice of the information that the defendant has about:

(i) the identity of the other person; and

(ii) the circumstances that may make the other person a concurrent wrongdoer in relation to the claim; and

(c) the plaintiff unnecessarily incurs costs in the proceedings because the plaintiff was not aware that the other person may be a concurrent wrongdoer in relation to the claim;

the court hearing the proceedings may order that the defendant pay all or any of those costs of the plaintiff.

(2) The court may order that the costs to be paid by the defendant be assessed on an indemnity basis or otherwise.

Authorised Version C2026C00323 registered 22/07/2026

87CF Contribution not recoverable from defendant

A defendant against whom judgment is given under this Part as a concurrent wrongdoer in relation to an apportionable claim:

(a) cannot be required to contribute to any damages or contribution recovered from another concurrent wrongdoer in respect of the apportionable claim (whether or not the damages or contribution are recovered in the same proceedings in which judgment is given against the defendant); and

(b) cannot be required to indemnify any such wrongdoer.

87CG Subsequent actions

(1) In relation to an apportionable claim, nothing in this Part or any other law prevents a plaintiff who has previously recovered judgment against a concurrent wrongdoer for an apportionable part of any damage or loss from bringing another action against any other concurrent wrongdoer for that damage or loss.

(2) However, in any proceedings in respect of any such action, the plaintiff cannot recover an amount of damages that, having regard to any damages previously recovered by the plaintiff in respect of the damage or loss, would result in the plaintiff receiving compensation for damage or loss that is greater than the damage or loss actually sustained by the plaintiff.

87CH Joining non-party concurrent wrongdoer in the action

(1) The court may give leave for any one or more persons to be joined as defendants in proceedings involving an apportionable claim.

(2) The court is not to give leave for the joinder of any person who was a party to any previously concluded proceedings in respect of the apportionable claim.

87CI Application of Part

Nothing in this Part:

Authorised Version C2026C00323 registered 22/07/2026

(a) prevents a person being held vicariously liable for a proportion of an apportionable claim for which another person is liable; or

(b) prevents a partner from being held severally liable with another partner for that proportion of an apportionable claim for which the other partner is liable; or

(c) affects the operation of any other Act to the extent that it imposes several liability on any person in respect of what would otherwise be an apportionable claim.

Authorised Version C2026C00323 registered 22/07/2026

Part VIB—Claims for damages or compensation for death or personal injury

Division 1—Introduction

87D Definitions

In this Part, unless the contrary intention appears:

applicable percentage has the meaning given by subsection 87Q(2).

average weekly earnings has the meaning given by section 87V.

capable parent or guardian, of a minor, means a person who is a parent or guardian of the minor, and who is not under a disability.

date of discoverability has the meaning given by section 87G.

gratuitous attendant care services has the meaning given by subsection 87W(5).

incapacitated person means a person who is incapable of, or substantially impeded in, the management of his or her affairs in relation to a proceeding under this Act because of:

(a) any disease, or any impairment of his or her mental condition; or

(b) restraint of his or her person, lawful or unlawful, including detention or custody under a law of a State or Territory relating to mental health; or

(c) war or warlike operations, or circumstances arising out of war or warlike operations.

index number has the meaning given by section 87N.

long-stop period has the meaning given by section 87H.

Authorised Version C2026C00323 registered 22/07/2026

maximum amount of damages for non-economic loss has the meaning given by section 87M.

minor means a person under 18.

most extreme case has the meaning given by subsection 87P(2).

non-economic loss means any one or more of the following:

(a) pain and suffering;
(b) loss of amenities of life;
(c) loss of expectation of life;
(d) disfigurement.

personal injury damages means damages or compensation for loss or damage that is, or results from, the death of or personal injury to a person.

plaintiff, in relation to a proceeding, means:

(a) if the proceeding is a proceeding that the Commission commences under paragraph 87(1A)(b), or under section 149 or paragraph 237(1)(b) of the Australian Consumer Law—a person on whose behalf the Commission commences the proceeding; or
(aa) if the proceeding is a proceeding that the Director of Public Prosecutions commences under paragraph 87(1A)(ba)—a person on whose behalf the Director of Public Prosecutions commences the proceeding; or
(b) in any other case—the person by whom the proceeding is brought (however described).

proceeding to which this Part applies means a proceeding referred to in section 87E.

quarter means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.

smoking has the same meaning as in the *Public Health (Tobacco and Other Products) Act 2023*.

Authorised Version C2026C00323 registered 22/07/2026

tobacco product has the same meaning as in the *Public Health (Tobacco and Other Products) Act 2023*.

87E Proceedings to which this Part applies

(1) This Part applies to proceedings taken under the Australian Consumer Law:

(a) that relate to Part 2-2, 3-3, 3-4 or 3-5, or Division 2 of Part 5-4, of the Australian Consumer Law; and

(b) in which the plaintiff is seeking an award of personal injury damages; and

(c) that are not proceedings in respect of the death of or personal injury to a person resulting from smoking or other use of tobacco products.

(2) However, for the purposes of Divisions 2 and 7, paragraph (1)(c) does not apply.

Authorised Version C2026C00323 registered 22/07/2026

Division 2—Limitation periods

87F Basic rule

(1) A court must not award personal injury damages in a proceeding to which this Part applies if the proceeding was commenced:

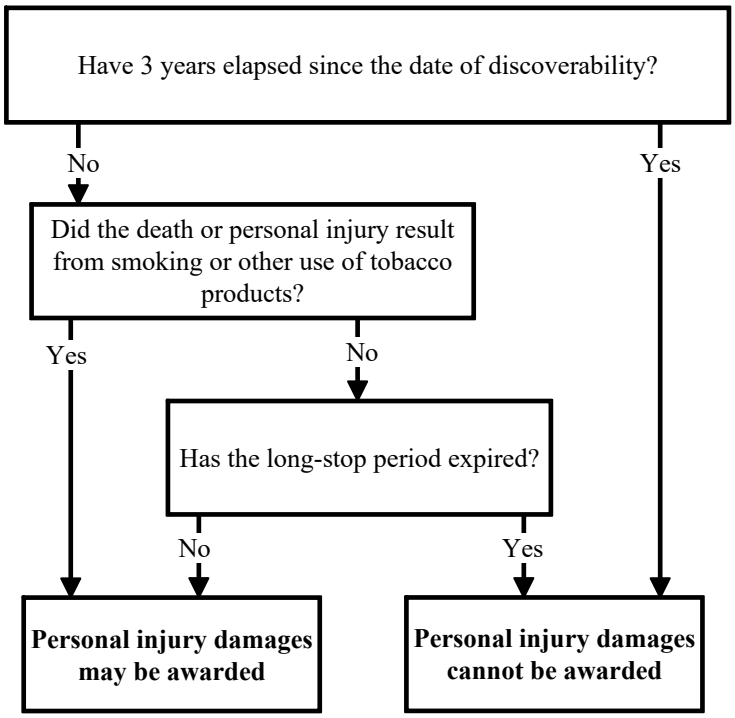
(a) after the end of the period of 3 years after the date of discoverability for the death or injury to which the personal injury damages would relate; or

(b) after the end of the long-stop period for that death or injury.

(1A) However, paragraph (1)(b) does not apply in relation to a proceeding in respect of the death of or personal injury to a person resulting from smoking or other use of tobacco products.

(2) This diagram shows when this Division prevents an award of personal injury damages.

Authorised Version C2026C00323 registered 22/07/2026



87G Date of discoverability

Definition

(1) The ***date of discoverability*** for the death or injury is the first date when the plaintiff in the proceeding knows or ought to know each of the following:

(a) that the death or personal injury has occurred;

(b) that the death or personal injury was attributable to a contravention of this Act;

(c) that in the case of a personal injury—the injury was significant enough to justify bringing an action.

Authorised Version C2026C00323 registered 22/07/2026

Constructive knowledge

(2) For the purposes of subsection (1), the plaintiff ***ought to know*** a fact if the plaintiff would have ascertained the fact had the plaintiff taken all reasonable steps before the date in question to ascertain the fact.

Use of the plaintiff's conduct and statements

(3) In determining what the plaintiff knows or ought to have known, the court may have regard to the plaintiff's conduct, and to the plaintiff's oral or written statements.

Minors

(4) If the plaintiff is a minor, facts that a capable parent or guardian of the plaintiff knows or ought to know are taken for the purposes of subsection (1) to be facts that the plaintiff knows or ought to know.

Incapacitated persons

(5) If:

(a) the plaintiff is an incapacitated person; and

(b) there is a guardian of the plaintiff, or other person to manage all or part of the plaintiff's estate, under a law of a State or Territory relating to the protection of incapacitated persons;

facts that the guardian or other person knows or ought to know are taken for the purposes of subsection (1) to be facts that the plaintiff knows or ought to know.

Proceedings by personal representatives

(6) Despite subsection (1), if the plaintiff brings the proceeding in the capacity of the personal representative of a deceased person, the ***date of discoverability*** for the death or injury is the earliest of:

(a) if, had the deceased person commenced a proceeding, in relation to the contravention to which the death or injury relates, before his or her death, the date of discoverability

Authorised Version C2026C00323 registered 22/07/2026

under subsection (1) would have occurred more than 3 years before the death—that date; or

(b) if, at the time of the plaintiff's appointment as personal representative, the plaintiff knew, or ought to have known, all of the matters referred to in paragraphs (1)(a), (b) and (c)—the date of the appointment; or

(c) if the first time at which the plaintiff knew, or ought to have known, all of the matters referred to in paragraphs (1)(a), (b) and (c) was after the date of appointment—the date of that first time.

87H Long-stop period

(1) The ***long-stop period*** for the death or injury of a person is:

(a) the period of 12 years following the act or omission alleged to have caused the death or injury; or

(b) that period as extended by the court.

(2) The court must not extend the period by more than 3 years beyond the date of discoverability for the death or injury.

(3) In considering whether to extend the period, the court must have regard to the justice of the case, and, in particular, must have regard to:

(a) whether the passage of time has prejudiced a fair trial; and

(b) the nature and extent of the person's loss or damage; and

(c) the nature of the defendant's conduct alleged to have caused the death or injury; and

(d) the nature of the defendant's conduct since the alleged act or omission.

87J The effect of minority or incapacity

In working out whether the period of 3 years after the date of discoverability, or the long-stop period, has expired, disregard any period during which the plaintiff has been:

Authorised Version C2026C00323 registered 22/07/2026

(a) a minor who is not in the custody of a capable parent or guardian; or

(b) an incapacitated person in respect of whom there is no guardian, and no other person to manage all or part of the person's estate, under a law of a State or Territory relating to the protection of incapacitated persons.

87K The effect of close relationships

(1) If:

(a) a cause of action to which the proceeding relates is founded on the death or injury to a person (the ***victim***) who was a minor at the time of the act or omission alleged to have caused the death or injury; and

(b) the proceeding is taken against a person who was at that time:

(i) a parent or guardian of the victim; or

(ii) a person in a close relationship with a parent or guardian of the victim;

in working out whether the period of 3 years after the date of discoverability, or the long-stop period, has expired, disregard any period:

(c) before the victim turns 25; or

(d) if the victim dies before turning 25—before the victim's death.

(2) For the purposes of subparagraph (1)(b)(ii), a person is taken to be in a ***close relationship*** with a parent or guardian of the victim if the person's relationship with the parent or guardian is such that:

(a) the person might influence the parent or guardian not to bring a claim on behalf of the victim against the person; or

(b) the victim might be unwilling to disclose to the parent or guardian the acts, omissions or events in respect of which the cause of action is founded.

Authorised Version C2026C00323 registered 22/07/2026

Division 3—Limits on personal injury damages for non-economic loss

87L Limits on damages for non-economic loss

A court must not, in a proceeding to which this Part applies, award as personal injury damages for non-economic loss an amount that exceeds the amount (if any) permitted under this Division.

87M Maximum amount of damages for non-economic loss

(1) The ***maximum amount of damages for non-economic loss*** is:

(a) during the year in which this Part commences—$250,000; or

(b) during a later year—the amount worked out (to the nearest multiple of $10) as follows:

$$\text{Previous maximum amount} \times \frac{\text{Current September CPI number}}{\text{Previous September CPI number}}$$

where:

current September CPI number is the index number for the quarter ending on 30 September in the year immediately preceding that later year.

previous maximum amount is the maximum amount of damages for non-economic loss during the year immediately preceding that later year.

previous September CPI number is the index number for the quarter ending on the 30 September immediately preceding the 30 September referred to in the definition of ***current September CPI number***.

(2) If an amount worked out under paragraph (1)(b) is a multiple of $5 (but not a multiple of $10), round the amount up to the nearest multiple of $10.

(3) This section does not affect the operation of section 86AA.

Authorised Version C2026C00323 registered 22/07/2026

87N Index numbers

(1) The ***index number*** for a quarter is the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of that quarter.

(2) Subject to subsection (3), if, at any time before or after the commencement of this Act:

(a) the Australian Statistician has published or publishes an index number in respect of a quarter; and

(b) that index number is in substitution for an index number previously published by the Australian Statistician in respect of that quarter;

disregard the publication of the later index number for the purposes of this section.

(3) If, at any time, the Australian Statistician has changed or changes the index reference period for the Consumer Price Index, then, in applying this section after the change took place or takes place, have regard only to index numbers published in terms of the new index reference period.

(4) In this section:

Australian Statistician means the Australian Statistician referred to in subsection 5(2) of the *Australian Bureau of Statistics Act 1975*.

87P Most extreme cases

(1) The court must not award as personal injury damages for non-economic loss the maximum amount of damages for non-economic loss except in a most extreme case.

(2) A ***most extreme case*** is a case in which the plaintiff suffers non-economic loss of the gravest conceivable kind.

Authorised Version C2026C00323 registered 22/07/2026

87Q Cases of 33% or more (but not 100%) of a most extreme case

(1) If the non-economic loss the plaintiff suffers is at least 33%, but less than 100%, of a most extreme case, the court must not award as personal injury damages for non-economic loss an amount that exceeds the applicable percentage of the maximum amount of damages for non-economic loss.

(2) The ***applicable percentage*** is the extent of the non-economic loss the plaintiff suffers, expressed as a percentage of a most extreme case.

87R Cases of 15% or more (but less than 33%) of a most extreme case

If the non-economic loss the plaintiff suffers is at least 15%, but less than 33%, of a most extreme case, the court must not award as personal injury damages for non-economic loss an amount that exceeds the amount set out in the following table:

Cases of 15% or more (but less than 33%) of a most extreme case

Item	Severity of the non-economic loss (as a proportion of a most extreme case)	Damages for non-economic loss (as a proportion of the maximum amount of damages for non-economic loss)
1	15%	1%
2	16%	1.5%
3	17%	2%
4	18%	2.5%
5	19%	3%
6	20%	3.5%
7	21%	4%
8	22%	4.5%
9	23%	5%
10	24%	5.5%
11	25%	6.5%
12	26%	8%

Authorised Version C2026C00323 registered 22/07/2026

Cases of 15% or more (but less than 33%) of a most extreme case		
Item	**Severity of the non-economic loss (as a proportion of a most extreme case)**	**Damages for non-economic loss (as a proportion of the maximum amount of damages for non-economic loss)**
13	27%	10%
14	28%	14%
15	29%	18%
16	30%	23%
17	31%	26%
18	32%	30%

87S Cases of less than 15% of a most extreme case

If the non-economic loss the plaintiff suffers is less than 15% of a most extreme case, the court must not award personal injury damages for non-economic loss.

87T Referring to earlier decisions on non-economic loss

(1) In determining personal injury damages for non-economic loss, the court may refer to earlier decisions of the court or of other courts for the purpose of establishing the appropriate award in the proceeding.

(2) For that purpose, the parties to the proceeding or their counsel may bring the court's attention to awards of personal injury damages for non-economic loss in those earlier decisions.

(3) This section does not affect the rules for determination of other damages or compensation.

Authorised Version C2026C00323 registered 22/07/2026

Division 4—Limits on personal injury damages for loss of earning capacity

87U Personal injury damages for loss of earning capacity

In determining, in a proceeding to which this Part applies, personal injury damages for:

(a) past economic loss due to loss of earnings or the deprivation or impairment of earning capacity; or

(b) future economic loss due to the deprivation or impairment of earning capacity; or

(c) the loss of expectation of financial support;

a court must disregard the amount by which the plaintiff's gross weekly earnings during any quarter would (but for the personal injury or death in question) have exceeded:

(d) if, at the time the award was made, the amount of average weekly earnings for the quarter was ascertainable—an amount that is twice the amount of average weekly earnings for the quarter; or

(e) if:

(i) at the time the award was made, the amount of average weekly earnings for the quarter was not ascertainable; or

(ii) the award was made during, or before the start of, the quarter;

an amount that is twice the amount of average weekly earnings for the quarter that, at the time the award was made, was the most recent quarter for which the amount of average weekly earnings was ascertainable.

87V Average weekly earnings

(1) ***Average weekly earnings***, for a quarter, means the amount:

(a) published by the Australian Statistician as the average weekly earnings for all employees (total earnings, seasonally adjusted) for the reference period in that quarter; or

Authorised Version C2026C00323 registered 22/07/2026

(b) if the Australian Statistician fails or ceases to publish the amount referred to in paragraph (a)—the amount determined in the manner specified in the regulations.

(2) Regulations made for the purposes of paragraph (1)(b) may specify matters by reference to which an amount is to be determined.

(3) In this section:

reference period, in a quarter, is the period described by the Australian Statistician as the pay period ending on or before a specified day that is the third Friday of the middle month of that quarter.

Authorised Version C2026C00323 registered 22/07/2026

Division 5—Limits on personal injury damages for gratuitous attendant care services

87W Personal injury damages for gratuitous attendant care services for plaintiff

(1) A court must not, in a proceeding to which this Part applies, award personal injury damages for gratuitous attendant care services for the plaintiff, except in accordance with this section.

(2) The court must be satisfied that:
  (a) there is (or was) a reasonable need for the services to be provided; and
  (b) the need has arisen (or arose) solely because of personal injury to which the personal injury damages relate; and
  (c) the services would not be (or would not have been) provided to the plaintiff but for the injury; and
  (d) the services are provided (or are to be provided) for at least 6 hours per week; and
  (e) the services are provided (or are to be provided) over a period of at least 6 months.

(3) If the services were provided during a quarter for which, at the time the award was made, the amount of average weekly earnings was ascertainable, the court must not award as personal injury damages for the services:
  (a) if the services were provided for at least 40 hours per week—an amount per week that exceeds average weekly earnings for that quarter; or
  (b) if the services were provided for less than 40 hours per week—an amount per hour that exceeds $^{1}/_{40}$ of average weekly earnings for that quarter.

(4) If the services:

Authorised Version C2026C00323 registered 22/07/2026

(a) were provided during a quarter for which, at the time the award was made, the amount of average weekly earnings was not ascertainable; or

(b) are to be provided after the time the award was made;

the court must not award as personal injury damages for the services:

(c) if the services were provided for at least 40 hours per week—an amount per week that exceeds average weekly earnings for the quarter that, at the time the award was made, was the most recent quarter for which the amount of average weekly earnings was ascertainable; or

(d) if the services were provided for less than 40 hours per week—an amount per hour that exceeds $^{1}/_{40}$ of average weekly earnings for that quarter.

(5) ***Gratuitous attendant care services*** are services that one person provides to another person:

(a) that:

(i) are of a domestic nature; or

(ii) relate to nursing; or

(iii) aim to alleviate the consequences of a personal injury; and

(b) for which the other person has not paid or is not liable to pay.

87X Personal injury damages for loss of plaintiff's capacity to provide gratuitous attendant care services

(1) A court must not, in a proceeding to which this Part applies, award personal injury damages for loss of the plaintiff's capacity to provide gratuitous attendant care services to other persons, except in accordance with this section.

(2) The court must be satisfied that:

(a) prior to his or her loss of capacity to provide the services, the plaintiff had provided the services:

(i) for at least 6 hours per week; and

(ii) over a period of at least 6 months; and

Authorised Version C2026C00323 registered 22/07/2026

(b) the other person would have been entitled, if the plaintiff had died as a result of the contravention of this Act to which the award relates, to recover damages under a law of a State or Territory for loss of the plaintiff's services.

(3) If the plaintiff would have provided the services during a quarter for which, at the time the award was made, the amount of average weekly earnings was ascertainable, the court must not award as personal injury damages for the services:

(a) if the services would have been provided for at least 40 hours per week—an amount per week that exceeds average weekly earnings for that quarter; and

(b) if the services would have been provided for less than 40 hours per week—an amount per hour that exceeds $^{1}/_{40}$ of average weekly earnings for that quarter.

(4) If the plaintiff:

(a) would have provided the services during a quarter for which, at the time the award was made, the amount of average weekly earnings was not ascertainable; or

(b) would have provided the services after the time the award was made;

the court must not award as personal injury damages for the services:

(c) if the services were provided for at least 40 hours per week—an amount per week that exceeds average weekly earnings for the quarter that, at the time the award was made, was the most recent quarter for which the amount of average weekly earnings was ascertainable; or

(d) if the services were provided for less than 40 hours per week—an amount per hour that exceeds $^{1}/_{40}$ of average weekly earnings for that quarter.

Authorised Version C2026C00323 registered 22/07/2026

Division 6—Other limits on personal injury damages

87Y Damages for future economic loss—discount rate

(1) If an award of personal injury damages in a proceeding to which this Part applies is to include any component, assessed as a lump sum, for future economic loss of any kind, the present value of that future economic loss is to be determined by applying:
  (a) a discount rate of the percentage prescribed by the regulations; or
  (b) if no percentage is prescribed—a discount rate of 5%.

(2) A regulation made for the purposes of paragraph (1)(a) does not commence before the end of the period of 6 months starting:
  (a) if the regulation is laid before each House of the Parliament under section 38 of the *Legislation Act 2003* on the same day—on that day; or
  (b) if it is laid before each House of the Parliament under that section on different days—on the later of those days.

(3) Except as provided by this section, this section does not affect any other law relating to the discounting of sums awarded as damages or compensation.

87Z Damages for loss of superannuation entitlements

A court must not, in a proceeding to which this Part applies, award personal injury damages for economic loss due to the loss of employer superannuation contributions an amount that exceeds the following amount:

Superannuation percentage × Damages for earnings loss

where:

damages for earnings loss are the personal injury damages payable (in accordance with this Part) for:

Authorised Version C2026C00323 registered 22/07/2026

(a) any past economic loss due to loss of earnings, or the deprivation or impairment of earning capacity, on which the entitlement to those contributions is based; and

(b) any future economic loss due to the deprivation or impairment of earning capacity on which the entitlement to those contributions would be based.

superannuation percentage means the charge percentage (within the meaning of subsection 17A(2) of the *Superannuation Guarantee (Administration) Act 1992*) divided by 100.

87ZA Interest on damages

(1) A court must not, in a proceeding to which this Part applies, order the payment of interest on personal injury damages for:

(a) non-economic loss; or

(b) gratuitous attendant care services for the plaintiff; or

(c) loss of the plaintiff's capacity to provide gratuitous attendant care services to other persons.

(2) If, in a proceeding to which this Part applies, a court is satisfied that interest is payable on personal injury damages of another kind, the rate of interest to be used in working out the interest is:

(a) the rate of interest prescribed by the regulations; or

(b) if no rate is prescribed—the 10-year benchmark bond rate on the day on which the court determines the personal injury damages.

(3) This section does not affect the payment of interest on a debt under a judgment or order of a court.

(4) In this section:

10-year benchmark bond rate, on a day, means:

(a) if the day occurs on or after 1 March in a particular year and before 1 September in that year—the Commonwealth Government 10-year benchmark bond rate:

Authorised Version C2026C00323 registered 22/07/2026

(i) as published by the Reserve Bank of Australia in the Reserve Bank of Australia Bulletin (however described); and

(ii) applying on the first business day of January in that year; or

(b) otherwise—the Commonwealth Government 10-year benchmark bond rate, as so published, applying on the first business day of July in the preceding year.

business day means a day other than a Saturday, a Sunday or a public or bank holiday in any State, the Australian Capital Territory or the Northern Territory.

87ZB Exemplary and aggravated damages

(1) A court must not, in a proceeding to which this Part applies, award exemplary damages or aggravated damages in respect of death or personal injury.

(2) This section does not affect whether a court has power to award exemplary damages or aggravated damages:

(a) otherwise than in respect of death or personal injury; or

(b) in a proceeding other than a proceeding to which this Part applies.

Authorised Version C2026C00323 registered 22/07/2026

Division 7—Structured settlements

87ZC Court may make orders under section 87 for structured settlements

(1) In a proceeding to which this Part applies, a court may, on the application of the parties, make an order under section 87 approving a structured settlement, or the terms of a structured settlement, even though the payment of damages is not in the form of a lump sum award of damages.

(2) This section does not limit the powers of a court to make an order under section 87 in a proceeding that is not a proceeding to which this Part applies.

(3) In this section:

structured settlement means an agreement that provides for the payment of all or part of an award of damages in the form of periodic payments funded by an annuity or other agreed means.

Authorised Version C2026C00323 registered 22/07/2026

Chapter 6—Other provisions

Part VII—Authorisations and notifications

Division 1—Authorisations

87ZP Definitions

(1) In this Division:

industry code of practice means a code regulating the conduct of participants in an industry towards other participants in the industry or towards consumers in the industry.

minor variation, in relation to an authorisation, is a single variation that does not involve a material change in the effect of the authorisation.

(2) A reference in this Division to a proposal of the Commission is a reference to a notice of the Commission:

(a) so far as the revocation of an authorisation is concerned—under subsection 91B(3); and

(b) so far as the revocation of an authorisation and the substitution of another—under subsection 91C(3).

(3) A reference in this Division to an authorisation is a reference to an authorisation under this Division.

88 Commission may grant authorisations

Granting an authorisation

(1) Subject to this Part, the Commission may, on an application by a person, grant an authorisation to a person to engage in conduct, specified in the authorisation, to which one or more provisions of Division 1 or 2 of Part IV specified in the authorisation would or might apply.

Authorised Version C2026C00323 registered 22/07/2026

Note: For an extended meaning of engaging in conduct, see subsection 4(2).

(1A) The application must be made on or before 30 June 2025 if any of the specified provisions is section 50.

Effect of an authorisation

(2) While the authorisation remains in force, the provisions of Division 1 or 2 of Part IV specified in the authorisation do not apply in relation to the conduct to the extent that it is engaged in by:

(a) the applicant; and

(b) any other person named or referred to in the application as a person who is engaged in, or who is proposed to be engaged in, the conduct; and

(c) any particular persons or classes of persons, as specified in the authorisation, who become engaged in the conduct.

Conditions

(3) The Commission may specify conditions in the authorisation. Subsection (2) does not apply if any of the conditions are not complied with.

(4) Without limiting subsection (3), the Commission may grant a merger authorisation on the condition that a person must give, and comply with, an undertaking to the Commission under section 87B.

Single authorisation may deal with several types of conduct

(5) The Commission may grant a single authorisation for all the conduct specified in an application for authorisation, or may grant separate authorisations for any of the conduct.

Past conduct

(6) The Commission does not have power to grant an authorisation for conduct engaged in before the Commission decides the application for the authorisation.

Authorised Version C2026C00323 registered 22/07/2026

Withdrawing an application

(7) An applicant for an authorisation may at any time, by writing to the Commission, withdraw the application.

89 Procedure for applications and the keeping of a register

(1) To be valid, an application for an authorisation, a minor variation of an authorisation, a revocation of an authorisation, or a revocation of an authorisation and the substitution of another authorisation, must:

(a) be in a form approved by the Commission in writing and contain the information required by the form; and

(b) be accompanied by any other information or documents prescribed by the regulations; and

(c) be accompanied by the fee (if any) prescribed by the regulations.

(1AA) Without limiting paragraph (1)(a), the form may require an application for a merger authorisation to contain an undertaking under section 87B that the applicant will not make the acquisition to which the authorisation relates while the Commission is considering the application.

(1A) If the Commission receives a purported application that it considers is not a valid application, it must, within 5 business days of receiving the purported application, give the person who made the purported application a written notice:

(a) stating that the person has not made a valid application; and

(b) giving reasons why the purported application does not comply with this Division.

(1B) For the purposes of subsection (1A), ***business day*** means a day that is not a Saturday, a Sunday or a public holiday in the Australian Capital Territory.

(2) If the Commission receives an application referred to in subsection (1), the Commission must cause notice of the receipt of that application to be made public in such manner as it thinks fit.

Authorised Version C2026C00323 registered 22/07/2026

(3) The Commission must keep a register of:

(a) applications for authorisations; and

(b) applications for minor variations of authorisations; and

(c) applications for, or the Commission's proposals for, the revocation of authorisations; and

(d) applications for, or the Commission's proposals for, the revocation of authorisations and the substitution of other authorisations;

including applications that have been withdrawn or proposals that have been abandoned.

(4) Subject to this section, the register kept under subsection (3) shall include:

(a) any document furnished to the Commission in relation to an application or proposal referred to in subsection (3);

(aa) any draft determination, and any summary of reasons, by the Commission that is furnished to a person under section 90A, or under that section as applied by section 91C;

(ab) any record of a conference made in accordance with subsection 90A(8), or with that subsection as applied by section 91C, and any certificate in relation to a conference given under subsection 90A(9), or under that subsection as so applied;

(b) particulars of any oral submission made to the Commission in relation to such an application or proposal; and

(c) the determination of the Commission on such an application or proposal and the statement of the reasons given by the Commission for that determination.

(5) Where a person furnishes a document to the Commission in relation to an application or proposal referred to in subsection (3) or makes an oral submission to the Commission in relation to such an application or proposal, he or she may, at the time when the document is furnished or the submission is made, request that the document or a part of the document, or that particulars of the submission or of part of the submission, be excluded from the register kept under subsection (3) by reason of the confidential

Authorised Version C2026C00323 registered 22/07/2026

nature of any of the matters contained in the document or submission.

(5A) Where such a request is made:

(a) if the document or the part of the document, or the submission or the part of the submission, to which the request relates contains particulars of:

(i) a secret formula or process;

(ii) the cash consideration offered for the acquisition of shares in the capital of a body corporate or assets of a person; or

(iii) the current costs of manufacturing, producing or marketing goods or services;

the Commission shall exclude the document or the part of the document, or particulars of the submission or of the part of the submission, as the case may be, from the register kept under subsection (3); and

(b) in any other case—the Commission may, if it is satisfied that it is desirable to do so by reason of the confidential nature of the matters contained in the document or the part of the document, or in the submission or the part of the submission, exclude the document or the part of the document, or particulars of the submission or of the part of the submission, as the case may be, from that register.

(5B) If the Commission refuses a request to exclude a document or a part of a document from the register kept under subsection (3), the Commission shall, if the person who furnished the document to the Commission so requires, return the document or part of the document to him or her and, in that case, paragraph (4)(a) does not apply in relation to the document or part of the document.

(5C) If the Commission refuses a request to exclude particulars of an oral submission or of part of an oral submission from the register kept under subsection (3), the person who made the submission may inform the Commission that he or she withdraws the submission or that part of the submission and, in that case,

Authorised Version C2026C00323 registered 22/07/2026

paragraph (4)(b) does not apply in relation to the submission or that part of the submission, as the case may be.

(5D) Where the Commission is satisfied that it is desirable to do so for any reason other than the confidential nature of matters contained in a document or submission, the Commission may exclude a document or part of a document referred to in paragraph (4)(a) or particulars referred to in paragraph (4)(b) from the register kept under subsection (3).

(5E) If a person requests, in accordance with subsection (5) that a document or a part of a document, or that particulars of a submission or of part of a submission, be excluded from the register kept under subsection (3), the document or part of the document, or particulars of the submission or of the part of the submission, shall not be included in that register until the Commission has made a determination in relation to the request.

(6) A document shall not be included in the register kept under subsection (3) if a direction in relation to that document was in force under paragraph 22(1)(b) of this Act immediately before the commencement of the *Trade Practices Amendment Act 1977*.

(7) The Commission may disclose information excluded under this section from the register kept under subsection (3) to such persons and on such terms as it considers reasonable and appropriate for the purposes of making its determination on the application concerned.

90 Determination of applications for authorisations

(1) The Commission shall, in respect of an application for an authorisation:

(a) make a determination in writing granting such authorisation as it considers appropriate; or

(b) make a determination in writing dismissing the application.

(4) The Commission shall state in writing its reasons for a determination made by it.

Authorised Version C2026C00323 registered 22/07/2026

(5) Before making a determination in respect of an application for an authorisation other than a merger authorisation the Commission shall comply with the requirements of section 90A.

Note: Alternatively, the Commission may rely on consultations undertaken by the AEMC: see section 90B.

(6) Before making a determination in respect of an application for an authorisation, the Commission may do any one or more of the following:

(a) give any persons who appear to the Commission to be interested a written notice inviting submissions in respect of the application within a specified period;

(b) give the applicant a written notice requesting the applicant to give the Commission, within a specified period, additional information relevant to making its determination in respect of the application;

(c) give a person a written notice requesting the person to give the Commission, within a specified period, particular information relevant to making its determination in respect of the application;

(d) consult with such persons as it considers reasonable and appropriate for the purposes of making its determination in respect of the application.

(6A) In making a determination in respect of an application for an authorisation, the Commission must take into account:

(a) any submissions or information received under paragraph (6)(a), (b) or (c) within the period specified in the notice mentioned in that paragraph; and

(b) any information obtained from consultations under paragraph (6)(d)).

The Commission may, but need not, take into account any submissions or information received after the end of those periods.

Note: Unless the application is for a merger authorisation, the Commission may instead rely on consultations undertaken by the AEMC: see section 90B.

Authorised Version C2026C00323 registered 22/07/2026

(7) The Commission must not make a determination granting an authorisation under section 88 in relation to conduct unless:

(a) the Commission is satisfied in all the circumstances that the conduct would not have the effect, or would not be likely to have the effect, of substantially lessening competition; or

(b) the Commission is satisfied in all the circumstances that:

(i) the conduct would result, or be likely to result, in a benefit to the public; and

(ii) the benefit would outweigh the detriment to the public that would result, or be likely to result, from the conduct.

(8) Paragraph (7)(a) does not apply if any of the following provisions would (apart from an authorisation under section 88) apply to the conduct:

(a) one or more provisions of Division 1 of Part IV (cartel conduct);

(b) one or more of sections 45D to 45DB (secondary boycotts);

(ba) one or more provisions of section 45E or 45EA (contracts etc. affecting the supply or acquisition of goods or services);

(c) section 48 (resale price maintenance).

(9A) In relation to the Commission's consideration of an application for an authorisation to engage in conduct to which section 49 would or might apply or for a merger authorisation, in determining what amounts to a benefit to the public for the purposes of paragraph (7)(b):

(a) the Commission must regard the following as benefits to the public (in addition to any other benefits to the public that may exist apart from this paragraph):

(i) a significant increase in the real value of exports;

(ii) a significant substitution of domestic products for imported goods; and

(b) without limiting the matters that may be taken into account, the Commission must take into account all other relevant matters that relate to the international competitiveness of any Australian industry.

Authorised Version C2026C00323 registered 22/07/2026

(10) If the Commission does not determine an application for an authorisation (other than an application for a merger authorisation) within the relevant period, then it is taken to have granted the application at the end of that period.

(10A) For the purposes of subsection (10), the ***relevant period*** is the period of 6 months beginning on the day the Commission received the application. However, if, before the end of that 6 month period:

(a) the Commission has prepared a draft determination under subsection 90A(1) in relation to the application; and

(b) the Commission determines in writing that that period is extended by a specified period of not more than 6 months; and

(c) the applicant agrees to that period being so extended;

the ***relevant period*** is that period as so extended.

(10B) Subject to subsections (12) and (13), if:

(a) the Commission does not determine an application for a merger authorisation within the 90-day period beginning on the day the Commission received the application; and

(b) the application is not an application for an overseas merger authorisation;

the Commission is taken to have refused, at the end of that period, to grant the authorisation applied for.

(11) Subject to subsections (12) and (13), if the Commission does not determine an application for an overseas merger authorisation within:

(a) 30 days from the day on which the application is received by the Commission; or

(b) if the Commission, before the end of that period of 30 days, gives to the applicant a notice in writing requesting the applicant to give to the Commission additional information relevant to the determination of the application—the period consisting of 30 days from the day on which the application is received by the Commission increased by the number of days in the period commencing on the day on which the

Authorised Version C2026C00323 registered 22/07/2026

notice is given to the applicant and ending on the day on which the applicant gives to the Commission such of the additional information as the applicant is able to provide;

the Commission shall be deemed to have granted, at the end of that period, the authorisation applied for.

(11A) The Commission may, within the 30 day period mentioned in subsection (11), notify the applicant in writing that the Commission considers that the period should be extended to 45 days due to the complexity of the issues involved. If the Commission so notifies the applicant, the references in subsection (11) to 30 days are to be treated as references to 45 days.

(12) If the applicant for an authorisation informs the Commission in writing before the expiration of the period referred to in subsection (10B) or (11) (the ***base period***) that the applicant agrees to the Commission taking a specified longer period for the determination of the application, a reference to that longer period shall be deemed for the purposes of that application to be substituted in that subsection for the reference in that subsection to the base period.

(13) For the purposes of any application of subsection (12), a reference in that subsection to the base period shall, if a reference to another period is deemed by any other application or applications of that subsection to have been substituted in subsection (10B) or (11) for the reference in subsection (10B) or (11) to the base period, be construed as a reference to that other period.

(14) If a person to whom a notice has been sent under subsection 90A(2) in relation to a draft determination in respect of an application for an authorisation notifies the Commission in accordance with subsection 90A(6) that he or she wishes the Commission to hold a conference in relation to the draft determination, the relevant period (worked out under subsection (10A) of this section) shall be deemed to be increased by a period equal to the period commencing on the day on which the first notification in relation to the draft determination was

Authorised Version C2026C00323 registered 22/07/2026

received by the Commission and ending on the seventh day after the day specified in the certificate given by a member of the Commission in pursuance of subsection 90A(9) as the day on which the conference terminated.

(15) Where a party to a joint venture makes at the one time two or more applications for authorisations (other than an application for a merger authorisation), being applications each of which deals with a matter relating to the joint venture:

(a) the Commission shall not make a determination in respect of any one of those applications unless it also makes a determination or determinations at the same time in respect of the other application or other applications; and

(b) if the Commission does not make a determination in respect of any one of the applications within the relevant period (worked out under subsection (10A)) in relation to that application, the Commission shall be deemed to have granted, at the expiration of that period, all the authorisations applied for.

(16) The Commission must not grant a merger authorisation on or after 1 January 2026.

90A Commission to afford opportunity for conference before determining application for authorisation

(1) Before determining an application for an authorisation (other than an application for a merger authorisation), the Commission shall prepare a draft determination in relation to the application.

(2) The Commission shall, by notice in writing sent to the applicant and to each other interested person, invite the applicant or other person to notify the Commission, within 14 days after a date fixed by the Commission being not earlier than the day on which the notice is sent, whether the applicant or other person wishes the Commission to hold a conference in relation to the draft determination.

(3) If:

Authorised Version C2026C00323 registered 22/07/2026

(a) the draft determination provides for the granting of the application unconditionally; and

(b) no person has made a written submission to the Commission opposing the application;

each notice by the Commission under subsection (2) shall inform the person to whom the notice is sent that the draft determination so provides.

(4) If:

(a) the draft determination does not provide for the granting of the application or provides for the granting of the application subject to conditions; or

(b) the draft determination provides for the granting of the application unconditionally but a written submission has, or written submissions have, been made to the Commission opposing the application;

the Commission shall send with each notice under subsection (2) a copy of the draft determination and:

(c) in a case to which paragraph (a) applies—a summary of the reasons why the Commission is not satisfied that the application should be granted or why it is not satisfied that the application should be granted unconditionally; or

(d) in a case to which paragraph (b) applies—a summary of the reasons why it is satisfied that the application should be granted unconditionally.

(5) If each of the persons to whom a notice was sent under subsection (2):

(a) notifies the Commission within the period of 14 days mentioned in that subsection that he or she does not wish the Commission to hold a conference in relation to the draft determination; or

(b) does not notify the Commission within that period that he or she wishes the Commission to hold such a conference;

the Commission may make the determination at any time after the expiration of that period.

Authorised Version C2026C00323 registered 22/07/2026

(6) If any of the persons to whom a notice was sent under subsection (2) notifies the Commission in writing within the period of 14 days mentioned in that subsection that he or she wishes the Commission to hold a conference in relation to the draft determination, the Commission shall appoint a date (being not later than 30 days after the expiration of that period), time and place for the holding of the conference and give notice of the date, time and place so appointed to each of the persons to whom a notice was sent under subsection (2).

(7) At the conference:

(a) the Commission shall be represented by a member or members of the Commission (being a member or members who participated in the preparation of the draft determination) nominated by the Chairperson; and

(b) each person to whom a notice was sent under subsection (2) and any other interested person whose presence at the conference is considered by the Commission to be appropriate is entitled to attend and participate personally or, in the case of a body corporate, may be represented by a person who, or by persons each of whom, is a director, officer or employee of the body corporate; and

(c) a person participating in the conference in accordance with paragraph (a) or (b) is entitled to have another person or other persons present to assist him or her but a person who so assists another person at the conference is not entitled to participate in the discussion; and

(e) no other person is entitled to be present.

(8) A member of the Commission participating in the conference shall make such record of the discussions as is sufficient to set out the matters raised by the persons participating in the conference.

(9) The member of the Commission who represents the Commission at the conference, or, if the Commission is represented by more than one member of the Commission, one of those members appointed by the Chairperson:

Authorised Version C2026C00323 registered 22/07/2026

(a) may exclude from the conference any person who uses insulting language at the conference, creates, or takes part in creating or continuing, a disturbance at the conference or repeatedly interrupts the conference;

(b) may terminate the conference when he or she is of the opinion that a reasonable opportunity has been given for the expression of the views of persons participating in the conference (other than persons excluded from the conference under paragraph (a)); and

(c) shall give a certificate certifying the day on which the first notification under subsection (6) in relation to the draft determination was received by the Commission and the day on which the conference terminated;

and any such certificate shall be received in all courts as prima facie evidence of the matters certified.

(10) A document purporting to be a certificate referred to in subsection (9) shall, unless the contrary is established, be deemed to be such a certificate and to have been duly given.

(11) The Commission shall take account of all matters raised at the conference and may at any time after the termination of the conference make a determination in respect of the application.

(12) For the purposes of this section, ***interested person*** means a person who has notified the Commission in writing that he or she, or a specified unincorporated association of which he or she is a member, claims to have an interest in the application, being an interest that, in the opinion of the Commission, is real and substantial.

(13) Where the Commission is of the opinion that two or more applications for authorisations that are made by the same person, or by persons being bodies corporate that are related to each other, involve the same or substantially similar issues, the Commission may treat the applications as if they constitute a single application and may prepare one draft determination in relation to the applications and hold one conference in relation to that draft determination.

Authorised Version C2026C00323 registered 22/07/2026

90B Commission may rely on consultations undertaken by the AEMC

(1) This section applies if:

(a) an application under section 88, 91A, 91B or 91C is made in relation to the National Electricity Rules or a provision of the Rules; and

(b) the AEMC has done the following:

(i) published the Rules or the provision and invited people to make submissions to it on the Rules or the provision;

(ii) specified the effect of subsection (2) when it published the Rules or the provision;

(iii) considered any submissions that were received within the time limit specified by it when it published the Rules or the provision.

(2) In making a determination under section 90, 91A, 91B or 91C:

(a) the Commission may rely on the process mentioned in paragraph (1)(b), instead of undertaking the process mentioned in section 90A, subsection 91A(2), 91B(2) or 91C(2) or (5); and

(b) the Commission may take into account:

(i) any submissions mentioned in subparagraph (1)(b)(iii); and

(ii) any submissions, in respect of the application, made by the AEMC; and

(c) despite subsection 90(6A), the Commission may disregard any submissions, in relation to the application, made by the Commonwealth, by a State or Territory, or by any other person (other than the AEMC).

(3) In this section:

National Electricity Rules means:

(a) the National Electricity Rules, as in force from time to time, made under the National Electricity Law set out in the

Authorised Version C2026C00323 registered 22/07/2026

Schedule to the *National Electricity (South Australia) Act 1996* of South Australia; or

(b) those Rules as they apply as a law of another State; or

(c) those Rules as they apply as a law of a Territory; or

(d) those Rules as they apply as a law of the Commonwealth.

91 Grant and variation of authorisations

(1) An authorisation may be expressed to be in force for a period specified in the authorisation and, if so expressed, remains in force for that period only.

(1A) An authorisation, other than an authorisation deemed to have been granted under subsection 90(10) or (11), comes into force on the day specified for the purpose in the authorisation, not being a day earlier than, and an authorisation deemed to have been granted under subsection 90(10) or (11) comes into force on:

(a) where paragraph (b) or (c) does not apply—the end of the period in which an application may be made to the Tribunal for a review of the determination by the Commission of the application for the authorisation;

(b) if such an application is made to the Tribunal and the application is not withdrawn—the day on which the Tribunal makes a determination on the review;

(c) if such an application is made to the Tribunal and the application is withdrawn—the day on which the application is withdrawn.

(1B) A minor variation of an authorisation comes into force on a day specified by the Commission in the determination making the variation, not being a day earlier than:

(a) if neither paragraph (b) nor (c) applies—the end of the period in which an application may be made to the Tribunal for a review of the determination of the Commission in respect of the application for the minor variation; or

Authorised Version C2026C00323 registered 22/07/2026

(b) if such an application is made to the Tribunal and the application is not withdrawn—the day on which the Tribunal makes a determination on the review; or

(c) if such an application is made to the Tribunal and the application is withdrawn—the day on which the application is withdrawn.

(1C) If an authorisation (the ***prior authorisation***) is revoked and another authorisation is made in substitution for it, that other authorisation comes into force on the day specified for the purpose in that other authorisation, not being a day earlier than:

(a) if neither paragraph (b) nor (c) applies—the end of the period in which an application may be made to the Tribunal for a review of an application, or the Commission's proposal, for the revocation of the prior authorisation and the substitution of that other authorisation; or

(b) if such an application is made to the Tribunal and the application is not withdrawn—the day on which the Tribunal makes a determination on the review; or

(c) if such an application is made to the Tribunal and the application is withdrawn—the day on which the application is withdrawn.

(2) If the Commission considers that it is appropriate to do so:

(a) for the purpose of enabling due consideration to be given to:

(i) an application for an authorisation; or

(ii) an application for a minor variation of an authorisation; or

(iii) an application for the revocation of an authorisation and the substitution of a new one; or

(b) pending the expiration of the time allowed for the making of an application to the Tribunal for review of a determination by the Commission of an application referred to in paragraph (a) and, if such an application for a review is made, pending the making of a determination by the Tribunal on the review; or

Authorised Version C2026C00323 registered 22/07/2026

(c) for any other reason;

the Commission may at any time:

(d) in the case of an application for an authorisation—grant an authorisation that is expressed to be an interim authorisation; and

(e) in the case of an application for a minor variation of an authorisation—grant an authorisation that is expressed to be an interim authorisation dealing only with the matter the subject of the application for a variation; and

(f) in the case of an application for the revocation of an authorisation and the substitution of another—suspend the operation of the authorisation sought to be revoked and grant an authorisation that is expressed to be an interim authorisation in substitution for the authorisation suspended.

(2AA) An authorisation granted under paragraph 91(2)(d), (e) or (f) and expressed to be an interim authorisation comes into force on such a date, not being a date before the grant of the interim authorisation, as is specified by the Commission in the interim authorisation.

(2AB) The Commission may, at any time, revoke an authorisation that is expressed to be an interim authorisation and, where that interim authorisation is in substitution for an authorisation the operation of which has been suspended, the revocation of the interim authorisation has the effect of reviving the operation of the suspended authorisation.

(2A) Subsections 90(4) to (7), inclusive, do not apply in relation to an authorisation that is expressed to be an interim authorisation.

91A Minor variations of authorisations

(1) A person to whom an authorisation was granted, or another person on behalf of such a person, may apply to the Commission for a minor variation of the authorisation.

(2) On receipt of an application, the Commission must, if it is satisfied that the variation sought in the application is a minor variation, by

Authorised Version C2026C00323 registered 22/07/2026

notice in writing given to any persons who appear to the Commission to be interested:

(a) indicate the nature of the variation applied for; and

(b) invite submissions in respect of the variation within a period specified by the Commission.

Note: Alternatively, the Commission may rely on consultations undertaken by the AEMC: see section 90B.

(2A) Subsection 90(6) (other than paragraph 90(6)(a)) applies in relation to an application for a minor variation of an authorisation in a corresponding way to the way in which it applies in relation to an application for an authorisation.

(3) The Commission may make a determination in writing varying the authorisation or dismissing the application after taking into account the following:

(a) the application;

(b) any submissions that are received within the period specified under paragraph (2)(b);

(c) any information received under paragraph 90(6)(b) or (c) (as that paragraph applies because of subsection (2A) of this section) within the period specified in the notice mentioned in that paragraph;

(d) any information obtained from consultations under paragraph 90(6)(d) (as that paragraph applies because of subsection (2A) of this section).

The Commission may, but need not, take into account any submissions or information received after the end of those periods.

(4) The Commission must not make a determination varying an authorisation in relation to conduct unless the Commission is satisfied in all the circumstances that:

(a) if, in making the determination to grant the authorisation in relation to conduct, the Commission was satisfied that the conduct would not have the effect, or would not be likely to have the effect, of substantially lessening competition—the variation would not have the effect, or would not be likely to

Authorised Version C2026C00323 registered 22/07/2026

have the effect, of increasing the extent to which the conduct lessens competition; or

(b) if paragraph (a) does not apply—the variation would not result, or would not be likely to result, in a reduction in the extent to which the benefit to the public of the authorisation outweighs any detriment to the public caused by the authorisation.

(4A) For the purposes of subsection (4), the Commission need not have regard to conduct that is unaffected by the variation.

(5) Subsections 90(10B), (12) and (13) apply in relation to an application for a minor variation of a merger authorisation that is not an overseas merger authorisation in a corresponding way to the way those subsections apply in relation to an application for a merger authorisation that is not an overseas merger authorisation.

Note: Those subsections deem the Commissioner to have refused to grant the application if the Commission does not determine the application within 90 days (or an extended period in some cases).

(6) Nothing in this section prevents a person from applying for 2 or more variations in the same application.

(7) If:

(a) a person applies for 2 or more variations:

(i) at the same time; or

(ii) in such close succession that the variations could conveniently be dealt with by the Commission at the same time; and

(b) the Commission is satisfied that the combined effect of those variations, if all were granted, would not involve a material change in the effect of the authorisation;

the Commission may deal with all of those variations together as if they were a single minor variation.

(8) An application for a minor variation may be withdrawn by notice in writing to the Commission at any time.

Authorised Version C2026C00323 registered 22/07/2026

91B Revocation of an authorisation

(1) A person to whom an authorisation was granted, or another person on behalf of such a person, may apply to the Commission for a revocation of the authorisation.

(2) On receipt of such an application, the Commission must, by notice in writing given to any persons who appear to the Commission to be interested:

(a) indicate that the revocation of the authorisation has been applied for; and

(b) indicate the basis on which the revocation has been applied for; and

(c) invite submissions in respect of the revocation within a period specified by the Commission.

Note: Alternatively, the Commission may rely on consultations undertaken by the AEMC: see section 90B.

(3) If, at any time after granting an authorisation, it appears to the Commission that:

(a) the authorisation was granted on the basis of evidence or information that was false or misleading in a material particular; or

(b) a condition to which the authorisation was expressed to be subject has not been complied with; or

(c) there has been a material change of circumstances since the authorisation was granted;

the Commission may, by notice in writing given to any persons who appear to the Commission to be interested:

(d) inform those persons that it is considering the revocation of the authorisation; and

(e) indicate the basis on which the revocation is being proposed; and

(f) invite submissions in respect of the revocation within a period specified by the Commission.

Authorised Version C2026C00323 registered 22/07/2026

(3A) Subsection 90(6) (other than paragraph 90(6)(a)) applies in relation to an application for a revocation of an authorisation in a corresponding way to the way in which it applies in relation to an application for an authorisation.

(3B) Subsection 90(6) (other than paragraphs 90(6)(a) and (b)) applies in relation to a proposal for a revocation of an authorisation in a corresponding way to the way in which it applies in relation to an application for an authorisation.

(4) The Commission may make a determination in writing revoking the authorisation, or deciding not to revoke the authorisation, after taking into account the following:

(a) if subsection (2) applies—the application;

(b) any submissions that are received within the period specified under paragraph (2)(c) or (3)(f);

(c) any information received under paragraph 90(6)(b) (as it applies because of subsection (3A) of this section) within the period specified in the notice mentioned in that paragraph;

(d) any information received under paragraph 90(6)(c) (as it applies because of subsection (3A) or (3B) of this section) within the period specified in the notice mentioned in that paragraph;

(e) any information obtained from consultations under paragraph 90(6)(d) (as it applies because of subsection (3A) or (3B) of this section).

The Commission may, but need not, take into account any submissions or information received after the end of those periods.

(5) If an objection to revoking the authorisation is included in any submission or information:

(a) referred to in subsection (4); and

(b) received by the Commission within the period (if any) referred to in that subsection;

the Commission must not make a determination revoking the authorisation unless the Commission is satisfied that it would, if

Authorised Version C2026C00323 registered 22/07/2026

the authorisation had not already been granted, be prevented under subsection 90(7) from granting the authorisation.

(5A) Subsections 90(10B), (12) and (13) apply in relation to an application for a revocation of a merger authorisation that is not an overseas merger authorisation in a corresponding way to the way those subsections apply in relation to an application for a merger authorisation that is not an overseas merger authorisation.

Note: Those subsections deem the Commissioner to have refused to grant the application if the Commission does not determine the application within 90 days (or an extended period in some cases).

(6) An application for revocation may be withdrawn by notice in writing to the Commission at any time.

(7) The Commission may disregard any objection that, in its opinion, is either vexatious or frivolous.

91C Revocation of an authorisation and substitution of a replacement

(1) A person to whom an authorisation was granted, or another person on behalf of such a person, may apply to the Commission for a revocation of the authorisation and the substitution of a new authorisation for the one revoked.

(2) On receipt of such an application, the Commission must, by notice in writing given to any persons who appear to the Commission to be interested:

(a) indicate that the revocation of the authorisation, and the substitution of another authorisation for it, has been applied for; and

(b) indicate the basis upon which the revocation and substitution has been applied for and the nature of the substituted authorisation so applied for; and

(c) invite submissions in respect of the revocation and substitution within a period specified by the Commission.

Note: Alternatively, the Commission may rely on consultations undertaken by the AEMC: see section 90B.

Authorised Version C2026C00323 registered 22/07/2026

(3) If, at any time after granting an authorisation, it appears to the Commission that:

(a) the authorisation was granted on the basis of evidence or information that was false or misleading in a material particular; or

(b) a condition to which the authorisation was expressed to be subject has not been complied with; or

(c) there has been a material change of circumstances since the authorisation was granted;

the Commission may, by notice in writing given to any persons who appear to be interested:

(d) inform those persons that it is considering the revocation of the authorisation and the substitution of a new authorisation; and

(e) indicate the basis on which the revocation and substitution is being proposed and the nature of the substituted authorisation proposed; and

(f) invite submissions in respect of the proposed action within a period specified by the Commission.

(3A) Subsection 90(6) (other than paragraph 90(6)(a)) applies in relation to an application for a revocation and substitution of an authorisation in a corresponding way to the way in which it applies in relation to an application for an authorisation.

(3B) Subsection 90(6) (other than paragraphs 90(6)(a) and (b)) applies in relation to a proposal for a revocation and substitution of an authorisation in a corresponding way to the way in which it applies in relation to an application for an authorisation.

(4) The Commission may make a determination in writing revoking the authorisation and granting a substitute authorisation that it considers appropriate, or deciding not to revoke the authorisation, after taking into account the following:

(a) if subsection (2) applies—the application;

(b) any submissions that are received within the period specified under paragraph (2)(c) or (3)(f);

Authorised Version C2026C00323 registered 22/07/2026

(c) any information received under paragraph 90(6)(b) (as it applies because of subsection (3A) of this section) within the period specified in the notice mentioned in that paragraph;

(d) any information received under paragraph 90(6)(c) (as it applies because of subsection (3A) or (3B) of this section) within the period specified in the notice mentioned in that paragraph;

(e) any information obtained from consultations under paragraph 90(6)(d) (as it applies because of subsection (3A) or (3B) of this section).

The Commission may, but need not, take into account any submissions or information received after the end of those periods.

(5) Before making a determination under subsection (4) in relation to an application, or a proposal, for the revocation of an authorisation other than a merger authorisation and the substitution of another, the Commission must comply with the requirements of section 90A.

Note: Alternatively, the Commission may rely on consultations undertaken by the AEMC: see section 90B.

(6) For the purposes of complying with section 90A in accordance with subsection (5), section 90A has effect:

(a) as if the reference in subsection (1) to an application for an authorisation (other than an application for a merger authorisation) were a reference to an application, or to a proposal, for the revocation of an authorisation (other than a merger authorisation) and the substitution of another authorisation; and

(b) as if references in other provisions of that section to an application, or to an application for an authorisation, were references either to an application, or to a proposal, for the revocation of an authorisation and the substitution of another; and

(c) as if subsection 90A(2) had provided, in its operation in relation to a proposal for the revocation of an authorisation and the substitution of another, that:

Authorised Version C2026C00323 registered 22/07/2026

(i) the reference to the applicant and to each other interested person were a reference only to each interested person; and

(ii) each reference to the applicant or other person were a reference only to the other person.

(7) The Commission must not make a determination revoking an authorisation and substituting another authorisation unless the Commission is satisfied that it would not be prevented under subsection 90(7) from making a determination granting the substituted authorisation, if it were a new authorisation sought under section 88.

(7A) Subsections 90(10B), (12) and (13) apply in relation to an application for a revocation and substitution of a merger authorisation that is not an overseas merger authorisation in a corresponding way to the way those subsections apply in relation to an application for a merger authorisation that is not an overseas merger authorisation.

Note: Those subsections deem the Commissioner to have refused to grant the application if the Commission does not determine the application within 90 days (or an extended period in some cases).

(8) An application for the revocation of an authorisation and the substitution of another authorisation may be withdrawn by notice in writing to the Commission at any time.

92 Providing false or misleading information

(1) A person must not give information to the Commission or Tribunal under this Division or Part IX in connection with any of the following if the person is negligent as to whether the information is false or misleading in a material particular:

(a) an application for a merger authorisation;

(b) an application for a minor variation of a merger authorisation;

(c) an application for, or the Commission's proposal for, the revocation of a merger authorisation;

Authorised Version C2026C00323 registered 22/07/2026

(d) an application for, or the Commission's proposal for, the revocation of a merger authorisation and the substitution of another merger authorisation;

(e) a review of a determination in relation to an application or proposal referred to in paragraph (a), (b), (c) or (d).

Note: Under section 76, the Court may order a person who contravenes this section to pay a pecuniary penalty. See also sections 80AC, 81A and 86C for other related remedies.

(2) For the purposes of subsection (1), proof that the person knew, or was reckless as to whether, the information was false or misleading in a material particular is taken to be proof that the person was negligent as to whether the information was false or misleading in a material particular.

Authorised Version C2026C00323 registered 22/07/2026

Division 1A—Authorisations in exceptional circumstances and emergencies

92A Definitions

(1) In this Division:

business day means a day that is not a Saturday, a Sunday or a public holiday in the Australian Capital Territory.

(2) A reference in this Division to an authorisation is a reference to an authorisation under this Division.

92B Commission may grant authorisations in exceptional circumstances and emergencies

Granting an authorisation in exceptional circumstances and emergencies

(1) Subject to this Division, the Commission may, on an application by a person, grant an authorisation to a person to engage in conduct, specified in the authorisation, to which one or more provisions of Division 1 or 2 of Part IV specified in the authorisation would or might apply.

Note: For an extended meaning of engaging in conduct, see subsection 4(2).

Effect of an authorisation

(2) While the authorisation remains in force, the provisions of Division 1 or 2 of Part IV specified in the authorisation do not apply in relation to the conduct to the extent that it is engaged in by:

(a) the applicant; and

(b) any other person named or referred to in the application as a person who is engaged in, or who is proposed to be engaged in, the conduct; and

Authorised Version C2026C00323 registered 22/07/2026

(c) any particular persons or classes of persons, as specified in the authorisation, who become engaged in the conduct.

Conditions

(3) The Commission may specify conditions in the authorisation. Subsection (2) does not apply if any of the conditions are not complied with.

(4) Without limiting subsection (3), a condition may include a requirement to obtain the approval of the Commission before engaging in certain conduct.

Single authorisation may deal with several types of conduct

(5) The Commission may grant a single authorisation for all the conduct specified in an application for authorisation, or may grant separate authorisations for any of the conduct.

Past conduct

(6) The Commission may grant an authorisation for conduct engaged in before the Commission decided the application.

Withdrawing an application

(7) An applicant for an authorisation may at any time, by writing to the Commission, withdraw the application.

92C Procedure for applications

An application for an authorisation under this Division must:

(a) be in a form approved by the Commission in writing and contain the information required by the form; and
(b) be accompanied by any other information or documents prescribed by the regulations; and
(c) specify that it is an application made under this Division.

Authorised Version C2026C00323 registered 22/07/2026

92D Determination of applications

(1) If a declaration mentioned in subsection (2) is in force, the Commission may, in respect of an application for an authorisation under this Division:

(a) make a determination in writing granting such authorisation as it considers appropriate; or

(b) make a determination in writing dismissing the application.

(2) The declarations are the following:

(a) a declaration under section 95AE;

(b) a national emergency declaration (within the meaning of the *National Emergency Declaration Act 2020*).

(3) The Commission must not make a determination under subsection (1) granting an authorisation in relation to conduct unless the Commission is satisfied that, in all the circumstances, the conduct would assist, or would be likely to assist, in the response to or recovery from the exceptional circumstances or emergency to which the declaration relates.

(4) In making a determination under subsection (1), the Commission:

(a) must have regard to:

(i) the likely benefit to the public resulting from the assistance, or likely assistance, in response to or recovery from the exceptional circumstances to which the declaration relates; and

(ii) the detriment to the public that would result, or be likely to result, from the conduct; and

(b) may have regard to any other public benefit that would result or likely result from the conduct.

(5) A determination under subsection (1) must specify the exceptional circumstances or emergency to which it relates.

(6) The Commission must state in writing its reasons for a determination under subsection (1).

Authorised Version C2026C00323 registered 22/07/2026

(7) The Commission must give the person who made the application written notice of the determination.

(8) The Commission must not make a determination to grant a merger authorisation under this section.

92E Period for which authorisations remain in force

An authorisation under this Division is in force for the period:

(a) starting on the day specified in the determination (which may be before the commencement of this section, but must not be before 1 April 2026); and

(b) ending at the earliest of the following:

(i) the start of the day specified in the determination;

(ii) if the determination is revoked—the end of the day the revocation takes effect;

(iii) the end of the last day on which a declaration mentioned in subsection 92D(2) to which the determination relates is in force.

92F Variation of authorisations

(1) The Commission may, at any time, make a determination in writing to vary an authorisation under this Division if the Commission considers it appropriate to do so.

(2) The Commission must not make a determination under subsection (1) varying an authorisation unless the Commission is satisfied that, in all the circumstances, the conduct specified in the authorisation as varied would assist, or would be likely to assist, in the response to or recovery from the exceptional circumstances or emergency to which the declaration relates.

(3) In making a determination under subsection (1), the Commission:

(a) must have regard to:

(i) the likely benefit to the public resulting from the assistance, or likely assistance, in response to or

Authorised Version C2026C00323 registered 22/07/2026

recovery from the exceptional circumstances to which the declaration relates; and

(ii) the detriment to the public that would result, or be likely to result, from the conduct; and

(b) may have regard to any other public benefit that would result or likely result from the conduct.

(4) The Commission must give the person who applied for the authorisation written notice stating:

(a) that the authorisation is varied; and

(b) details of the variation; and

(c) the date on which the variation takes effect.

(5) The variation takes effect on the business day after the day on which the notice is given.

92G Revocation of authorisations

(1) The Commission may, at any time, revoke an authorisation under this Division if the Commission considers that:

(a) the conduct would not assist, or would not be likely to assist, in the response to or recovery from the exceptional circumstances or emergency specified in the determination; or

(b) the conduct is not appropriate; or

(c) the authorisation was granted on the basis of evidence or information that was false or misleading in a material particular; or

(d) a condition to which the authorisation was expressed to be subject has not been complied with.

(2) The Commission must give the person who applied for the authorisation written notice stating:

(a) that the authorisation is revoked; and

(b) the date on which the revocation takes effect.

(3) The revocation takes effect on the business day after the day on which the notice is given.

Authorised Version C2026C00323 registered 22/07/2026

92H Register of applications and proposals

(1) The Commission must keep a register of the following things under this Division:

(a) determinations of applications for authorisations;

(b) variations of authorisations;

(c) revocation of authorisations.

(2) The register must include the statement of the reasons given by the Commissioner for a determination.

(3) The Commission is not required under subsection (2) to include the determination of an application on the register until the end of the period of 7 business days beginning on:

(a) if a declaration under section 95AE is in force—the day on which the declaration ceases to be in force; or

(b) if a national emergency declaration (within the meaning of the *National Emergency Declaration Act 2020*) is in force—the day on which the declaration ceases to be in force; or

(c) if both a declaration under section 95AE and a national emergency declaration are in force—the later of the days on which they cease to be in force.

Authorised Version C2026C00323 registered 22/07/2026

Division 2—Notifications

Subdivision A—Exclusive dealing and resale price maintenance

93 Notification of exclusive dealing or resale price maintenance

(1) Subject to subsection (2):

(a) a corporation that engages, or proposes to engage, in conduct of a kind referred to in subsection 47(2), (3), (4), (5), (6), (7), (8) or (9); or

(b) a corporation or other person who engages, or proposes to engage, in conduct of a kind referred to in section 48;

may give to the Commission a notice setting out particulars of the conduct or proposed conduct.

(1A) To be valid, a notice under subsection (1) must:

(a) be in a form approved by the Commission in writing and contain the information required by the form; and

(b) be accompanied by any other information or documents prescribed by the regulations; and

(c) be accompanied by the fee (if any) prescribed by the regulations.

(2) A corporation or other person may not give a notice under subsection (1) for conduct or proposed conduct if:

(a) the corporation or other person applied for an authorisation for the conduct or proposed conduct; and

(b) the Commission or the Trade Practices Commission made a determination dismissing the application; and

(c) either:

(i) the Tribunal or the Trade Practices Tribunal made a determination on an application for a review of a determination described in paragraph (b); or

(ii) the time for making such an application for review has ended without the making of an application.

Authorised Version C2026C00323 registered 22/07/2026

(2A) In subsection (2):

Trade Practices Commission means the Trade Practices Commission established by section 6A of this Act as in force immediately before this subsection commenced.

Trade Practices Tribunal means the Trade Practices Tribunal continued in existence by section 30 of this Act as in force immediately before this subsection commenced.

(2B) If the Commission receives a purported notice under subsection (1) that it considers is not a valid notice, it must, within 5 business days of receiving the purported notice, give the person who made the purported notice a written notice:

(a) stating that the person has not given a valid notice; and

(b) giving reasons why the purported notice does not comply with this Division.

Definition

(2C) In subsection (2B):

business day means a day that is not a Saturday, a Sunday or a public holiday in the Australian Capital Territory.

(3) If the Commission is satisfied that the engaging by a corporation in conduct or proposed conduct of a kind described in subsection 47(2), (3), (4), (5), (6), (7), (8) or (9) and referred to in a notice given by the corporation under subsection (1):

(a) has or would have the purpose or has or is likely to have, or would have or be likely to have, the effect of substantially lessening competition within the meaning of section 47; and

(b) in all the circumstances:

(i) has not resulted or is not likely to result, or would not result or be likely to result, in a benefit to the public; or

(ii) has resulted or is likely to result, or would result or be likely to result, in a benefit to the public that has not or would not outweigh the detriment to the public that has

Authorised Version C2026C00323 registered 22/07/2026

resulted or is likely to result from the conduct or would result or be likely to result from the proposed conduct;

the Commission may at any time give notice in writing to the corporation stating that the Commission is so satisfied and accompanied by a statement setting out its reasons for being so satisfied.

(3A) If:

(a) a corporation or other person has notified the Commission under subsection (1) of conduct or proposed conduct described in section 48; and

(b) the Commission is satisfied that the likely benefit to the public from the conduct or proposed conduct will not outweigh the likely detriment to the public from the conduct or proposed conduct;

the Commission may give the corporation or other person a written notice stating that the Commission is so satisfied and accompanied by a statement setting out its reasons for being so satisfied.

(3B) If:

(a) a corporation or other person has notified the Commission under subsection (1) of conduct or proposed conduct; and

(b) the Commission has given the corporation or other person a notice under subsection 93AAA(1) imposing conditions relating to the conduct or proposed conduct; and

(c) the Commission is satisfied that the corporation or other person has failed to comply with those conditions;

the Commission may at any time give notice in writing to the corporation or other person stating that the Commission is so satisfied and accompanied by a statement setting out its reasons for being so satisfied.

(4) Before giving a notice under subsection (3), (3A) or (3B) the Commission shall comply with the requirements of section 93A.

(5) In satisfying itself for the purposes of subsection (3), (3A) or (3B) in relation to any conduct or proposed conduct referred to in a notice given to the Commission by a corporation or other person

Authorised Version C2026C00323 registered 22/07/2026

under subsection (1), the Commission shall seek such relevant information as it considers reasonable and appropriate and may make a decision on the basis of any information so obtained and any other information furnished to it by the corporation or other person or any other person or otherwise in its possession.

(6) A corporation or other person that has given a notice to the Commission under this section in relation to any conduct or proposed conduct may, at any time before the Commission has given to the corporation or other person a notice under subsection (3), (3A) or (3B) in relation to the conduct or proposed conduct, by notice in writing to the Commission, withdraw the first-mentioned notice.

(7) Where a corporation has given notice to the Commission under subsection (1) describing conduct or proposed conduct referred to in subsection 47(2), (3), (4), (5), (6), (7), (8) or (9):

(a) in the case of a notice given before the expiration of the period of 3 months commencing on the date of commencement of the *Trade Practices Amendment Act 1977*, the engaging by the corporation in the conduct referred to in the notice on or after that date and before the giving of the notice shall not be taken, for the purposes of section 47, to have had the effect of substantially lessening competition within the meaning of that section; and

(b) in any case, the engaging by the corporation in the conduct referred to in the notice after the giving of the notice shall not be taken, for the purposes of section 47, to have the purpose, or to have or be likely to have the effect, of substantially lessening competition within the meaning of that section unless:

(i) the Commission has given notice to the corporation under subsection (3) of this section in relation to the conduct and the conduct takes place more than 30 days (or such longer period as the Commission by writing permits) after the day on which the Commission gave the notice; or

Authorised Version C2026C00323 registered 22/07/2026

(ii) the notice has been, or is deemed to have been, withdrawn and the conduct takes place after the day on which the notice was, or is deemed to have been, withdrawn.

(7A) A notice under subsection (1) describing conduct or proposed conduct referred to in section 48 comes into force:

(a) at the end of the period of 60 days, or such other period as is prescribed by the regulations, starting on the day when the corporation or other person gave the Commission the notice; or

(b) if the Commission gives notice to the corporation or other person under subsection 93A(2) during that period—when the Commission decides not to give the corporation or other person a notice under subsection (3A) or (3B) of this section.

(7B) A notice under subsection (1) describing conduct or proposed conduct referred to in section 48 does not come into force:

(a) if the notice is withdrawn, or deemed to be withdrawn, before it would come into force under subsection (7A); or

(b) if the Commission:

(i) gives notice to the corporation or other person under subsection 93A(2) during the period described in paragraph (7A)(a); and

(ii) gives notice to the corporation or other person under subsection (3A) or (3B).

(7C) A notice under subsection (1) describing conduct referred to in section 48 ceases to be in force:

(a) when the notice is withdrawn or deemed to be withdrawn; or

(b) if the Commission gives the corporation or other person a notice under subsection (3A)—on the 31st day after the Commission gave the notice under subsection (3A) or on a later day specified in writing by the Commission; or

(c) if the Commission gives the corporation or other person a notice under subsection (3B)—on the 31st day after the

Authorised Version C2026C00323 registered 22/07/2026

Commission gave the notice under subsection (3B) or on a later day specified in writing by the Commission.

(8) Where:

(a) a corporation or other person gives a notice to the Commission under subsection (1) in relation to any conduct or proposed conduct;

(b) before or after the notice is given the corporation or other person makes an application to the Commission for an authorisation to engage in that conduct;

(c) the Commission:

(i) makes a determination dismissing the application; or

(ii) makes a determination granting an authorisation in respect of the application; and

(d) the Tribunal makes a determination on an application for a review of the determination of the Commission or the time for making such an application for review expires without an application for review having been made;

the notice shall thereupon be deemed to be withdrawn.

(9) If an application is made to the Tribunal for a review of the giving of a notice by the Commission under subsection (3), (3A) or (3B), a reference in subsection (7) or paragraph (7C)(b) or (7C)(c) to the day on which the Commission gave the notice shall be read as a reference to:

(a) if the application is withdrawn—the day on which the application is withdrawn;

(b) if the Tribunal, on the application of the Commission or of any other person who the Tribunal is satisfied has an interest in the subject matter of the review, declares that the application for the review is not being proceeded with by the applicant with due diligence—the day on which the Tribunal makes the declaration; or

(c) in any other case—the day on which the Tribunal makes a determination on the review.

(10) Where:

Authorised Version C2026C00323 registered 22/07/2026

(a) a corporation or other person has given a notice to the Commission under subsection (1) in relation to conduct or proposed conduct and the Commission has given notice to the corporation or other person in writing under subsection (3), (3A) or (3B) in relation to the conduct or the proposed conduct; or

(b) a notice given by a corporation or other person to the Commission under subsection (1) in relation to conduct or proposed conduct is withdrawn or deemed to be withdrawn;

the corporation or other person is not entitled to give a further notice under subsection (1) to the Commission in relation to the same conduct or proposed conduct or in relation to conduct or proposed conduct to the like effect.

93AAA Imposing conditions relating to notifications

(1) If:

(a) a corporation or other person gives the Commission a notice under subsection 93(1) relating to particular conduct, or proposed conduct, of a kind referred to in section 48; and

(b) the Commission reasonably believes that:

(i) apart from this section, the Commission would have grounds to give the corporation or other person a notice under subsection 93(3A) relating to that notice; and

(ii) those grounds would not exist if particular conditions relating to the conduct or proposed conduct were complied with;

the Commission may give the corporation or other person a written notice imposing those conditions.

(2) The Commission must, at the time it gives the corporation or other person the notice under subsection (1), give the corporation or other person a written statement of its reasons for giving the notice.

Authorised Version C2026C00323 registered 22/07/2026

Subdivision B—Collective bargaining

93AA Definitions

In this Subdivision:

collective bargaining notice means a notice under subsection 93AB(1A) or (1).

conference notice means a notice under subsection 93A(2).

contract means a contract, arrangement or understanding.

objection notice means a notice under subsection 93AC(1), (2) or (2A).

93AB Notification of collective bargaining

Notice to Commission—cartel provisions

(1A) A corporation that:

(a) has made, or proposes to make, a contract (the ***initial contract***) that contains a cartel provision that:

(i) has the purpose; or

(ii) has or is likely to have the effect;

mentioned in subsection 45AD(2); or

(b) has made, or proposes to make, a contract (the ***initial contract***) that contains a cartel provision that has the purpose mentioned in a paragraph of subsection 45AD(3) other than paragraph (c); or

(c) proposes to give effect to a provision of a contract (the ***initial contract***) where the provision is a cartel provision that:

(i) has the purpose; or

(ii) has or is likely to have the effect;

mentioned in subsection 45AD(2); or

(d) proposes to give effect to a provision of a contract (the ***initial contract***) where the provision is a cartel provision that has

Authorised Version C2026C00323 registered 22/07/2026

the purpose mentioned in a paragraph of subsection 45AD(3) other than paragraph (c);

may give the Commission a notice (the ***collective bargaining notice***) setting out particulars of the contract or proposed contract, but only if the 3 requirements set out in subsections (2), (3) and (4) are satisfied.

Note 1: Subsection (6) deals with the form etc. of a collective bargaining notice.

Note 2: Section 93AD sets out when a collective bargaining notice comes into force.

Notice to Commission—competition provisions

(1) A corporation that:

(a) has made, or proposes to make, a contract (the ***initial contract***) containing a provision of the kind referred to in paragraph 45(1)(a); or

(b) proposes to give effect to a provision of a contract (the ***initial contract***) where the provision is of the kind referred to in paragraph 45(1)(b);

may give the Commission a notice (the ***collective bargaining notice***) setting out particulars of the contract or proposed contract, but only if the 3 requirements set out in subsections (2), (3) and (4) are satisfied.

Note 1: Subsection (6) deals with the form etc. of a collective bargaining notice.

Note 2: Section 93AD sets out when a collective bargaining notice comes into force.

First—making of initial contract

(2) First, the corporation must have made, or propose to make, the initial contract with 1 or more persons (the ***contracting parties***) about:

(a) the supply of particular goods or services to; or

(b) the acquisition of particular goods or services from;

Authorised Version C2026C00323 registered 22/07/2026

one or more other persons (the ***target*** or ***targets***) by the corporation and the contracting parties.

Second—making of contracts

(3) Second, the corporation must reasonably expect that it will make 1 or more contracts with the target, or with one or more of those targets, about:

(a) the supply of 1 or more of those goods or services to; or

(b) the acquisition of 1 or more of those goods or services from;

that target or those targets by the corporation.

Third—price of contracts

(4) Third, the corporation must reasonably expect that:

(a) in the case where the corporation reasonably expects to make only 1 contract with the target or targets—the price for the supply or acquisition of those goods or services under that contract; or

(b) in the case where the corporation reasonably expects to make 2 or more contracts with the target or targets—the sum of the prices for the supply or acquisition of those goods or services under those contracts;

will not exceed $3,000,000, or such other amount as is prescribed by the regulations, in any 12 month period. The regulations may prescribe different amounts in relation to different industries.

Timing of reasonable expectation

(5) The corporation must have the reasonable expectation referred to in subsections (3) and (4):

(a) at the time of giving the collective bargaining notice; and

(b) if the initial contract has been made—at the time it was made.

Form of notice etc.

(6) To be valid, a collective bargaining notice must:

Authorised Version C2026C00323 registered 22/07/2026

(a) be in a form approved by the Commission in writing and contain the information required by the form; and
(b) be accompanied by any other information or documents prescribed by the regulations; and
(c) be accompanied by the fee (if any) prescribed by the regulations.

Notice given by, or on behalf of, contracting persons

(7) A collective bargaining notice may be expressed to be given on behalf of one or more of the contracting parties, but only if those parties could have given the notice on their own behalf. If the notice is so expressed, then it is also taken to have been given by those parties.

(7A) A collective bargaining notice for a group of contracting parties may be expressed to be given on behalf of persons who become members of the group after the notice is given, but only if those persons could have given the notice on their own behalf at the time they became members of the group. If the notice is so expressed, then it is also taken to have been given by those persons.

When a notice may not be given

(8) A corporation may not give a collective bargaining notice in relation to a contract or proposed contract if:
(a) it has applied for an authorisation in relation to the contract or proposed contract; and
(b) the Commission has made a determination dismissing the application; and
(c) either:
(i) the Tribunal has made a determination on an application for a review of the Commission's determination; or
(ii) the time for making such an application for review has ended without the making of an application.

Authorised Version C2026C00323 registered 22/07/2026

Notice is invalid if given by union etc. on behalf of the corporation

(9) A notice given by a corporation under subsection (1A) or (1) is not a valid collective bargaining notice if it is given, on behalf of the corporation, by:

(a) a trade union; or

(b) an officer of a trade union; or

(c) a person acting on the direction of a trade union.

Invalid collective bargaining notice

(10) If the Commission receives a purported collective bargaining notice that it considers is not a valid collective bargaining notice, it must, within 5 business days of receiving the purported notice, give the person who made the purported notice a written notice:

(a) stating that the person has not given a valid collective bargaining notice; and

(b) giving reasons why the purported collective bargaining notice does not comply with this Division.

(10A) The Commission must, as soon as practicable after receiving a valid collective bargaining notice, give a copy of the notice to the target.

Purpose/effect of a provision

(10B) Subsections 45AD(6), (7), (8) and (10) apply for the purposes of paragraphs (1A)(a) and (c) in a corresponding way to the way in which they apply for the purposes of Division 1 of Part IV.

Purpose of a provision

(10C) Subsections 45AD(7), (9) and (11) apply for the purposes of paragraphs (1A)(b) and (d) in a corresponding way to the way in which they apply for the purposes of Division 1 of Part IV.

Definition

(11) In this section:

Authorised Version C2026C00323 registered 22/07/2026

business day means a day that is not a Saturday, a Sunday or a public holiday in the Australian Capital Territory.

trade union means the following:

(a) an association of employees that is registered as an organisation, or recognised, under the *Fair Work (Registered Organisations) Act 2009*;

(b) an association of employees that is registered or recognised as a trade union (however described) under the law of a State or Territory;

(c) an association of employees a principal purpose of which is the protection and promotion of the employees' interests in matters concerning their employment.

93AC Commission's objection notice

Commission's objection notice—cartel provisions

(1) If:

(a) a corporation gives the Commission a collective bargaining notice under subsection 93AB(1A) in relation to a contract, or proposed contract, containing a cartel provision of the kind referred to in that subsection; and

(b) the Commission is satisfied that any benefit to the public that has resulted or is likely to result or would result or be likely to result from the provision does not or would not outweigh the detriment to the public that has resulted or is likely to result or would result or be likely to result from the provision;

the Commission may give the corporation a written notice (the ***objection notice***) stating that it is so satisfied.

Commission's objection notice—competition provisions

(2) If a corporation gives the Commission a collective bargaining notice under subsection 93AB(1) in relation to a contract, or proposed contract, containing a provision of the kind referred to in

Authorised Version C2026C00323 registered 22/07/2026

paragraph 45(1)(a) or (b), then the Commission may, if it is satisfied that:

(a) the provision has or would have the purpose, or has or is likely to have or would have or be likely to have the effect, of substantially lessening competition (within the meaning of section 45); and

(b) in all the circumstances, either:

(i) the provision has not resulted or is not likely to result, or would not result or be likely to result, in a benefit to the public; or

(ii) any benefit to the public that has resulted or is likely to result, or would result or be likely to result, from the provision does not or would not outweigh the detriment to the public constituted by any lessening of competition that has resulted or is likely to result, or would result or be likely to result, from the provision;

give the corporation a written notice (the ***objection notice***) stating that it is so satisfied.

Commission's objection notice—non-compliance with conditions

(2A) If:

(a) a corporation gives the Commission a collective bargaining notice that relates (wholly or partly) to collective boycott conduct or proposed collective boycott conduct; and

(b) the Commission has given the corporation a notice under subsection 93ACA(1) imposing conditions relating to the conduct or proposed conduct; and

(c) the Commission is satisfied that the corporation has failed to comply with those conditions;

the Commission may give the corporation a written notice (the ***objection notice***) stating that the Commission is so satisfied.

Authorised Version C2026C00323 registered 22/07/2026

Reasons for objection notice

(3) The Commission must, at the time it gives a corporation an objection notice, give the corporation a written statement of its reasons for giving the notice.

Conference before objection notice

(4) The Commission must comply with section 93A (conferences about draft objection notices) before giving an objection notice.

Commission to seek additional information

(5) For the purposes of deciding whether or not to give an objection notice:
  (a) the Commission must seek such relevant information as it considers reasonable and appropriate; and
  (b) the Commission may make a decision on the basis of:
    (i) any information so obtained; or
    (ii) any other information given to it by the corporation or any other person; or
    (iii) any other information in its possession.

93ACA Imposing conditions relating to collective boycott conduct

(1) If:
  (a) a corporation gives the Commission a collective bargaining notice that relates (wholly or partly) to collective boycott conduct or proposed collective boycott conduct; and
  (b) the Commission reasonably believes that:
    (i) apart from this section, the Commission would have grounds to give the corporation an objection notice relating to the collective bargaining notice; and
    (ii) those grounds would not exist if particular conditions relating to the conduct or proposed conduct were complied with;

Authorised Version C2026C00323 registered 22/07/2026

the Commission may give the corporation a written notice imposing those conditions.

(2) The Commission must, in or with the notice under subsection (1), give the corporation a written statement of its reasons for giving the notice.

93AD When collective bargaining notice comes into force and ceases to be in force

When collective bargaining notice comes into force

(1) A collective bargaining notice comes into force:

(a) at the end of the period which is:

(i) if the notice relates (wholly or partly) to collective boycott conduct or proposed collective boycott conduct—60 days or such other period as is prescribed by the regulations; or

(ii) otherwise—14 days or such other period as is prescribed by the regulations;

starting on the day the corporation gave the Commission the notice; or

(b) if the Commission gives the corporation a conference notice during the period referred to in paragraph (a) and then decides not to give the corporation an objection notice—when the Commission makes that decision.

(2) However, a collective bargaining notice does not come into force if:

(a) it is withdrawn, or taken to be withdrawn, before it would come into force under subsection (1); or

(b) the Commission gives the corporation a conference notice during the period referred to in paragraph (1)(a) and then gives the corporation an objection notice.

Note: Section 93AE deals with the withdrawal of a collective bargaining notice.

Authorised Version C2026C00323 registered 22/07/2026

When collective bargaining notice ceases to be in force

(3) A collective bargaining notice ceases to be in force at the earliest of the following times:

(a) when it is withdrawn or taken to be withdrawn;

(b) if the Commission gives the corporation an objection notice—on the 31st day after the relevant day or on a later day specified in writing by the Commission;

(c) at the end of:

(i) if subparagraph (ii) does not apply—the period of 3 years beginning on the day the corporation gave the collective bargaining notice; or

(ii) the period determined under subsection (5).

Note 1: A collective bargaining notice is not in force, to the extent that it relates to collective boycott conduct, while a stop notice is in force in relation to the collective bargaining notice: see section 93AG.

Note 2: Section 93AE deals with the withdrawal of a collective bargaining notice.

(4) For the purposes of subsection (3), the ***relevant day*** is worked out in accordance with this table:

Relevant day

	In this situation:	**the *relevant day* is:**
1	If an application is not made to the Tribunal for a review of the Commission's decision to give the objection notice	the day the Commission gave the notice.

Authorised Version C2026C00323 registered 22/07/2026

Relevant day		
	In this situation:	**the *relevant day* is:**
2	If an application is made to the Tribunal for a review of the Commission's decision to give the objection notice	(a) if the review application is withdrawn—the day of the withdrawal; or (b) if, on the application of the Commission or any other person who the Tribunal is satisfied has an interest in the subject matter of the review, the Tribunal declares that the applicant is not proceeding with the review application with due diligence—the day of the declaration; or (c) in any other case—the day on which the Tribunal makes a determination on the review.

Commission may determine expiry of collective bargaining notice

(5) If the Commission is satisfied that:

(a) the period provided for in subparagraph (3)(c)(i) is not appropriate in all the circumstances; and

(b) another period, ending no later than the end of the period of 10 years beginning on the day the corporation gave the collective bargaining notice, is appropriate in all the circumstances;

the Commission may give to the corporation a written notice determining that other period for the purposes of subparagraph (3)(c)(ii).

(6) The Commission must, in or with the notice under subsection (5), give the corporation a written statement of its reasons for giving the notice.

Authorised Version C2026C00323 registered 22/07/2026

93AE Withdrawal of collective bargaining notice

Withdrawal by corporation

(1) A corporation may, by written notice given to the Commission, withdraw a collective bargaining notice it has given the Commission.

(2) The corporation may do so at any time before the Commission gives it an objection notice in relation to the collective bargaining notice.

Deemed withdrawal

(3) If:

(a) a corporation gives the Commission a collective bargaining notice in relation to a contract or proposed contract; and

(b) before or after the corporation gave the notice, it applies to the Commission for an authorisation for that contract or proposed contract; and

(c) the Commission makes a determination either dismissing the application or granting an authorisation in respect of the application; and

(d) either:

(i) the Tribunal makes a determination on an application for a review of the Commission's determination; or

(ii) the time for making such an application for review ends without the making of an application;

then the collective bargaining notice is taken to be withdrawn.

93AEA Only 1 collective bargaining notice under subsection 93AB(1A) may be given

If:

(a) a corporation gives the Commission a collective bargaining notice under subsection 93AB(1A) in relation to a contract or proposed contract; and

Authorised Version C2026C00323 registered 22/07/2026

(b) either:

(i) the Commission gives the corporation an objection notice in relation to the contract or proposed contract; or

(ii) the collective bargaining notice is taken to be withdrawn under subsection 93AE(3);

then a further collective bargaining notice under subsection 93AB(1A) cannot be given by any person in relation to the same contract or proposed contract or in relation to a contract or proposed contract to the like effect.

93AF Only 1 collective bargaining notice under subsection 93AB(1) may be given

If:

(a) a corporation gives the Commission a collective bargaining notice under subsection 93AB(1) in relation to a contract or proposed contract; and

(b) either:

(i) the Commission gives the corporation an objection notice in relation to the contract or proposed contract; or

(ii) the collective bargaining notice is taken to be withdrawn under subsection 93AE(3);

then the corporation may not give the Commission a further collective bargaining notice under subsection 93AB(1) in relation to the same contract or proposed contract or in relation to a contract or proposed contract to the like effect.

93AG Stop notice for collective boycott conduct

(1) The Commission may give a corporation a written notice (a ***stop notice***) if:

(a) the corporation has given the Commission a collective bargaining notice that relates (wholly or partly) to collective boycott conduct; and

(b) the collective bargaining notice is in force under section 93AD; and

Authorised Version C2026C00323 registered 22/07/2026

(c) there has been a material change of circumstances since:
(i) if the Commission has previously given the corporation notice under this subsection in relation to the collective boycott conduct—that notice was given; or
(ii) in any other case—the collective bargaining notice came into force; and
(d) the Commission reasonably believes that:
(i) the collective boycott conduct has resulted in serious detriment to the public; or
(ii) serious detriment to the public is imminent as a result of the collective boycott conduct.

(2) The Commission must, in or with the stop notice, give the corporation a written statement of its reasons for giving the stop notice.

(3) While the stop notice is in force, the collective bargaining notice is taken, for the purposes of this Act, not to be in force under section 93AD to the extent that the collective bargaining notice relates to collective boycott conduct.

(4) The stop notice comes into force at the time the Commission gives the corporation the stop notice.

(5) The stop notice ceases to be in force at the earliest of the following times:
(a) at the end of the period provided under subsection (6);
(b) if, before the end of that period, the Commission gives the corporation an objection notice under subsection 93AC(1) or (2) that relates to the collective bargaining notice—when that objection notice is given;
(c) if, before the end of that period, the Commission gives the corporation a notice under subsection 93ACA(1) imposing conditions relating to conduct or proposed conduct that relates to the collective bargaining notice—when that notice under subsection 93ACA(1) is given;
(d) if the Commission withdraws the stop notice—when it is withdrawn.

Authorised Version C2026C00323 registered 22/07/2026

(6) For the purposes of paragraph (5)(a), the period is:
  (a) the period of 90 days beginning on the day the Commission gives the corporation the stop notice; or
  (b) if the Commission extends it under subsection (7)—that period as so extended.

(7) Before the end of the period referred to in paragraph (6)(a), the Commission may extend the period by up to a further 90 days:
  (a) if satisfied that in all the circumstances it is reasonable to do so; and
  (b) by giving written notice of the extended period to the corporation.

(8) The Commission must, in or with the notice under subsection (7), give the corporation a written statement of its reasons for giving the notice.

Subdivision C—Conferences

93A Commission to afford opportunity for conference before giving notice

(1) Before giving a notice under subsection 93(3), (3A) or (3B) or 93AC(1), (2) or (2A) in relation to any conduct or proposed conduct, the Commission shall prepare a draft notice in relation to that conduct or proposed conduct.

(2) The Commission shall, by notice in writing sent to the corporation or other person to whose conduct or proposed conduct the draft notice relates and to each other interested person, invite the corporation or other person to notify the Commission, within 14 days after a date fixed by the Commission being not earlier than the day on which the notice is sent, whether the corporation or other person wishes the Commission to hold a conference in relation to the draft notice.

(3) The Commission shall send with each notice under subsection (2) a copy of the draft notice and a summary of the reasons why it

Authorised Version C2026C00323 registered 22/07/2026

proposes to give the notice under subsection 93(3), (3A) or (3B) or 93AC(1), (2) or (2A).

(4) If each of the persons to whom a notice was sent under subsection (2):

(a) notifies the Commission in writing within the period of 14 days mentioned in that subsection that the person does not wish the Commission to hold a conference in relation to the draft notice; or

(b) does not notify the Commission within that period that he or she wishes the Commission to hold such a conference;

the Commission must decide after the end of that period whether or not to give the notice under subsection 93(3), (3A) or (3B) or 93AC(1), (2) or (2A).

(5) If any of the persons to whom a notice was sent under subsection (2) notifies the Commission in writing within the period of 14 days mentioned in that subsection that he or she wishes the Commission to hold a conference in relation to the draft notice, the Commission shall appoint a date (being not later than 30 days after the expiration of that period), time and place for the holding of the conference and give notice of the date, time and place so appointed to each of the persons to whom a notice was sent under subsection (2).

(6) At the conference:

(a) the Commission shall be represented by a member or members of the Commission (being a member or members who participated in the preparation of the draft notice) nominated by the Chairperson; and

(b) each person to whom a notice was sent under subsection (2) and any other interested person whose presence at the conference is considered by the Commission to be appropriate is entitled to attend and participate personally or, in the case of a body corporate, may be represented by a person who, or by persons each of whom, is a director, officer or employee of the body corporate; and

Authorised Version C2026C00323 registered 22/07/2026

(c) a person participating in the conference in accordance with paragraph (a) or (b) is entitled to have another person or other persons present to assist him or her but a person who so assists another person at the conference is not entitled to participate in the discussion; and

(e) no other person is entitled to be present.

(7) A member of the Commission participating in the conference shall make such record of the discussions as is sufficient to set out the matters raised by the persons participating in the conference.

(8) The member of the Commission who represents the Commission at the conference, or, if the Commission is represented by more than one member of the Commission, one of those members appointed by the Chairperson:

(a) may exclude from the conference any person who uses insulting language at the conference, creates, or takes part in creating or continuing, a disturbance at the conference or repeatedly interrupts the conference;

(b) may terminate the conference when he or she is of the opinion that a reasonable opportunity has been given for the expression of the views of persons participating in the conference (other than persons excluded from the conference under paragraph (a)); and

(c) shall give a certificate certifying the day on which the first notification under subsection (5) in relation to the draft notice was received by the Commission and the day on which the conference terminated;

and any such certificate shall be received in all courts as prima facie evidence of the matters certified.

(9) A document purporting to be a certificate referred to in subsection (8) shall, unless the contrary is established, be deemed to be such a certificate and to have been duly given.

(10) The Commission must take account of all matters raised at the conference.

Authorised Version C2026C00323 registered 22/07/2026

(10A) After the conference, the Commission must decide whether or not to give a notice under subsection 93(3), (3A) or (3B) or 93AC(1), (2) or (2A).

(11) For the purposes of this section, ***interested person*** means a person who has notified the Commission in writing that he or she, or a specified unincorporated association of which he or she is a member, claims to have an interest in the matter, being an interest that, in the opinion of the Commission, is real and substantial.

(12) Where the Commission is of the opinion that two or more notices given to the Commission under subsection 93(1) or 93AB(1A) or (1) by the same person, or by persons being bodies corporate that are related to each other, deal with substantially similar conduct or proposed conduct, the Commission may treat the notices as if they constituted a single notice and may prepare one draft notice in relation to the notices so given to the Commission and hold one conference in relation to that draft notice.

Subdivision D—Register of notifications

95 Register of notifications

(1) The Commission shall keep a register containing:

(aa) notices relating to voluntary industry codes given to the Commission pursuant to regulations made under section 51AE (including notices that have been withdrawn pursuant to those regulations); and

(a) draft notices, and summaries of reasons, by the Commission furnished to any person under section 93A; and

(b) records of conferences made in accordance with subsection 93A(7) and certificates in relation to conferences given under subsection 93A(8); and

(c) notices (including notices that have been withdrawn) given to the Commission under section 93 or 93AB; and

(d) documents furnished to the Commission in relation to such notices; and

Authorised Version C2026C00323 registered 22/07/2026

(e) particulars of any oral submissions made to the Commission in relation to such notices; and

(f) particulars of notices given by the Commission to corporations in relation to notices given by corporations under section 93 or 93AB; and

(g) particulars of any permits given by the Commission under subparagraph 93(7)(b)(i); and

(ga) details of the specification of any day by the Commission under paragraph 93(7C)(b) or (c); and

(gb) details of the specification of any day by the Commission under paragraph 93AD(3)(b).

(2) Where a person furnishes a document to the Commission:

(a) in relation to a notice given to the Commission under section 93 or 93AB; or

(b) in relation to a conference held under Division 3 of Part XI;

or makes an oral submission to the Commission in relation to the notice or the conference, he or she may, at the time when the document is furnished or the submission is made, request that the document or a part of the document, or that particulars of the submission or of part of the submission, be excluded from the register kept under subsection (1) by reason of the confidential nature of any of the matters contained in the document or submission.

(3) Where such a request is made:

(a) if the document or part of the document, or the submission or part of the submission, to which the request relates contains particulars of:

(i) a secret formula or process;

(ii) the cash consideration offered for the acquisition of shares in the capital of a body corporate or of assets of a person; or

(iii) the current costs of manufacturing, producing or marketing goods or services;

the Commission shall exclude the document or the part of the document, or particulars of the submission or of the part of

Authorised Version C2026C00323 registered 22/07/2026

the submission, as the case may be, from the register kept under subsection (1); and

(b) in any other case—the Commission may, if it is satisfied that it is desirable to do so by reason of the confidential nature of matters contained in the document or the part of the document, or in the submission or the part of the submission, exclude the document or the part of the document, or particulars of the submission or of the part of the submission, as the case may be, from that register.

(4) If the Commission refuses a request to exclude a document or a part of a document from the register kept under subsection (1), the Commission shall, if the person who furnished the document to the Commission so requires, return the document or part of the document to him or her and, in that case, paragraph (1)(d) does not apply in relation to the document or part of the document.

(5) Subsection (4) does not apply in relation to a document that was produced to the Minister or the Commission in pursuance of a notice under section 65Q or 155.

(6) If the Commission refuses a request to exclude particulars of an oral submission or of part of an oral submission from the register kept under subsection (1), the person who made the submission may inform the Commission that he or she withdraws the submission or that part of the submission and, in that case, paragraph (1)(e) does not apply in relation to the submission or that part of the submission, as the case may be.

(7) Where the Commission is satisfied that it is desirable to do so for any reason other than the confidential nature of matters contained in a document or submission, the Commission may exclude a document or part of a document referred to in paragraph (1)(d) or particulars referred to in paragraph (1)(e) from the register kept under subsection (1).

(8) If a person requests in accordance with subsection (2) that a document or part of a document, or that particulars of a submission or of part of a submission, be excluded from the register kept under subsection (1), the document or the part of the document, or particulars of the submission or of the part of the submission, shall

Authorised Version C2026C00323 registered 22/07/2026

not be included in that register until the Commission has made a determination in relation to the request.

Authorised Version C2026C00323 registered 22/07/2026

Division 3—Class exemptions

95AA Commission may determine class exemptions

(1) The Commission may, by legislative instrument, determine that one or more specified provisions of Division 1 or 2 of Part IV do not apply to a kind of conduct specified in the determination, if the Commission is satisfied in all the circumstances:

(a) that conduct of that kind would not have the effect, or would not be likely to have the effect, of substantially lessening competition; or

(b) that conduct of that kind would result, or would be likely to result, in a benefit to the public that would outweigh the detriment to the public that would result, or would be likely to result, from conduct of that kind.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

(2) The Commission may specify in the determination any one or more of the following limitations:

(a) a limitation to persons of a specified kind;

(b) a limitation to circumstances of a specified kind;

(c) a limitation to conduct that complies with specified conditions.

(3) The determination must specify the period, ending no later than the end of the period of 10 years beginning on the day it is made, for which it is to be in force.

(4) The determination:

(a) enters into force on the day it is made or on such later day (if any) as is specified in the determination; and

(b) ceases to be in force at the earlier of the following times:

(i) if the determination is revoked—at the time the revocation takes effect;

Authorised Version C2026C00323 registered 22/07/2026

(ii) at the end of the period specified under subsection (3) of this section.

(5) While the determination remains in force, but subject to section 95AB and any limitations specified under subsection (2), the provisions of Division 1 or 2 of Part IV specified in the determination do not apply in relation to conduct of the kind specified in the determination.

(6) Despite subsection 44(1) of the *Legislation Act 2003*, section 42 (disallowance) of that Act applies to a legislative instrument made under subsection (1) of this section.

95AB Commission may withdraw the benefit of class exemption in particular case

(1) The Commission may give a person a written notice if:

(a) a determination in force under section 95AA specifies a kind of conduct; and

(b) the Commission is satisfied that particular conduct of that kind engaged in by the person:

(i) would have the effect, or would be likely to have the effect, of substantially lessening competition; and

(ii) would not result or be likely to result in a benefit to the public that would outweigh the detriment to the public that would result, or would be likely to result, from the conduct.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

(2) The Commission must, in or with the notice under subsection (1), give the person a written statement of its reasons for giving the notice.

(3) While a notice under subsection (1) is in force, the determination does not apply to the conduct specified in the notice engaged in by the person.

(4) The notice under subsection (1):

Authorised Version C2026C00323 registered 22/07/2026

(a) comes into force at the time the Commission gives the person the notice; and

(b) ceases to be in force at the earliest of the following times:

(i) if the Tribunal sets it aside under subsection 102(5G)—at the end of the day on which the Tribunal sets it aside;

(ii) if the Commission revokes the notice—when it is revoked;

(iii) the time the determination under section 95AA ceases to be in force.

95AC Exceptional circumstances class exemptions

(1) If a declaration mentioned in subsection (2) is in force, the Commission may, in writing, determine that one or more specified provisions of Division 1 or 2 of Part IV do not apply to a kind of conduct specified in the determination.

(2) The declarations are the following:

(a) a declaration under section 95AE;

(b) a national emergency declaration (within the meaning of the *National Emergency Declaration Act 2020*).

(3) The Commission must not make a determination under subsection (1) unless the Commission is satisfied that, in all the circumstances, the conduct of that kind would assist, or would be likely to assist, in the response to or recovery from the exceptional circumstances or emergency to which the declaration relates.

(4) In making a determination under subsection (1), the Commission:

(a) must have regard to:

(i) the likely benefit to the public resulting from the assistance, or likely assistance, in response to or recovery from the exceptional circumstances to which the declaration relates; and

(ii) the detriment to the public that would result, or be likely to result, from the conduct; and

Authorised Version C2026C00323 registered 22/07/2026

(b) may have regard to any other public benefit that would result or likely result from the conduct.

(5) The Commission may specify in the determination any one or more of the following limitations:
(a) a limitation to persons of a specified kind;
(b) a limitation to circumstances of a specified kind;
(c) a limitation to conduct that complies with specified conditions.

(6) Without limiting paragraph (5)(c), a condition may include a requirement to obtain the approval of the Commission before engaging in certain conduct.

(7) The determination is in force for the period:
(a) starting on the day specified in the determination (which may be before the commencement of this section, but must not be before 1 April 2026); and
(b) ending at the earliest of the following:
(i) the start of the day specified in the determination;
(ii) if the determination is revoked—the end of the day the revocation takes effect;
(iii) the end of the last day on which a declaration mentioned in subsection (2) to which the determination relates is in force.

(8) While the determination remains in force, but subject to section 95AD and any limitations specified under subsection (5) of this section, the provisions of Division 1 or 2 of Part IV specified in the determination do not apply in relation to conduct of the kind specified in the determination.

(9) The determination must specify the exceptional circumstances or emergency to which it relates.

(10) A determination made under subsection (1) is a legislative instrument and, despite anything in section 44 of the *Legislation*

Authorised Version C2026C00323 registered 22/07/2026

Act 2003, section 42 (disallowance) of that Act applies to the instrument.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

95AD Commission may withdraw the benefit of exceptional circumstances class exemptions in particular case

(1) The Commission may give a person a written notice if:
  (a) a determination in force under section 95AC specifies a kind of conduct; and
  (b) the Commission considers that:
    (i) conduct of that kind would not assist, or would not be likely to assist, in the response to or recovery from the exceptional circumstances or emergency specified in the determination; or
    (ii) conduct of that kind is not appropriate.

(2) The Commission must, in or with the notice under subsection (1), give the person a written statement of its reasons for giving the notice.

(3) While a notice under subsection (1) is in force, the determination does not apply to the conduct specified in the notice engaged in by the person.

(4) The notice under subsection (1):
  (a) comes into force at the time the Commission gives the person the notice; and
  (b) ceases to be in force at the earlier of the following times:
    (i) if the Commission revokes the notice—the day after the day the Commission gives the person the written notice;
    (ii) the time the determination under section 95AC ceases to be in force.

Authorised Version C2026C00323 registered 22/07/2026

Division 4—Declaration of exceptional circumstances

95AE Minister may declare exceptional circumstances

(1) The Minister may, by legislative instrument, make a declaration under this section if the Minister is satisfied that:

(a) either:

(i) exceptional circumstances that are causing significant harm to the Australian economy or Australian consumers exist; or

(ii) exceptional circumstances that would cause significant harm to the Australian economy or Australian consumers are likely to exist; and

(b) it is in the public interest to empower the Commission to make determinations under either or both of the following:

(i) section 92D;

(ii) section 95AC.

(2) A declaration under subsection (1) is in force for the period:

(a) starting on the day specified in the declaration (which may be before the commencement of this section, but must not be before 1 April 2026); and

(b) ending at the earlier of:

(i) the start of the day specified in the declaration; and

(ii) if the declaration is revoked—the end of the day the revocation takes effect.

(3) A day specified for the purposes of subparagraph (2)(b)(i) must ensure that the period the declaration is in force:

(a) is no longer than the period that the Minister considers necessary for the purposes of emergency management; and

(b) is not longer than 6 months.

Note 1: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

Note 2: The period may be extended under section 95AF.

Authorised Version C2026C00323 registered 22/07/2026

95AF Extension of declaration of exceptional circumstances

(1) The Minister may, by legislative instrument, extend the operation of a declaration under section 95AE if the Minister is satisfied that the exceptional circumstances mentioned in subparagraph 95AE(1)(a)(i) are likely to continue to exist beyond the period in which the order will be in force.

(2) The Minister may, under subsection (1), extend the operation of an order more than once. However, each period of extension must not exceed 3 months.

Authorised Version C2026C00323 registered 22/07/2026

Part VIIA—Prices surveillance

Division 1—Preliminary

95A Interpretation

(1) In this Part, unless the contrary intention appears:

applicable period, in relation to a locality notice, has the meaning given by section 95ZB.

body means any organisation or body, whether incorporated or unincorporated, and includes a group of 2 or more individuals.

business notice means a notice under subsection 95L(3).

Commonwealth authority means:

(a) the Commonwealth; or

(b) an authority, institution or other body (other than a society, association or incorporated company) established for a public purpose by or under:

(i) a law of the Commonwealth, other than the *Northern Territory (Self-Government) Act 1978* (or a law made under, or continued in force by, that Act); or

(ii) another law as in force in Norfolk Island, the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands; or

(c) a society, association or incorporated company in which the Commonwealth, or an authority, institution or other body of the kind referred to in paragraph (b), has a controlling interest.

declared person, in relation to goods or services of a particular description, means a person in relation to whom a declaration under subsection 95X(2) in relation to goods or services of that description is in force.

Authorised Version C2026C00323 registered 22/07/2026

exempt supply, in relation to goods or services of a particular description, means a supply of goods or services of that description in relation to which a declaration under section 95B is in force.

external inquiry means an inquiry by a body other than the Commission.

goods includes:

(a) ships, aircraft and other vehicles; and
(b) animals, including fish; and
(c) minerals, trees and crops, whether on, under or attached to land or not; and
(d) water; and
(e) gas and electricity.

inquiry means an inquiry held in accordance with this Part into a matter or matters relating to prices for the supply of goods or services.

inquiry body means:

(a) in relation to an inquiry to be held, or being held, by the Commission—the Commission; or
(b) in relation to an inquiry to be held, or being held, by a body other than the Commission—the other body.

inquiry Chair means:

(a) in relation to an inquiry to be held, or being held, by the Commission—the member of the Commission presiding at the inquiry; or
(b) in relation to an inquiry to be held, or being held, by a body other than the Commission—the person presiding at the inquiry.

inquiry notice means a notice under section 95H.

locality notice means a notice under subsection 95Z(5).

member of the staff of the Commission means a person referred to in subsection 27(1) or a person engaged under section 27A.

Authorised Version C2026C00323 registered 22/07/2026

notified goods or services means goods or services of a particular description in relation to which a declaration under subsection 95X(1) is in force.

person includes a Commonwealth authority and a State or Territory authority.

price includes:

(a) a charge of any description; and

(b) in relation to goods or services—any pecuniary benefit, whether direct or indirect, received or to be received by a person for or in connection with the supply by the person of the goods or services.

response notice means a notice under subparagraph 95Z(6)(c)(i).

services includes any rights (including rights in relation to, and interests in, real or personal property), benefits, privileges or facilities that are, or are to be, provided, granted or conferred in trade or commerce, and includes, but is not limited to, the rights, benefits, privileges or facilities that are, or are to be, provided, granted or conferred under:

(a) a contract for or in relation to:

(i) the performance of work (including work of a professional nature), whether with or without the supply of goods; or

(ii) the provision of, or the use or enjoyment of facilities for, amusement, entertainment, recreation or instruction; or

(iii) the conferring of rights, benefits or privileges for which remuneration is payable in the form of a royalty, tribute, levy or similar exaction; or

(b) a contract of insurance; or

(c) a contract between a banker and a customer of the banker entered into in the course of the carrying on by the banker of the business of banking; or

Authorised Version C2026C00323 registered 22/07/2026

(d) any contract for or in relation to the lending of moneys;

but does not include rights or benefits being the supply of goods or the performance of work under a contract of service.

State or Territory authority means:

(a) a State, the Australian Capital Territory or the Northern Territory; or

(b) an authority, institution or other body (except a society, association or incorporated company) established for a public purpose by or under a law of a State, the Australian Capital Territory or the Northern Territory; or

(c) a society, association or incorporated company in which a State, the Australian Capital Territory or the Northern Territory, or an authority, institution or other body of the kind referred to in paragraph (b), has a controlling interest.

supply includes:

(a) in relation to goods—supply (including re-supply) by way of sale, exchange, lease, hire or hire-purchase; and

(b) in relation to services—provide, grant or confer.

(2) In this Part, unless the contrary intention appears:

(a) a reference to the supply of goods or services includes a reference to agreeing to supply goods or services; and

(b) a reference to the supply of goods includes a reference to the supply of goods together with other property or services, or both; and

(c) a reference to the supply of services includes a reference to the supply of services together with property or other services, or both; and

(d) a reference to the supply of goods does not include a reference to:

(i) a supply for use outside Australia; or

(ii) a supply for which a price is not charged; or

(iii) any other supply prescribed by the regulations; and

(e) a reference to the supply of services does not include a reference to:

Authorised Version C2026C00323 registered 22/07/2026

(i) a supply outside Australia; or
(ii) a supply for which a price is not charged; or
(iii) any other supply prescribed by the regulations.

(3) For the purposes of this Part, a supply by way of retail sale is taken not to be a supply on terms and conditions that are the same as, or substantially similar to, the terms and conditions of a supply by way of wholesale sale.

95B Exempt supplies

(1) The Minister, or the Commission with the approval of the Minister, may by notice published in the *Gazette* declare a supply of goods or services of a specified description, that is a supply in a specified manner, of a specified kind or in specified circumstances, to be an exempt supply for the purposes of this Part.

(2) The Minister, or the Commission with the approval of the Minister, may by notice published in the *Gazette* vary or revoke a declaration under subsection (1).

95C Application of Part

This Part applies in relation to the supply of goods or services:
(a) by a Commonwealth authority; or
(b) by a foreign corporation; or
(c) by a trading corporation in the course of, or for the purposes of, its trading operations; or
(d) by a financial corporation in the course of, or for the purposes of, its business operations; or
(e) by a body corporate incorporated in a Territory (other than the Northern Territory); or
(f) in a Territory (other than the Northern Territory); or
(g) in the course of, or in connection with, trade or commerce:
(i) among the States; or
(ii) between a State and a Territory; or
(iii) between 2 Territories;

Authorised Version C2026C00323 registered 22/07/2026

and not otherwise.

95D Crown to be bound

(1) This Part binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory and of the Northern Territory.

(2) Nothing in this Part makes the Crown liable to be prosecuted for an offence.

(3) The protection in subsection (2) does not apply to an incorporated Commonwealth authority or an incorporated State or Territory authority.

95E Object of this Part

The object of this Part is to have prices surveillance applied only in those markets where, in the view of the Minister, competitive pressures are not sufficient to achieve efficient prices and protect consumers.

95F Simplified overview of this Part

(1) This Part deals with 3 main things.

Price inquiries

(2) First, it provides for the Commission or another body to hold price inquiries in relation to the supply of goods or services.

(3) These inquiries may relate to the supply of goods or services by a particular person. If so, the person's ability to increase the prices of those goods or services during a particular period is restricted. However, there is a way for the person to increase prices during that period.

Authorised Version C2026C00323 registered 22/07/2026

Price notifications

(4) Second, this Part allows the Minister or the Commission to declare goods or services to be notified goods or services and to declare a person to be a declared person in relation to such goods or services.

(5) If this happens, the person's ability to increase the prices of such goods or services during a particular period is restricted. However, there is a way for the person to increase prices during that period.

Price monitoring

(6) Third, this Part allows the Minister to direct the Commission to undertake price monitoring.

(7) This may be in relation to supplies of goods or services in a particular industry or in relation to supplies of goods or services by particular persons.

Authorised Version C2026C00323 registered 22/07/2026

Division 2—Commission's functions under this Part

95G Commission's functions under this Part

(1) The Commission's functions under this Part are set out in this section.

Price inquiries

(2) The Commission is to hold such inquiries as it is required to hold under section 95H.

(3) The Commission may, with the Minister's approval under section 95H, hold such other inquiries as it thinks fit.

(4) The Commission is to give the Minister a report on the results of each inquiry it holds.

Price notifications

(5) The Commission is to consider locality notices and to take, in relation to such notices, such action in accordance with this Part as it considers appropriate.

Price monitoring

(6) The Commission is to monitor prices, costs and profits in any industry or business that the Minister directs it to monitor and is to give the Minister a report on the results of such monitoring.

General

(7) In exercising its powers and performing its functions under this Part, the Commission must, subject to any directions given under section 95ZH, have particular regard to the following:

(a) the need to maintain investment and employment, including the influence of profitability on investment and employment;

Authorised Version C2026C00323 registered 22/07/2026

(b) the need to discourage a person who is in a position to substantially influence a market for goods or services from taking advantage of that power in setting prices;

(c) the need to discourage cost increases arising from increases in wages and changes in conditions of employment inconsistent with principles established by relevant industrial tribunals.

Authorised Version C2026C00323 registered 22/07/2026

Division 3—Price inquiries

Subdivision A—Holding of inquiries

95H Price inquiries

Inquiries by Commission

(1) The Minister may, by notice in writing given to the Chairperson, require the Commission to hold an inquiry into a specified matter or specified matters.

(2) The Minister may, by notice in writing given to the Chairperson, approve the Commission holding an inquiry into a specified matter or specified matters.

Inquiries by other bodies

(3) The Minister may, by notice in writing, request a body other than the Commission to hold an inquiry into a specified matter or specified matters.

(4) The other body must, if it agrees to hold the inquiry, appoint a person to preside at the inquiry. The appointment must be in writing.

(5) However, if the other body is a group of 2 or more individuals, the Minister must, by writing, appoint one of those individuals to preside at the inquiry.

(5A) The Minister must, as soon as practicable after confirmation that the other body will hold the inquiry, table a statement in each House of the Parliament:

(a) specifying that the body will hold the inquiry; and

(b) giving the Minister's reasons for requesting the body, rather than the Commission, to hold the inquiry.

Authorised Version C2026C00323 registered 22/07/2026

No inquiry in relation to exempt supply

(6) A notice under this section must not authorise the holding of an inquiry into a supply of goods or services of a particular description that is an exempt supply in relation to goods or services of that description.

No inquiry in relation to a State or Territory authority

(7) A notice under this section must not authorise the holding of an inquiry into the supply by a State or Territory authority of goods or services.

95J Content of inquiry notices

Description of goods or services

(1) An inquiry notice must specify the description of the goods or services in relation to which the inquiry is to be held.

Supply of goods or services by particular persons

(2) An inquiry notice must also specify whether the inquiry is to be held in relation to the supply of goods or services of that description by a particular person or persons.

(3) If such an inquiry is to be held, the notice may also specify that person or persons. If it does not, the inquiry body must, by writing, determine that person or persons.

(4) The inquiry Chair must give the Minister notice in writing of the determination.

No inquiry in relation to a State or Territory authority

(5) The inquiry body must not determine a State or Territory authority as a person in relation to whom an inquiry will be held.

Authorised Version C2026C00323 registered 22/07/2026

Ministerial directions

(6) The Minister may, in an inquiry notice, give such directions as he or she thinks fit as to the holding of the inquiry and the matters to be taken into consideration in the inquiry.

(7) The inquiry body must comply with any such directions.

95K Period for completing inquiry

Inquiry period

(1) An inquiry notice must specify the period within which the inquiry is to be completed and a report on the inquiry is to be given to the Minister.

(2) The inquiry body must complete the inquiry and give the report to the Minister within that period.

Extensions

(3) The Minister may, before the end of the completion period, extend or further extend that period by notice in writing given to the inquiry Chair.

Example: A notice under subsection (1) specifies that an inquiry is to be completed and a report given by 1 August.

On 30 July the Minister gives a notice under subsection (3) extending the deadline to 8 August.

On 6 August the Minister gives another notice under subsection (3) further extending the deadline to 12 August.

(4) If the Minister does so, the inquiry body must complete the inquiry and give its report within the completion period as so extended or further extended.

(5) In this section:

completion period means the period within which the inquiry body is required by this section to complete an inquiry and to give its report on the inquiry.

Authorised Version C2026C00323 registered 22/07/2026

95L Notice of holding of inquiry

General notice

(1) An inquiry body must, by notifiable instrument, give notice of an inquiry it is to hold.

Notice to particular person or persons

(3) If the inquiry is to be held in relation to the supply of goods or services by a particular person or persons, the inquiry body must, as soon as practicable, give the person, or each of the persons, a notice in writing.

Content of notice

(4) A notice under this section must:
  (a) state that the inquiry body is to hold the inquiry; and
  (b) specify the matter or matters in relation to which the inquiry is to be held; and
  (c) specify the time and place at which the inquiry is to start; and
  (d) in the case of a notice under subsection (3)—set out the effect of section 95N; and
  (e) specify any other matter prescribed by the regulations.

95M Notice of extension of period for completing inquiry

If:
  (a) an inquiry is being held in relation to the supply of goods or services of a particular description by a particular person or persons; and
  (b) the Minister extends, or further extends, the period within which the inquiry is required to be completed and a report on the inquiry given to the Minister;

the inquiry body must, as soon as possible, give the person, or each of the persons, a notice in writing giving details of the extension or further extension.

Authorised Version C2026C00323 registered 22/07/2026

95N Price restrictions

(1) This section applies if an inquiry body gives a person a business notice stating that it is to hold an inquiry in relation to the supply by the person of goods or services of a particular description.

Offence: previous local supply

(2) The person commits an offence if:

(a) before the applicable day in relation to the business notice, the person supplies (the ***current supply***) goods or services of that description in a locality on particular terms and conditions; and

(b) the person has supplied goods or services of that description in that locality on the same or substantially similar terms and conditions in the period of 12 months before the current supply; and

(c) the current supply is at a price that exceeds the highest price at which the person has supplied goods or services of that description in that locality on the same or substantially similar terms and conditions in that period; and

(d) in a case where a notice has been given to the person under subsection (5)—the current supply is not in accordance with the notice.

Penalty: 100 penalty units.

Offence: no previous local supply

(3) The person commits an offence if:

(a) before the applicable day in relation to the business notice, the person supplies (the ***current supply***) goods or services of that description in a locality on particular terms and conditions; and

(b) the person has not supplied goods or services of that description in that locality on the same or substantially similar terms and conditions in the period of 12 months before the current supply, but has supplied goods or services

Authorised Version C2026C00323 registered 22/07/2026

of that description elsewhere in Australia on the same or substantially similar terms and conditions in that period; and

(c) the current supply is at a price that exceeds the highest price at which the person has supplied goods or services of that description in Australia on the same or substantially similar terms and conditions in that period; and

(d) in a case where a notice has been given to the person under subsection (5)—the current supply is not in accordance with the notice.

Penalty: 100 penalty units.

Offence: no previous supply in Australia

(4) The person commits an offence if:

(a) before the applicable day in relation to the business notice, the person supplies (the ***current supply***) goods or services of that description in a locality on particular terms and conditions; and

(b) the person has not supplied goods or services of that description in Australia on the same or substantially similar terms and conditions in the period of 12 months before the current supply; and

(c) in a case where a notice has been given to the person under subsection (5)—the current supply is not in accordance with the notice.

Penalty: 100 penalty units.

Approval to increase prices

(5) The Commission may give the person a notice in writing stating that the person is permitted, during the period:

(a) beginning on a specified day; and

(b) ending at the beginning of the applicable day in relation to the business notice;

Authorised Version C2026C00323 registered 22/07/2026

to supply goods or services of a specified description in a specified locality on specified terms and conditions at a price not exceeding a specified price.

(6) The Commission may give a notice under subsection (5) on its own initiative or on the application of the person.

Consultation

(7) In an external inquiry, the Commission must consult the body holding the inquiry before giving a notice under subsection (5).

Definition

(8) In this section:

applicable day, in relation to a business notice, means the 14th day after whichever is the earlier of the following days:

(a) the day on which the person given the notice receives a copy of the report by the inquiry body on the inquiry to which the notice relates;

(b) the last day of the period within which the inquiry body is required to complete the inquiry to which the notice relates and to give the Minister a report on the inquiry.

Subdivision B—Reports on inquiries

95P Copies of report to be made available

Inquiry into supply of goods or services by particular persons

(1) For an inquiry held in relation to the supply of goods or services by a particular person or persons, the inquiry body must send the person, or each of the persons, a copy of the report on the inquiry on the day on which it gives the Minister the report.

(2) A copy of a report sent to a person must be accompanied by a notice in writing setting out the effect of section 95Q.

Authorised Version C2026C00323 registered 22/07/2026

All inquiries

(3) For any inquiry, the inquiry body must, unless the Minister directs otherwise, make copies of the report on the inquiry available for public inspection as soon as practicable after the period of 28 days beginning on the day on which it gives the Minister the report.

95Q Notification of proposed prices after receipt of report

(1) This section applies if a person receives a copy of a report on an inquiry held in relation to the supply by the person of goods or services of a particular description.

Price notification

(2) The person must, within 14 days after receiving the copy, give the Commission a notice in writing specifying the price or prices at which the person is supplying, or proposing to supply, goods or services of that description.

Offence

(3) A person commits an offence if the person contravenes subsection (2).

Penalty: 10 penalty units.

Public notification

(4) The Commission must, within 14 days after it receives the notice under subsection (2), make publicly available details of the price or prices specified in the notice.

Authorised Version C2026C00323 registered 22/07/2026

Subdivision C—Procedure at inquiries

95R Public inquiries etc.

Public inquiries

(1) An inquiry body must hold an inquiry in public, unless the Minister directs otherwise.

Taking of evidence

(2) The inquiry body may take evidence in private at an inquiry held in public if:
  (a) a witness objects to giving, in public, evidence that the inquiry body is satisfied is of a confidential nature; and
  (b) the inquiry body considers that it is desirable to do so.

(3) The inquiry body may permit a person appearing as a witness at the inquiry to give evidence by giving, and verifying by oath or affirmation, a written statement.

(4) If a statement is so given in an inquiry held in public, the inquiry body must make available to the public in such manner as it thinks fit the contents of the statement other than any matter:
  (a) that the person who gave the evidence objects to being made public; and
  (b) the evidence of which the body is satisfied would have been taken in private if that evidence had been given orally and the person had objected to giving it in public.

Written submissions

(5) The inquiry body may require or permit a person desiring to make a submission to the body to make the submission in writing.

(6) If a submission is so made in an inquiry held in public, the inquiry body must make available to the public in such manner as it thinks fit the contents of the submission.

Authorised Version C2026C00323 registered 22/07/2026

Procedure

(7) The procedure to be followed at an inquiry is within the discretion of the inquiry Chair. The inquiry body is not bound by the rules of evidence.

(8) Subsection (7) operates:
  (a) subject to this Part; and
  (b) in any case—subject to any direction given to the inquiry body by the Minister; and
  (c) in an inquiry held by the Commission and at which the inquiry Chair is not the Chairperson—subject to any direction given to the inquiry Chair by the Chairperson.

Note: See also section 95ZN (about confidentiality of information).

95S Taking of evidence on oath or affirmation

Evidence on oath or affirmation

(1) An inquiry body may take evidence at an inquiry on oath or affirmation.

(2) An oath or affirmation may be administered by:
  (a) in an inquiry by the Commission—a member of the Commission; or
  (b) in an external inquiry—the person presiding at the inquiry.

Summons

(3) The inquiry Chair may, by writing signed by him or her, summon a person to appear at an inquiry to give evidence and to produce such documents (if any) as are specified in the summons.

(4) In an inquiry by the Commission, the power conferred on the inquiry Chair by subsection (3) may, at his or her discretion, be exercised on the application of another person.

Authorised Version C2026C00323 registered 22/07/2026

95T Failure of witness to attend

(1) A person commits an offence if:

(a) the person is given a summons to appear as a witness at an inquiry; and

(b) the person fails to attend as required by the summons or fails to appear and report himself or herself from day to day; and

(c) the person has not been excused, or released from further attendance, by:

(i) in an inquiry by the Commission—a member of the Commission; or

(ii) in an external inquiry—the person presiding at the inquiry.

Penalty: 10 penalty units.

(2) Subsection (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

95U Refusal to be sworn or to answer question

(1) A person appearing as a witness at an inquiry must not:

(a) refuse or fail to swear an oath or to make an affirmation if required to do so by:

(i) in an inquiry by the Commission—a member of the Commission; or

(ii) in an external inquiry—the person presiding at the inquiry; or

(b) refuse or fail to answer a question that he or she is required to answer by the inquiry Chair; or

(c) refuse or fail to produce a document that he or she was required to produce by a summons under this Part given to him or her.

Penalty: 10 penalty units.

Authorised Version C2026C00323 registered 22/07/2026

(2) Subsection (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

(3) It is a reasonable excuse for the purposes of subsection (2) for a person to refuse or fail to answer a question on the ground that the answer might tend to incriminate the person or to expose the person to a penalty.

(4) It is a reasonable excuse for the purposes of subsection (2) for a person to refuse or fail to produce a document on the ground that the production of the document might tend to incriminate the person or to expose the person to a penalty.

(5) Subsections (3) and (4) do not limit what is a reasonable excuse for the purposes of subsection (2).

95V Protection of witnesses

Subject to this Part, a person summoned to attend or appearing as a witness at an inquiry has the same protection, and is, in addition to the penalties provided by this Part, subject to the same liabilities, in any civil or criminal proceedings as a witness in proceedings in the High Court.

95W Allowances to witnesses

(1) A witness summoned under this Part to appear at an inquiry is entitled to be paid such allowances for his or her travelling, and such other expenses, as are prescribed by the regulations.

(2) The witness is entitled to be paid by:

(a) if the witness was summoned by the inquiry Chair—the Commonwealth; or

Authorised Version C2026C00323 registered 22/07/2026

(b) if the witness was summoned on the application of a person—that person.

(3) The regulations may provide for those allowances and expenses by reference to a scale of expenses for witnesses who attend before a court specified in the regulations.

Authorised Version C2026C00323 registered 22/07/2026

Division 4—Price notifications

95X Declarations by Minister or Commission

Notified goods or services

(1) The Minister, or the Commission with the approval of the Minister, may by notice published in the *Gazette* declare goods or services of a specified description to be notified goods or services for the purposes of this Part.

Declared persons

(2) The Minister, or the Commission with the approval of the Minister, may by notice published in the *Gazette* declare a person to be, in relation to goods or services of a specified description, a declared person for the purposes of this Part.

(3) The Commission must give the person notice in writing of a declaration under subsection (2). The notice must set out the effect of section 95Z.

(4) A declaration under subsection (2) must specify the time when it is to cease to have effect. Such a declaration ceases to have effect at the time specified, unless it is revoked sooner.

Variation or revocation

(5) The Minister, or the Commission with the approval of the Minister, may by notice published in the *Gazette* vary or revoke a declaration under this section.

95Y Declarations in relation to State or Territory authorities

(1) The Minister must not make or approve a declaration of a State or Territory authority under section 95X unless:

(a) the appropriate Minister of the State or Territory concerned has agreed to the declaration being made; or

Authorised Version C2026C00323 registered 22/07/2026

(b) the Council has, on the request (the ***current request***) of an Australian government, recommended the declaration and the Minister has consulted the appropriate Minister of the State or Territory concerned.

Role of Council

(2) The Council must not recommend a declaration of a State or Territory authority in relation to goods or services unless it is satisfied that:

(a) at least one Australian government has notified the State or Territory concerned that the government is not satisfied that there is effective supervision of the prices charged by the authority for the supply of those goods or services; and

(b) there is not such effective supervision; and

(c) the supply of those goods or services by the authority has a significant direct or indirect impact on qualifying trade or commerce.

(3) The Council must also not recommend a declaration of a State or Territory authority in relation to goods or services if:

(a) in the 5 year period before it received the current request, it was satisfied (when considering a previous request) that there was effective supervision of prices charged by the authority for the supply of those goods or services; and

(b) it is satisfied that there has not been a substantial change in the mechanism for that supervision since it was satisfied as mentioned in paragraph (a).

(4) In deciding whether there is effective supervision of prices charged by a State or Territory authority, if the State or Territory concerned is a party to the Competition Principles Agreement, the Council must apply the relevant principles set out in the agreement.

Definitions

(5) In this section:

Authorised Version C2026C00323 registered 22/07/2026

Australian government means the Commonwealth, a State, the Australian Capital Territory or the Northern Territory.

qualifying trade or commerce means trade or commerce described in paragraph 95C(1)(g) or trade and commerce between Australia and another place.

95Z Price restrictions

Offence: previous local supply

(1) A person commits an offence if:

(a) the person is a declared person in relation to notified goods or services; and

(b) the person supplies (the ***current supply***) goods or services of that description in a locality on particular terms and conditions (the ***actual terms***) at a particular price (the ***actual price***); and

(c) the person has supplied goods or services of that description in that locality on the same or substantially similar terms and conditions in the period of 12 months before the current supply; and

(d) the actual price exceeds the highest price at which the person has supplied goods or services of that description in that locality on the same or substantially similar terms and conditions in that period; and

(e) the current supply is not an exempt supply.

Penalty: 100 penalty units.

Note: Subsection (4) contains a defence to this offence.

Offence: no previous local supply

(2) A person commits an offence if:

(a) the person is a declared person in relation to notified goods or services; and

(b) the person supplies (the ***current supply***) goods or services of that description in a locality on particular terms and

Authorised Version C2026C00323 registered 22/07/2026

conditions (the ***actual terms***) at a particular price (the ***actual price***); and

(c) the person has not supplied goods or services of that description in that locality on the same or substantially similar terms and conditions in the period of 12 months before the current supply, but has supplied goods or services of that description elsewhere in Australia on the same or substantially similar terms and conditions in that period; and

(d) the actual price exceeds the highest price at which the person has supplied goods or services of that description in Australia on the same or substantially similar terms and conditions in that period; and

(e) the current supply is not an exempt supply.

Penalty: 100 penalty units.

Note: Subsection (4) contains a defence to this offence.

Offence: no previous supply in Australia

(3) A person commits an offence if:

(a) the person is a declared person in relation to notified goods or services; and

(b) the person supplies (the ***current supply***) goods or services of that description in a locality on particular terms and conditions (the ***actual terms***) at a particular price (the ***actual price***); and

(c) the person has not supplied goods or services of that description in Australia on the same or substantially similar terms and conditions in the period of 12 months before the current supply; and

(d) the current supply is not an exempt supply.

Penalty: 100 penalty units.

Note: Subsection (4) contains a defence to this offence.

Authorised Version C2026C00323 registered 22/07/2026

Defence

(4) Subsection (1), (2) or (3) does not apply if the following 4 requirements are satisfied.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4) (see subsection 13.3(3) of the *Criminal Code*).

Locality notice

(5) The first requirement is that the person has given the Commission a notice (a ***locality notice***) in writing stating that the person proposes to supply goods or services of that description in that locality on specified terms and conditions (the ***proposed terms***) at a specified price (the ***proposed price***).

Note: The person may give further notices modifying the locality notice: see section 95ZA.

Response to locality notice

(6) The second requirement is that:

(a) the applicable period in relation to the locality notice has ended; or

(b) the Commission has given the person a notice in writing stating that it has no objection to the person supplying goods or services of that description in that locality on the proposed terms at the proposed price; or

(c) both of the following apply:

(i) the Commission has given the person a notice (the ***response notice***) in writing stating that it would have no objection to the person supplying goods or services of that description in that locality on the proposed terms at a specified price (the ***approved price***) that is less than the proposed price;

(ii) the person has, not later than 7 days after being given the response notice, given the Commission a notice in writing stating that the person proposes to supply goods or services of that description in that locality on the

Authorised Version C2026C00323 registered 22/07/2026

proposed terms at a price not exceeding the approved price.

Actual terms

(7) The third requirement is that the actual terms are the same as, or substantially similar to, the proposed terms.

Actual price

(8) The fourth requirement is that the actual price does not exceed:
  (a) if paragraph (6)(a) or (b) applies—the proposed price; or
  (b) if paragraph (6)(c) applies—the approved price.

95ZA Later notices modifying a locality notice

(1) If a person gives the Commission a locality notice, the person may give the Commission one or more further notices in writing stating that the locality notice is to have effect as if there were substituted for the proposed price another specified price.

(2) A price specified in a notice under subsection (1) must be:
  (a) less than the proposed price; and
  (b) less than the price specified in any previous notice under that subsection in relation to the locality notice.

(3) If a notice is given under subsection (1), the locality notice has effect accordingly.

(4) In this section:

proposed price has the meaning given by subsection 95Z(5).

95ZB Applicable period in relation to a locality notice

(1) The ***applicable period*** in relation to a locality notice is the period (the ***price-freeze period***) of 21 days starting on the day on which the notice was given.

Authorised Version C2026C00323 registered 22/07/2026

(2) However, the Commission may, with the consent of the person who gave the locality notice, determine, before the end of the price-freeze period, that the applicable period in relation to the notice for the purposes of this section is a specified longer period.

(3) If the Commission so determines, that longer period is taken to become the ***applicable period*** in relation to the locality notice.

(4) Also, if the Commission has given a response notice, the period that is the ***applicable period*** (worked out under subsections (1) to (3)) in relation to the locality notice is taken to be increased by a period of 14 days.

Example: On 1 May the person gives the Commission a locality notice.

Under subsection (1), the applicable period ends on 21 May.

On 9 May the Commission, with the consent of the person, determines, under subsection (2), that the applicable period ends on 31 May.

If the Commission also gives the person a response notice, under subsection (4), the applicable period instead of ending on 31 May ends on 14 June.

95ZC Register of price notifications

Keeping of register

(1) The Commission must keep, at such place as it thinks fit, a register for the purposes of this section.

Information on the register

(2) If a person has given the Commission a locality notice, the Commission must, as soon as practicable after the end of the applicable period in relation to the notice, include in the register:

(a) a copy of the notice, on which has been endorsed, or to which has been attached, a statement indicating the outcome of the Commission's consideration of the notice (including any action taken by it in relation to the notice and the outcome of any such action); and

Authorised Version C2026C00323 registered 22/07/2026

(b) a copy of each notice given under this Part to, or by, the Commission in relation to the locality notice; and

(c) a statement of the reasons for the outcome of the Commission's consideration of the locality notice.

Gazette notice

(3) The Commission must, within 3 months after the end of the applicable period in relation to the locality notice, cause to be published in the *Gazette* a notice:

(a) stating that the Commission received the locality notice and specifying the date it received the notice; and

(b) setting out such particulars (if any) relating to the outcome of the Commission's consideration of the locality notice as it considers appropriate.

Exclusion of confidential information

(4) A person who gives the Commission a document in relation to a locality notice, or who makes an oral submission to the Commission in relation to such a notice, may ask it to exclude from a document to be placed in the register any information:

(a) that was in the document given by the person or in the submission made by the person; and

(b) that the person claims is confidential.

(5) The Commission may exclude the information if it is satisfied that the claim is justified and is not of the opinion that disclosure of the information is necessary in the public interest.

(6) An application may be made to the Administrative Review Tribunal for the review of a decision under subsection (5) to refuse to exclude the information.

Inspection of register

(7) A person may, at any time during ordinary office hours in the place where the register is kept, inspect or make copies of, or take extracts from, the register.

Authorised Version C2026C00323 registered 22/07/2026

Validity of acts done

(8) The validity of an act done by the Commission in relation to a locality notice is not affected by a failure of the Commission to comply with this section.

95ZD Delegation by Commission

(1) The Commission may, by writing, delegate to a member of the Commission:

(a) the Commission's price notification powers in relation to specified locality notices; and

(b) the Commission's power under section 95ZJ relating to a notice given by the member exercising (as a delegate) the Commission's price notification powers.

(2) In this section:

price notification powers means the Commission's powers under paragraph 95Z(6)(b) or (c).

Authorised Version C2026C00323 registered 22/07/2026

Division 5—Price monitoring

95ZE Directions to monitor prices, costs and profits of an industry

(1) The Minister may give the Commission a written direction:
  (a) to monitor prices, costs and profits relating to the supply of goods or services by persons in a specified industry; and
  (b) to give the Minister a report on the monitoring at a specified time or at specified intervals within a specified period.

Commercial confidentiality

(2) The Commission must, in preparing such a report, have regard to the need for commercial confidentiality.

Public inspection

(3) The Commission must make copies of the report available for public inspection as soon as practicable after it gives the Minister the report.

95ZF Directions to monitor prices, costs and profits of a business

(1) The Minister may give the Commission a written direction:
  (a) to monitor prices, costs and profits relating to the supply of goods or services by a specified person; and
  (b) to give the Minister a report on the monitoring at a specified time or at specified intervals within a specified period.

Commercial confidentiality

(2) The Commission must, in preparing such a report, have regard to the need for commercial confidentiality.

Commission to send person a copy of the report

(3) The Commission must send the person a copy of the report on the day it gives the Minister the report.

Authorised Version C2026C00323 registered 22/07/2026

Public inspection

(4) The Commission must also make copies of the report available for public inspection as soon as practicable after the person has received a copy of the report.

95ZG Exceptions to price monitoring

Exempt supplies

(1) The Minister must not direct the Commission under this Division to monitor prices, costs and profits relating to a supply of goods or services of a particular description that is an exempt supply in relation to goods or services of that description.

State or Territory authorities

(2) The Minister must not direct the Commission under this Division to monitor prices, costs and profits of a State or Territory authority that supplies goods or services unless the State or Territory concerned has agreed to the direction being given.

Authorised Version C2026C00323 registered 22/07/2026

Division 6—Other provisions

95ZH Ministerial directions

Commission

(1) The Minister may, by notice in writing give to the Chairperson, direct the Commission to give special consideration to a specified matter or matters in exercising its powers and performing its functions under this Part.

(2) The Commission must comply with any such directions.

Other bodies

(3) The Minister may, by notice in writing given to the person presiding at an external inquiry, direct the body holding the inquiry to give special consideration to a specified matter or matters in holding the inquiry.

(4) The body must comply with any such directions.

95ZI Inquiries by an unincorporated body or a group of 2 or more individuals

(1) This section applies to inquiries by an unincorporated body or a group of 2 or more individuals.

(2) The regulations may make provision for and in relation to the manner in which the unincorporated body or group of individuals is to:

(a) give a notice, report or other document to a person under this Part; or

(b) do any other thing under this Part.

Authorised Version C2026C00323 registered 22/07/2026

95ZJ Withdrawal of notices

Commission

(1) The Commission may give a person a notice (the ***withdrawal notice***) in writing withdrawing a notice it previously gave the person under this Part (other than this section).

(2) If the Commission does so, this Part has effect, from the time at which the withdrawal notice is given to the person, as if the other notice had not been given to the person.

Other bodies

(3) The body holding an external inquiry may give a person a notice (the ***withdrawal notice***) in writing withdrawing a notice it previously gave the person under this Part (other than this section).

(4) If the body does so, this Part has effect, from the time at which the withdrawal notice is given to the person, as if the other notice had not been given to the person.

95ZK Power to obtain information or documents

Notice by Commission

(1) If the Chairperson has reason to believe that a person is capable of giving information or producing documents relevant to:
  (a) the Commission considering the matters contained in a locality notice that the person has given it; or
  (b) an inquiry that is being held in relation to the person; or
  (c) a supply of goods or services by the person that is of a kind in relation to which the Commission is carrying out an inquiry; or
  (d) a supply of goods or services by the person that is of a kind in relation to which the Commission is monitoring under section 95ZE or 95ZF;

Authorised Version C2026C00323 registered 22/07/2026

the Chairperson may, by notice in writing signed by him or her and given to the person, require the person to do one or more of the following:

(e) give the Commission, by writing signed by the person or his or her agent or, in the case of a Commonwealth authority or a body corporate, by a competent officer of the authority or body, within the specified period and in the specified manner, specified information relating to the affairs of the person;

(f) produce to the Commission, within the specified period and in the specified manner, specified documents relating to the affairs of the person;

(g) if the person is a body corporate and the notice relates to the matter in paragraph (d)—give the Commission, together with the information or documents concerned, a declaration in a form approved by the Chairperson and signed by:

(i) the Chief Executive Officer (however described) of the body corporate; or

(ii) a person nominated by the Chief Executive Officer;

stating that the information or documents are true and correct.

Notice by other bodies

(2) If:

(a) an external inquiry is being held in relation to a person; and

(b) the inquiry Chair has reason to believe that the person is capable of giving information or producing documents relevant to the inquiry;

the inquiry Chair may, by notice in writing signed by him or her and given to the person, require the person:

(c) to give the body, by writing signed by the person or his or her agent or, in the case of a Commonwealth authority or a body corporate, by a competent officer of the authority or body, within the specified period and in the specified manner, specified information relating to the affairs of the person; or

Authorised Version C2026C00323 registered 22/07/2026

(d) to produce to the body, within the specified period and in the specified manner, specified documents relating to the affairs of the person.

Period specified in notice

(3) A period specified in a notice under subsection (1) or (2) must end at least 14 days after the notice was given.

(3A) A member of the Commission may vary a notice under subsection (1) to extend, or further extend, the period.

(3B) Subsection (3A) does not affect any operation that subsection 33(3) of the *Acts Interpretation Act 1901* has in relation to a notice under subsection (1) of this section.

Offence: refusal or failure to comply with notice

(4) A person commits an offence if the person refuses or fails to comply with a notice given to the person under this section.

Penalty: 20 penalty units.

(5) Subsection (4) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5) (see subsection 13.3(3) of the *Criminal Code*).

(6) It is a reasonable excuse for the purposes of subsection (4) for an individual to refuse or fail to give information or produce a document on the ground that the information or production of the document might tend to incriminate the individual or to expose the individual to a penalty.

(7) Subsection (6) does not limit what is a reasonable excuse for the purposes of subsection (5).

Authorised Version C2026C00323 registered 22/07/2026

Offence: false or misleading declarations

(8) A person must not, in a declaration made for the purposes of paragraph (1)(g), make a statement if the person knows, or is reckless as to whether, the statement is false or misleading.

Penalty: 20 penalty units.

Making information or documents publicly available

(9) If:

(a) a notice is given to a person under this section relating to an inquiry that is being held in public in relation to the person; and

(b) the person gives the information concerned or produces the documents concerned to the inquiry body in connection with the inquiry;

the inquiry body must make the information or documents available to the public in such manner as it thinks fit.

Note: See also section 95ZN (about confidentiality of information).

Delegation

(10) A member of the Commission may, by writing, delegate the member's powers under subsection (3A) to a member of the staff of the Commission who is an SES employee or an acting SES employee.

Note 1: Section 2B of the *Acts Interpretation Act 1901* contains the definitions of ***SES employee*** and ***acting SES employee***.

Note 2: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

(11) In performing a function, or exercising a power, under a delegation, the delegate must comply with any directions of the member.

Authorised Version C2026C00323 registered 22/07/2026

95ZL Inspection of documents etc.

Members or staff members

(1) A member of the Commission, or a member of the staff of the Commission, may inspect documents:
  (a) given to the Commission for the purposes of the exercise of its powers or the performance of its functions under this Part; or
  (b) produced at an inquiry.

(2) A member of the Commission, or a member of the staff of the Commission, may also make copies of, or take extracts from, those documents.

Associate members

(3) An associate member of the Commission may inspect documents:
  (a) given to the Commission for the purposes of the exercise of its powers or the performance of its functions under this Part in relation to an inquiry for the purposes of which the Chairperson has directed that the associate member be taken to be a member of the Commission; or
  (b) produced at that inquiry.

(4) An associate member of the Commission may also make copies of, or take extracts from, those documents.

External inquiries

(5) In an external inquiry, the person presiding at the inquiry, or a person providing assistance in the inquiry to the body holding the inquiry, may:
  (a) inspect documents given to the body for the purposes of the inquiry; and
  (b) make copies of, or take extracts from, those documents.

Authorised Version C2026C00323 registered 22/07/2026

95ZM Retention of documents

(1) The Commission, or a body other than the Commission, may retain a document given or produced to it as mentioned in section 95ZL. It may retain the document for such reasonable period as it thinks fit.

(2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Commission or other body, as the case may be, to be a true copy.

(3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.

(4) Until a certified copy is supplied, the Commission or other body, as the case may be, must, at such times and places as it thinks appropriate, permit the person otherwise entitled to possession of the document, or a person authorised by that person, to inspect and make copies of, or take extracts from, the document.

95ZN Confidential information

(1) This section applies if a person claims that disclosure of the following information would damage the competitive position of the person:

(a) information made available, or to be made available, by or on behalf of the person (whether in oral evidence or in a written statement, submission or other document) at the hearing of an inquiry by the Commission or another body;

(b) information given, or contained in a document produced, by the person under section 95ZK to the Commission or another body.

Commission or other body to take confidentiality steps

(2) If the Commission or other body, as the case may be:

Authorised Version C2026C00323 registered 22/07/2026

(a) is satisfied that the claim is justified; and

(b) is not of the opinion that disclosure of the information is necessary in the public interest;

it must take all reasonable steps to ensure that the information is not disclosed, without the consent of the person, in the proceedings or by it, to a person other than:

(c) in relation to the Commission:

(i) a member of the Commission or an associate member of the Commission; or

(ii) a member of the staff of the Commission who receives the information in the course of his or her duties; or

(d) in relation to the other body:

(i) the person presiding at the inquiry concerned; or

(ii) a person providing assistance in the inquiry to the other body.

Interpretation

(3) This section has effect despite anything in sections 95R and 95ZK.

95ZO Immunity

Members or associate members of the Commission

(1) A member of the Commission, or an associate member of the Commission, has, in the performance of his or her functions or the exercise of his or her powers under this Part as a member or associate member, the same protection and immunity as a Justice of the High Court.

Person presiding at an external inquiry

(2) In an external inquiry, the person presiding at the inquiry has, in the performance of his or her functions or the exercise of his or her powers under this Part in that capacity, the same protection and immunity as a Justice of the High Court.

Authorised Version C2026C00323 registered 22/07/2026

95ZP Secrecy: members or staff members of the Commission etc.

Offence

(1) An entrusted person commits an offence if:
  (a) the person:
    (i) makes a copy or other record of any protected information or of all or part of any protected document; or
    (ii) discloses any protected information to another person or to a court; or
    (iii) produces all or part of a protected document to another person or to a court; and
  (b) in doing so, the person is not acting in the course of performing or exercising functions, powers or duties under or in relation to this Act.

Penalty: Imprisonment for 2 years.

Courts

(2) An entrusted person cannot be required to:
  (a) disclose any protected information to a court; or
  (b) produce all or part of a protected document to a court;

unless that disclosure or production is necessary for the purpose of carrying into effect the provisions of this Act.

Definitions

(3) In this section:

court includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

entrusted person means a person who is or was:
  (a) a member of the Commission or an associate member of the Commission; or
  (b) a member of the staff of the Commission; or

Authorised Version C2026C00323 registered 22/07/2026

(c) appointed or engaged under the *Public Service Act 1999*.

produce includes permit access to.

protected document means a document that:

(a) is given to or otherwise acquired by the Commission for the purposes of this Part; and

(b) has not been made available to the public by the Commission under this Part.

protected information means information that:

(a) is disclosed to, or obtained by, an entrusted person for the purposes of this Part or as permitted by the repealed Part; and

(b) has not been made available to the public under this Part by the Commission and is not contained in oral evidence given in public at the hearing of an inquiry.

repealed Part means Part V of the *Prices Surveillance Act 1983*, as continued in operation by Schedule 2 to the *Trade Practices Legislation Amendment Act 2003*.

95ZPA Disclosure of protected information to the Energy Department

(1) An authorised entrusted person may disclose protected information to the Energy Department if the Chairperson is satisfied that the information will enable or assist an officer of the Energy Department to perform or exercise any function or power under the *Petroleum and Other Fuels Reporting Act 2017* or the *Fuel Security Act 2021*.

(2) The Chairperson may, by writing, impose conditions to be complied with in relation to protected information disclosed under subsection (1).

(3) An instrument under subsection (2) is not a legislative instrument.

Authorised Version C2026C00323 registered 22/07/2026

Delegation

(4) The Chairperson may, by writing, delegate any or all of his or her powers under subsection (1) or (2) to:
  (a) another member of the Commission; or
  (b) a member of the staff of the Commission who is an SES employee or an acting SES employee.

Note 1: Section 2B of the *Acts Interpretation Act 1901* contains the definitions of ***SES employee*** and ***acting SES employee***.

Note 2: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

(5) In performing a function, or exercising a power, under a delegation, the delegate must comply with any directions of the Chairperson.

(6) This section has effect despite anything in section 95ZN.

Definitions

(7) In this section:

authorised entrusted person means an entrusted person authorised by the Chairperson, in writing, for the purposes of this definition.

Energy Department means the Department administered by the Minister administering the *Petroleum and Other Fuels Reporting Act 2017*.

protected information has the same meaning as in section 95ZP.

95ZQ Secrecy: persons involved in inquiries by bodies other than the Commission

Offence

(1) An external person commits an offence if:
  (a) the person:

Authorised Version C2026C00323 registered 22/07/2026

(i) makes a copy or other record of any protected information or of all or part of any protected document; or

(ii) discloses any protected information to another person or to a court; or

(iii) produces all or part of a protected document to another person or to a court; and

(b) in doing so, the person is not acting in the course of performing or exercising functions, powers or duties under or in relation to this Act.

Penalty: Imprisonment for 2 years.

Courts

(2) An external person cannot be required to:

(a) disclose any protected information to a court; or

(b) produce all or part of a protected document to a court;

unless that disclosure or production is necessary for the purpose of carrying into effect the provisions of this Act.

Definitions

(3) In this section:

court includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

external person means a person who is or was:

(a) the person presiding at an external inquiry; or

(b) a person providing assistance in such an inquiry to the body holding the inquiry.

produce includes permit access to.

protected document means a document that:

(a) is given to or otherwise acquired by the body holding the external inquiry concerned for the purposes of that inquiry; and

Authorised Version C2026C00323 registered 22/07/2026

(b) has not been made available to the public by that body under this Part.

protected information means information that:

(a) is disclosed to, or obtained by, an external person for the purposes of the inquiry concerned; and

(b) has not been made available to the public under this Part by the body holding that inquiry and is not contained in oral evidence given in public at the hearing of that inquiry.

Authorised Version C2026C00323 registered 22/07/2026

Part VIII—Resale price maintenance

96 Acts constituting engaging in resale price maintenance

(1) Subject to this Part, a corporation (in this section called ***the supplier***) engages in the practice of resale price maintenance if that corporation does an act referred to in any of the paragraphs of subsection (3).

(2) Subject to this Part, a person (not being a corporation and also in this section called ***the supplier***) engages in the practice of resale price maintenance if that person does an act referred to in any of the paragraphs of subsection (3) where the second person mentioned in that paragraph is a corporation.

(3) The acts referred to in subsections (1) and (2) are the following:

(a) the supplier making it known to a second person that the supplier will not supply goods to the second person unless the second person agrees not to sell those goods at a price less than a price specified by the supplier;

(b) the supplier inducing, or attempting to induce, a second person not to sell, at a price less than a price specified by the supplier, goods supplied to the second person by the supplier or by a third person who, directly or indirectly, has obtained the goods from the supplier;

(c) the supplier entering into an agreement, or offering to enter into an agreement, for the supply of goods to a second person, being an agreement one of the terms of which is, or would be, that the second person will not sell the goods at a price less than a price specified, or that would be specified, by the supplier;

(d) the supplier withholding the supply of goods to a second person for the reason that the second person:

(i) has not agreed as mentioned in paragraph (a); or

(ii) has sold, or is likely to sell, goods supplied to him or her by the supplier, or goods supplied to him or her by a

Authorised Version C2026C00323 registered 22/07/2026

third person who, directly or indirectly, has obtained the goods from the supplier, at a price less than a price specified by the supplier as the price below which the goods are not to be sold;

(e) the supplier withholding the supply of goods to a second person for the reason that a third person who, directly or indirectly, has obtained, or wishes to obtain, goods from the second person:

(i) has not agreed not to sell those goods at a price less than a price specified by the supplier; or

(ii) has sold, or is likely to sell, goods supplied to him or her, or to be supplied to him or her, by the second person, at a price less than a price specified by the supplier as the price below which the goods are not to be sold; and

(f) the supplier using, in relation to any goods supplied, or that may be supplied, by the supplier to a second person, a statement of a price that is likely to be understood by that person as the price below which the goods are not to be sold.

(4) For the purposes of subsection (3):

(a) where a price is specified by another person on behalf of the supplier, it shall be deemed to have been specified by the supplier;

(b) where the supplier makes it known, in respect of goods, that the price below which those goods are not to be sold is a price specified by another person in respect of those goods, or in respect of goods of a like description, that price shall be deemed to have been specified, in respect of the first-mentioned goods, by the supplier;

(c) where a formula is specified by or on behalf of the supplier and a price may be ascertained by calculation from, or by reference to, that formula, that price shall be deemed to have been specified by the supplier; and

(d) where the supplier makes it known, in respect of goods, that the price below which those goods are not to be sold is a price ascertained by calculation from, or by reference to, a

Authorised Version C2026C00323 registered 22/07/2026

formula specified by another person in respect of those goods or in respect of goods of a like description, that price shall be deemed to have been specified, in respect of the first-mentioned goods, by the supplier.

(5) In subsection (4), ***formula*** includes a set form or method.

(6) For the purposes of subsection (3), anything done by a person acting on behalf of, or by arrangement with, the supplier shall be deemed to have been done by the supplier.

(7) A reference in any of paragraphs (3)(a) to (e), inclusive, including a reference in negative form, to the selling of goods at a price less than a price specified by the supplier shall be construed as including references to:

(a) the advertising of goods for sale at a price less than a price specified by the supplier as the price below which the goods are not to be advertised for sale;

(b) the displaying of goods for sale at a price less than a price specified by the supplier as the price below which the goods are not to be displayed for sale; and

(c) the offering of goods for sale at a price less than a price specified by the supplier as the price below which the goods are not to be offered for sale;

and a reference in paragraph (3)(d), (e) or (f) to a price below which the goods are not to be sold shall be construed as including a reference to the price below which the goods are not to be advertised for sale, to the price below which the goods are not to be displayed for sale and to the price below which the goods are not to be offered for sale.

(8) Subsection (1) does not apply with respect to any act referred to in a paragraph of subsection (3) if the supplier and the second person referred to in that paragraph are bodies corporate that are related to each other.

Authorised Version C2026C00323 registered 22/07/2026

96A Resale price maintenance in relation to services

(1) This Part applies to conduct in relation to services in a way that corresponds to the way it applies to conduct in relation to goods.

(2) For the purposes of subsection (1), this Part is to be read with appropriate modifications, including the following modifications:

(a) references in this Part to goods are to be read as references to services;

(b) references to the sale of goods are to be read as references to the re-supply of services.

97 Recommended prices

For the purposes of paragraph 96(3)(b), the supplier is not to be taken as inducing, or attempting to induce, a second person as mentioned in that paragraph in relation to any goods:

(a) by reason only of a statement of a price being applied to the goods as mentioned in paragraph 99(1)(a) or being applied to a covering, label, reel or thing as mentioned in paragraph 99(1)(b), provided that the statement is preceded by the words “recommended price”; or

(b) by reason only of his or her having given notification in writing to the second person (not being a notification by way of a statement being applied as mentioned in paragraph (a)) of the price that he or she recommends as appropriate for the sale of those goods, provided that there is included in the notification, and in each writing that refers, whether expressly or by implication, to the notification, a statement to the following effect:

“The price set out or referred to herein is a recommended price only and there is no obligation to comply with the recommendation.”.

98 Withholding the supply of goods

(1) For the purposes of paragraph 96(3)(d) or (e), the supplier shall be deemed to withhold the supply of goods to another person if:

Authorised Version C2026C00323 registered 22/07/2026

(a) the supplier refuses or fails to supply those goods to, or as requested by, the other person;
(b) the supplier refuses to supply those goods except on terms that are disadvantageous to the other person;
(c) in supplying goods to the other person, the supplier treats that person less favourably, whether in respect of time, method or place of delivery or otherwise, than the supplier treats other persons to whom the supplier supplies the same or similar goods; or
(d) the supplier causes or procures a person to withhold the supply of goods to the other person as mentioned in paragraph (a), (b) or (c) of this subsection.

(2) Paragraph 96(3)(d) does not apply in relation to the withholding by the supplier of the supply of goods to another person who, within the preceding year, has sold goods obtained, directly or indirectly, from the supplier at less than their cost to that other person:
(a) for the purpose of attracting to the establishment at which the goods were sold persons likely to purchase other goods; or
(b) otherwise for the purpose of promoting the business of that other person.

(3) For the purposes of subsection (2), there shall be disregarded:
(a) a genuine seasonal or clearance sale of goods that were not acquired for the purpose of being sold at that sale; or
(b) a sale of goods that took place with the consent of the supplier.

99 Statements as to the minimum price of goods

(1) For the purposes of paragraph 96(3)(f), if:
(a) a statement is applied to goods, whether by being woven in, impressed on, worked into or annexed or affixed to the goods or otherwise;
(b) a statement is applied to a covering, label, reel or thing in or with which goods are supplied; or

Authorised Version C2026C00323 registered 22/07/2026

(c) a statement is used in a sign, advertisement, invoice, catalogue, business letter, business paper, price list or other document or otherwise in a manner likely to lead to the belief that it refers to goods;

the statement shall be deemed to have been used in relation to those goods.

(2) For the purposes of subsection (1), ***covering*** includes a stopper, glass, bottle, vessel, box, capsule, case, frame or wrapper and ***label*** includes a band or ticket.

100 Evidentiary provisions

(1) Where, in proceedings under this Act by a person (in this section referred to as ***the plaintiff***) against another person (in this section referred to as ***the defendant***), it is claimed that the defendant has engaged in the practice of resale price maintenance and it is established that:

(a) the defendant has acted, in relation to the plaintiff, as mentioned in paragraph 98(1)(a), (b), (c) or (d);

(b) during a period ending immediately before the time when the defendant so acted, the defendant had been supplying goods of the kind withheld to the plaintiff or to another person carrying on a business similar to that of the plaintiff; and

(c) during the period of 6 months immediately before the time when the defendant so acted, the defendant became aware of a matter or circumstance capable of constituting a reason referred to in paragraph 96(3)(d) or (e) for the defendant's so acting;

then, subject to subsection (2), it shall be presumed, unless the contrary is established, that that matter or circumstance was the reason for the defendant's so acting.

(2) Subsection (1) does not apply where the plaintiff establishes the matter mentioned in paragraph 98(1)(b) or (c) but the terms disadvantageous to the plaintiff, or the less favourable treatment of the plaintiff, consisted only of a requirement by the defendant as to

Authorised Version C2026C00323 registered 22/07/2026

the time at which, or the form in which, payment was to be made or as to the giving of security to secure payment.

(3) In the application of this section in proceedings by the Commission for an injunction, references to the plaintiff shall be construed as references to a person specified in the application for the injunction as the person in relation to whom the defendant is claimed to have acted as mentioned in paragraph (1)(a).

Authorised Version C2026C00323 registered 22/07/2026

Part IX—Review by Tribunal of decisions of Commission

Division 1A—Applications for review of certain decisions of the Commission

100A Applications for review

(1) This section applies if a provision of this Act provides that a person may apply under this Division for review of a decision of the Commission.

(2) The person may:
  (a) as determined under subsection (3); and
  (b) within the time allowed by or under subsection (3);
apply to the Tribunal for a review of the decision.

(3) The Minister may, by legislative instrument, determine requirements for making applications for review under subsection (2), including requirements relating to the time by which such reviews are allowed to be made.

(4) The Tribunal must review the decision.

(5) For the purposes of the review, this Act applies in relation to the Tribunal in like manner as it applies in relation to the Commission.

100B Functions and powers of Tribunal

(1) On a review under section 100A, the Tribunal:
  (a) may make a decision affirming, setting aside or varying the decision of the Commission; and
  (b) for the purposes of the review, may perform all the functions and exercise all the powers of the Commission.

Authorised Version C2026C00323 registered 22/07/2026

(2) If a person applies to the Tribunal for review of a decision of the Commission mentioned in subsection 51ABZZG(7), the Tribunal must:

(a) make its decision on the review within 14 days after the day the Tribunal receives the application for review; and

(b) give to the applicant:

(i) written notice of the Tribunal's decision; and

(ii) a written statement of the Tribunal's reasons for making the decision;

within 1 business day (within the meaning of section 51ABK) after the Tribunal makes its decision.

(3) A decision of the Tribunal affirming, setting aside or varying a decision of the Commission is, for the purposes of this Act other than this Part, to be taken to be a decision of the Commission.

(4) For the purposes of a review by the Tribunal under this Division, the member of the Tribunal presiding at the review may require the Commission to give such information, make such reports and provide such other assistance to the Tribunal as the member specifies.

(5) For the purposes of a review under this Division, the Tribunal may have regard to any information given, documents produced or evidence given to the Commission in connection with the making of the decision by the Commission to which the review relates.

Authorised Version C2026C00323 registered 22/07/2026

Division 1B—Applications for review of acquisition determinations

Subdivision A—Applications for review

100C Applications for review

(1) A person dissatisfied with an acquisition determination in respect of a notification of an acquisition may:

(a) as determined under subsection (2); and

(b) before the end of 14 days after the statement of the Commission's reasons for making the determination is included on the acquisitions register;

apply to the Tribunal for a review of the determination if the person is:

(c) the notifying party of the notification; or

(d) is allowed to apply under subsection (3).

(2) The Minister may, by legislative instrument, determine requirements for making an application for the purposes of paragraph (1)(a).

(3) The Tribunal may, by written notice given to a person, allow the person to apply to the Tribunal for review of the determination.

(4) In considering whether to allow a person to apply to the Tribunal under subsection (3), the Tribunal must have regard to:

(a) the person's interest in the matter; and

(b) the efficient administration of the acquisitions provisions; and

(c) whether the application has any reasonable prospects of success; and

(d) any other matter that the Tribunal considers relevant.

Authorised Version C2026C00323 registered 22/07/2026

100D Further information and documents in relation to applications

(1) An applicant for review under this Division must give to the Tribunal the information or documents that are determined under subsection (2) in relation to the application for the purposes of this subsection.

(2) The Minister may, by legislative instrument, determine information or documents in relation to an application for the purposes of subsection (1).

(3) The applicant must give the information or documents:
  (a) when the applicant applies for the review; or
  (b) no later than 30 days after the applicant applies for review.

(4) If the applicant does not give the information or documents to the Tribunal by the end of those 30 days, the applicant is taken to withdraw the application under subsection 100E(1) at the end of those 30 days.

100E Applicants may withdraw applications

(1) The applicant may, at any time, by giving written notice to the Tribunal, withdraw an application for review made to the Tribunal under subsection 100C(1).

(2) If the application is withdrawn, a participant in the proceedings for review (other than the applicant) may apply to the Tribunal for reinstatement of the application within 7 days after the person receives notice that the application is withdrawn (or such longer period as the Tribunal, in special circumstances, allows).

(3) If:
  (a) a participant applies under subsection (2); and
  (b) the Tribunal believes it to be appropriate to reinstate the application for review;

the Tribunal may reinstate the application and make such orders as appear to the Tribunal to be appropriate in the circumstances.

Authorised Version C2026C00323 registered 22/07/2026

100F Tribunal may dismiss applications if parties consent

The Tribunal may, at any time, dismiss an application for review made to the Tribunal under subsection 100C(1) if the Tribunal has the consent of the participants in the proceedings for review.

100G Tribunal may dismiss applications if fees not paid

The Tribunal may dismiss an application for review made to the Tribunal under subsection 100C(1) if a fee payable by the applicant to the Tribunal in respect of the application is not paid by the time determined under subsection 112(2).

100H Tribunal may dismiss applications if applicants fail to comply with order etc.

The Tribunal may dismiss an application for review made to the Tribunal under subsection 100C(1) if the applicant fails to comply with:

(a) this Act; or

(b) an order of the Tribunal in relation to the proceedings for review.

100J Tribunal may dismiss application if frivolous, vexatious etc.

The Tribunal may, at any time, dismiss an application made to the Tribunal under subsection 100C(1) if the Tribunal is satisfied that the application:

(a) is frivolous, vexatious, misconceived or lacking in substance; or

(b) has no reasonable prospects of success; or

(c) is otherwise an abuse of the process of the Tribunal.

Note: See also section 111 (costs).

Authorised Version C2026C00323 registered 22/07/2026

100K Certain participants may seek to withdraw from being participants

General rule

(1) The Tribunal may order that a participant in a proceeding before the Tribunal under this Division ceases to be a participant in the proceeding if the participant gives written notice to the Tribunal that the participant wishes to cease being a participant in the proceeding.

Exception

(2) However, subsection (1) does not apply in relation to the applicant.

Note: The applicant may withdraw the application (see section 100E).

100L Notice of withdrawals and dismissals

If, under this Subdivision:

(a) an applicant withdraws an application for review; or

(b) the Tribunal dismisses an application;

the Tribunal must give the Commission and each participant in the proceedings for review notice of the withdrawal or dismissal.

100M Tribunal not to review determinations while Commission considering public benefit applications

Applications for review

(1) A person must not apply under subsection 100C(1) for review of an acquisition determination made under subsection 51ABZE(1) in respect of a notification of an acquisition if:

(a) a public benefit application has been made in relation to the notification; and

(b) the Commission has not decided under section 51ABZV to cease considering the public benefit application; and

Authorised Version C2026C00323 registered 22/07/2026

(c) the Commission has not made a determination under subsection 51ABZW(1) in respect of the public benefit application.

(2) A day is not counted for the purposes of paragraph 100C(1)(b) in relation to applying for review of an acquisition determination made under subsection 51ABZE(1) in respect of a notification of an acquisition if the day occurs:

(a) on or after the day a public benefit application is made in relation to the notification; and

(b) on or before the day on which the Commission:

(i) decides under section 51ABZV to cease considering the public benefit application; or

(ii) makes a determination under subsection 51ABZW(1) in respect of the public benefit application.

Proceedings for review

(3) If:

(a) a person applies under subsection 100C(1) for review of an acquisition determination made under subsection 51ABZE(1) in respect of a notification of an acquisition; and

(b) before the proceedings for review have ended, a public benefit application is made in relation to the notification;

the Tribunal must cease the proceedings for review until the Commission:

(c) decides under section 51ABZV to cease considering the public benefit application; or

(d) makes a determination under subsection 51ABZW(1) in respect of the public benefit application.

(4) A day is not counted for the purposes of section 100P in relation to review of an acquisition determination made under subsection 51ABZE(1) in respect of a notification of an acquisition if the day occurs:

(a) on or after the day a public benefit application is made in relation to the notification; and

Authorised Version C2026C00323 registered 22/07/2026

(b) on or before the day on which the Commission:
(i) decides under section 51ABZV to cease considering the public benefit application; or
(ii) makes a determination under subsection 51ABZW(1) in respect of the public benefit application.

Subdivision B—Functions and powers

100N Functions and powers of Tribunal

(1) On a review of an acquisition determination under this Division, the Tribunal:
(a) may make a determination affirming, setting aside or varying the determination; and
(b) for the purposes of the review, may perform all the functions and exercise all the powers of the Commission.

(2) Subject to subsection (3) of this section:
(a) paragraph 51ABZE(2)(c); or
(b) subsection 51ABZF(2); or
(c) subsection 51ABZW(2);
(whichever is relevant) applies in relation to the Tribunal in the same way as it applies in relation to the Commission.

(3) The Tribunal may, if the Tribunal determines it to be appropriate, make an acquisition determination by consent of:
(a) the applicant for the review; and
(b) if the applicant for the review is not the notifying party of the notification of the acquisition—the notifying party; and
(c) all persons (if any) who have been permitted under subsection 109(2) to intervene in the proceedings for review;
even if the Tribunal does not have the satisfaction referred to in paragraph 51ABZE(2)(c) or subsection 51ABZF(2) or 51ABZW(2) (whichever is relevant).

Authorised Version C2026C00323 registered 22/07/2026

(4) For the purposes of this Act other than this Part, a determination of the Tribunal affirming, setting aside or varying an acquisition determination is taken to be a determination of the Commission.

100P Time within which Tribunal must make determination on review

(1) The Tribunal must not make its determination on a review of an acquisition determination under this Division earlier than the 45th day after the day the Commission makes the acquisition determination.

(2) Subject to subsections (3) and (5), the Tribunal must make its determination on a review of an acquisition determination under this Division no later than 90 days after the later of:

(a) the last day on which an application for review of the determination could have been made under subsection 100C(1); and

(b) the day the applicant gives to the Tribunal the additional information or documents required under subsection 100D(1).

Note: See also subsections 100M(3) and (4) if a public benefit application is made.

Extensions

(3) Before the end of the period within which the Tribunal must make its determination on the review (including that period as extended under subsection (5)), the Tribunal may, in writing, extend the period by 60 days.

(4) The Tribunal may extend the period under subsection (3) only once.

(5) If, during the period within which the Tribunal must make its determination on the review (including that period as extended under subsection (3)), the Tribunal is satisfied that the matter cannot be dealt with properly within the period because:

Authorised Version C2026C00323 registered 22/07/2026

(a) of the matter's complexity, or the volume of information, documents and evidence before the Tribunal in relation to the matter; or

(b) the Tribunal has allowed new information, documents or evidence under subsection 100S(2); or

(c) of other special circumstances;

the Tribunal may, in writing, extend the period by 90 days.

(6) The Tribunal may extend the period under subsection (5) of this section only once.

(7) If the Tribunal extends the period under subsection (3) or (5), the Tribunal must give a copy of the extension to each participant in the proceedings for review and to the Commission.

100Q Technical experts

For the purposes of a review under this Division, the Tribunal:

(a) may, in such manner as it sees fit:

(i) ask questions of a technical expert; or

(ii) seek information, documents or evidence from a technical expert; and

(b) if it does so:

(i) may allow a participant in the proceedings or the Commission to ask questions of the technical expert before the Tribunal; and

(ii) may have regard to any information furnished, documents produced or evidence given to the Tribunal by the expert.

100R Commission information

(1) For the purposes of a review under this Division, the member of the Tribunal presiding at the review may require the Commission to give such information, make such reports and provide such other assistance to the Tribunal as the member specifies.

Authorised Version C2026C00323 registered 22/07/2026

(2) For the purposes of a review under this Division, the Tribunal may have regard to any information furnished, documents produced or evidence given to the Commission in connection with the making of the determination to which the review relates.

(3) Subsection (2) does not apply to information, documents or evidence to which the Commission was not permitted to have regard in making the determination.

100S Information gathering etc.

(1) For the purposes of a review under this Division, the Tribunal:
  (a) may consult, in such a manner as it sees fit, any consumer associations or consumer interest groups; and
  (b) may have regard to any information furnished, documents produced or evidence given to the Tribunal in connection with such consultation.

(2) For the purposes of a review under this Division in relation to an acquisition determination in respect of a notification of an acquisition, the Tribunal may allow a person to provide new information, documents or evidence if:
  (a) the Tribunal is satisfied that the information, document or evidence was not in existence at the time the Commission made the determination; or
  (b) the person is the notifying party of the notification, and the Tribunal is satisfied that:
    (i) the information, documents or evidence are relevant to the grounds on which the Commission made the determination; and
    (ii) the person was not given a reasonable opportunity to make submissions to the Commission in relation to those grounds, or the evidence or other material on which those grounds were based, before the Commission made the determination (including because the person was not informed of the grounds, evidence or other material).

Authorised Version C2026C00323 registered 22/07/2026

100T Information etc. to which Tribunal may have regard

Despite section 100N, the Tribunal must not, for the purposes of a review under this Division, have regard to any information, documents or evidence other than:

(a) information that was referred to in the Commission's reasons for making the determination to which the review relates; and

(b) the information, documents or evidence referred to in subsection 100B(5); and

(c) the information or documents given to the Tribunal under subsection 100D(1); and

(d) the information, documents or evidence referred to in subparagraph 100Q(b)(ii); and

(e) any information or report given to the Tribunal under subsection 100R(1); and

(f) the information, documents or evidence referred to in subsection 100R(2); and

(g) information given to the Tribunal as a result of the Tribunal seeking such relevant information, and consulting with such persons, as it believes reasonable and appropriate for the sole purpose of clarifying the information, documents or evidence referred to in subsection 100R(2); and

(h) the information, documents or evidence referred to in paragraph 100S(1)(b); and

(i) any information, documents or evidence referred to in subsection 100S(2).

Authorised Version C2026C00323 registered 22/07/2026

Division 1—Applications for review of determinations by the Commission under Part VII

101 Applications for review

(1) A person dissatisfied with a determination by the Commission under Division 1 of Part VII:

(a) in relation to an application for an authorisation or a minor variation of an authorisation; or

(b) in relation to the revocation of an authorisation, or the revocation of an authorisation and the substitution of another authorisation;

may, as prescribed and within the time allowed by or under the regulations or under subsection (1B), as the case may be, apply to the Tribunal for a review of the determination.

(1AAA) Subsection (1) does not apply to a determination under subsection 89(1A).

(1AA) If:

(a) the person applying under subsection (1) for review of a determination was the applicant for an authorisation, or for the minor variation of an authorisation, for the revocation of an authorisation or for the revocation of an authorisation and the substitution of another authorisation; or

(b) the Tribunal is satisfied that the person has a sufficient interest;

the Tribunal must review the determination.

(1A) Where a person has, whether before or after the commencement of this subsection, made an application under subsection (1) for a review of a determination, the Tribunal may, if the Tribunal determines it to be appropriate, make a determination by consent of the applicant, the Commission, and all persons who have been permitted under subsection 109(2) to intervene in the proceedings

Authorised Version C2026C00323 registered 22/07/2026

for review, whether or not the Tribunal is satisfied of the matters referred to in subsection 90(7).

(1B) A presidential member may, on the application of a person concerned:

(a) in an application for an overseas merger authorisation; or

(b) in an application for a minor variation or a revocation of such an authorisation; or

(c) in an application for the revocation of such an authorisation and the substitution of another authorisation;

shorten the time allowed by or under the regulations within which an application under subsection (1) may be made for a review of the determination by the Commission of the application referred to in paragraph (a), (b) or (c) if the member is satisfied that special circumstances exist and that, in all the circumstances, it would not be unfair to do so.

(1C) The regulations may make it a requirement that a person applying under subsection (1) for review of a determination relating to a merger authorisation give an undertaking under section 87B that the person will not make the acquisition to which the authorisation relates while the Tribunal is considering the application.

(3) Subsections 90(7), 91A(4) and (4A), 91B(5) and 91C(7) apply in relation to the Tribunal in like manner as they apply in relation to the Commission.

Authorised Version C2026C00323 registered 22/07/2026

101A Application for review of notices under Division 2 of Part VII

A person dissatisfied with the giving of a notice by the Commission under subsection 93(3), (3A) or (3B), 93AAA(1), 93AC(1), (2) or (2A), 93ACA(1), 93AD(5) or 93AG(7) may, as prescribed and within the time allowed by or under the regulations, apply to the Tribunal for a review of the giving of the notice and, if the person was the person to whom the notice was given or the Tribunal is satisfied that the person has a sufficient interest, the Tribunal shall review the giving of the notice.

101B Application for review of notice under section 95AB

(1) A person dissatisfied with the giving of a notice under section 95AB may, as prescribed and within the time allowed by or under the regulations, apply to the Tribunal for a review of the giving of the notice.

(2) If the person is the person to whom the notice was given or the Tribunal is satisfied that the person has a sufficient interest, the Tribunal must review the giving of the notice.

102 Functions and powers of Tribunal

(1) On a review of a determination of the Commission under Division 1 of Part VII in relation to:

(a) an application for an authorisation; or

(b) an application for a minor variation of an authorisation; or

(c) an application for, or the Commission's proposal for, the revocation of an authorisation; or

(d) an application for, or the Commission's proposal for, the revocation of an authorisation and the substitution of another authorisation;

the Tribunal may make a determination affirming, setting aside or varying the determination of the Commission and, for the purposes of the review, may perform all the functions and exercise all the powers of the Commission.

Authorised Version C2026C00323 registered 22/07/2026

Note: Subsections (9) and (10) contain limitations in relation to determinations relating to merger authorisations.

(1AA) If a person applies to the Tribunal for review of a determination of the Commission relating to:

(a) the grant of a merger authorisation (a ***domestic merger authorisation***) that is not an overseas merger authorisation; or

(b) the minor variation, or the revocation, of a domestic merger authorisation; or

(c) the revocation of a domestic merger authorisation and the substitution of another domestic merger authorisation;

the Tribunal must make its determination on the review within the period applying under subsection (1AC) (the ***relevant period***).

(1AB) If the Tribunal has not made its determination on the review of a determination of the Commission mentioned in subsection (1AA) within the relevant period, the Tribunal is taken to have made a determination affirming the Commission's determination.

(1AC) The period applying under this subsection is as follows:

(a) unless paragraph (b) or (c) applies—90 days;

(b) if the Tribunal allows new information, documents or evidence under subsection (9), and paragraph (c) does not apply—120 days;

(c) if an extended period is determined under subsection (1AD)—that extended period;

beginning on the day the Tribunal receives the application for review.

(1AD) Before the end of the period (the ***initial period***) otherwise applying under paragraph (1AC)(a) or (b) for the review, the Tribunal may determine in writing that:

(a) the matter cannot be dealt with properly within the initial period, either because of its complexity or because of other special circumstances; and

Authorised Version C2026C00323 registered 22/07/2026

(b) an extended period applies for the review, which consists of the initial period and a further specified period of not more than 90 days.

The Tribunal must, before the end of the initial period, notify the applicant and the Commission of any determination under this subsection.

(1A) If a person applies to the Tribunal for review of a determination of the Commission relating to:

(a) the grant of an overseas merger authorisation; or

(b) the minor variation, or the revocation, of an overseas merger authorisation; or

(c) the revocation of an overseas merger authorisation and the substitution of another overseas merger authorisation;

the Tribunal must make its determination on the review within 60 days after receiving the application for review.

(1B) The 60 day time limit in subsection (1A) does not apply if the Tribunal considers that the matter cannot be dealt with properly within that period of 60 days, either because of its complexity or because of other special circumstances.

(1C) If subsection (1B) applies, the Tribunal must notify the applicant before the end of the 60 day period that the matter cannot be dealt with properly within that period.

(2) A determination by the Tribunal affirming, setting aside or varying a determination of the Commission under Division 1 of Part VII in relation to:

(a) an application for an authorisation; or

(b) an application for a minor variation of an authorisation; or

(c) an application for, or the Commission's proposal for, the revocation of an authorisation; or

(d) an application for, or the Commission's proposal for, the revocation of an authorisation and the substitution of another authorisation;

Authorised Version C2026C00323 registered 22/07/2026

is, for the purposes of this Act other than this Part, to be taken to be a determination of the Commission.

(4) Upon a review of the giving of a notice by the Commission under subsection 93(3):

(a) if the person who applied for the review satisfies the Tribunal that:

(i) the conduct or proposed conduct does not and would not have the purpose, and does not and is not likely to have or would not have and would not be likely to have the effect, of substantially lessening competition (within the meaning of section 47); or

(ii) in all the circumstances:

(A) the conduct or proposed conduct has resulted or is likely to result, or would result or be likely to result, in a benefit to the public; and

(B) that benefit outweighs or would outweigh the detriment to the public that has resulted or is likely to result, or would result or be likely to result, from the conduct or proposed conduct;

the Tribunal must make a determination setting aside the notice; or

(b) if the person who applied for the review does not so satisfy the Tribunal—the Tribunal must make a determination affirming the notice.

(5) Where the Tribunal makes a determination setting aside a notice given by the Commission under subsection 93(3), then, after the setting aside of the notice, subsection 93(7) has effect in relation to the conduct referred to in the notice as if the Commission had not given the notice.

(5AAA) Upon a review of the giving of a notice by the Commission under subsection 93(3B):

(a) if the person who applied for the review satisfies the Tribunal that the corporation or other person on whom the conditions relating to the conduct or proposed conduct have been

Authorised Version C2026C00323 registered 22/07/2026

imposed has not failed to comply with those conditions—the Tribunal must make a determination setting aside the notice; or

(b) if the person who applied for the review does not so satisfy the Tribunal—the Tribunal must make a determination affirming the notice.

(5AAB) Upon a review of the giving of a notice by the Commission under subsection 93AAA(1):

(a) if the person who applied for the review satisfies the Tribunal that:

(i) apart from section 93AAA, the Commission would not have had grounds referred to in subparagraph 93AAA(1)(b)(i); or

(ii) compliance with the conditions imposed by the notice would not ensure those grounds would not exist;

the Tribunal must make a determination setting aside the notice; or

(b) if the person who applied for the review does not so satisfy the Tribunal—the Tribunal must make a determination affirming the notice.

(5AA) Upon a review of the giving of a notice by the Commission under subsection 93AC(1):

(a) if the person who applied for the review satisfies the Tribunal that any benefit to the public that has resulted or is likely to result or would result or be likely to result from the provision outweighs or would outweigh the detriment to the public that has resulted or is likely to result or would result or be likely to result from the provision—the Tribunal must make a determination setting aside the notice; or

(b) if the person who applied for the review does not so satisfy the Tribunal—the Tribunal must make a determination affirming the notice.

(5AB) Upon a review of the giving of a notice by the Commission under subsection 93AC(2):

Authorised Version C2026C00323 registered 22/07/2026

(a) if the person who applied for the review satisfies the Tribunal that:

(i) the provision does not and would not have the purpose, and does not and is not likely to have or would not have and would not be likely to have the effect, of substantially lessening competition (within the meaning of section 45); or

(ii) in all the circumstances:

(A) the provision has resulted or is likely to result, or would result or be likely to result, in a benefit to the public; and

(B) that benefit outweighs or would outweigh the detriment to the public constituted by any lessening of competition that has resulted or is likely to result, or would result or be likely to result, from the provision;

the Tribunal must make a determination setting aside the notice; or

(b) if the person who applied for the review does not so satisfy the Tribunal—the Tribunal must make a determination affirming the notice.

(5ABA) Upon a review of the giving of a notice by the Commission under subsection 93AC(2A):

(a) if the person who applied for the review satisfies the Tribunal that the corporation on whom the conditions relating to the conduct or proposed conduct have been imposed has not failed to comply with those conditions—the Tribunal must make a determination setting aside the notice; or

(b) if the person who applied for the review does not so satisfy the Tribunal—the Tribunal must make a determination affirming the notice.

(5AC) If the Tribunal sets aside a notice (the ***objection notice***) given by the Commission under subsection 93AC(1), (2) or (2A), then:

(a) if the Commission gave the objection notice as part of a process starting when the Commission gave a notice under

Authorised Version C2026C00323 registered 22/07/2026

subsection 93A(2) (conference notice) during the period described in paragraph 93AD(1)(a)—the Commission is taken for the purposes of paragraph 93AD(1)(b) to have decided not to give the objection notice at the time the Tribunal set it aside; and

(b) for the purposes of subsections 93AD(2) and (3), the objection notice is taken not to have been given.

(5A) The Tribunal must set aside a notice under subsection 93(3A) if the person who applied for a review of the giving of the notice satisfies the Tribunal that the likely benefit to the public from the conduct or proposed conduct to which the notice relates will outweigh the likely detriment to the public from the conduct or proposed conduct.

(5B) The Tribunal must affirm the giving of a notice under subsection 93(3A) if the person who applied for a review of the giving of the notice does not satisfy the Tribunal as described in subsection (5A).

(5C) If the Tribunal sets aside a notice given by the Commission under subsection 93(3A), then:

(a) if the Commission gave the notice as part of a process starting when the Commission gave a notice under subsection 93A(2) during the period described in paragraph 93(7A)(a)—the Commission is taken for the purposes of paragraph 93(7A)(b) to have decided not to give the notice under subsection 93(3A) at the time the Tribunal set aside the notice given under subsection 93(3A); and

(b) for the purposes of subsections 93(7B) and (7C) the notice is taken not to have been given.

(5D) Upon a review of the giving of a notice by the Commission under subsection 93ACA(1):

(a) if the person who applied for the review satisfies the Tribunal that:

Authorised Version C2026C00323 registered 22/07/2026

(i) apart from section 93ACA, the Commission would not have had grounds referred to in subparagraph 93ACA(1)(b)(i); or

(ii) compliance with the conditions imposed by the notice would not ensure those grounds would not exist;

the Tribunal must make a determination setting aside the notice; or

(b) if the person who applied for the review does not so satisfy the Tribunal—the Tribunal must make a determination affirming the notice.

(5E) Upon a review of the giving of a notice by the Commission under subsection 93AD(5):

(a) if the person who applied for the review satisfies the Tribunal that:

(i) the period provided for in subparagraph 93AD(3)(c)(i) in relation to the relevant collective bargaining notice is appropriate in all the circumstances; or

(ii) the other period determined by the Commission under subsection 93AD(5) is not appropriate in all the circumstances;

the Tribunal must make a determination setting aside the notice under subsection 93AD(5); or

(b) if the person who applied for the review does not so satisfy the Tribunal—the Tribunal must make a determination affirming the notice.

(5F) Upon a review of the giving of a notice by the Commission under subsection 93AG(7) extending a period for a further period:

(a) if the person who applied for the review satisfies the Tribunal that in all the circumstances it is not reasonable to extend the period for the further period, the Tribunal must make a determination setting aside the notice; or

(b) if the person who applied for the review does not so satisfy the Tribunal—the Tribunal must make a determination affirming the notice.

Authorised Version C2026C00323 registered 22/07/2026

(5G) Upon a review of the giving of a notice under section 95AB:

(a) if the person who applied for the review satisfies the Tribunal that conduct of the kind specified in the notice:

(i) would not have the effect, or would not be likely to have the effect, of substantially lessening competition; or

(ii) would result, or would be likely to result, in a benefit to the public that would outweigh the detriment to the public that would result, or would be likely to result, from conduct of that kind;

the Tribunal must make a determination setting aside the notice under section 95AB; or

(b) if the person who applied for the review does not so satisfy the Tribunal—the Tribunal must make a determination affirming the notice.

(6) For the purposes of a review by the Tribunal under this Division, the member of the Tribunal presiding at the review may require the Commission to furnish such information, make such reports and provide such other assistance to the Tribunal as the member specifies.

(7) For the purposes of a review under this Division, the Tribunal may have regard to any information furnished, documents produced or evidence given to the Commission in connexion with the making of the determination, or the giving of the notice, to which the review relates.

(8) Subsections (9) and (10) apply to a review of a determination of the Commission in relation to:

(a) an application for a merger authorisation; or

(b) an application for a minor variation of a merger authorisation; or

(c) an application for, or the Commission's proposal for, the revocation of a merger authorisation; or

(d) an application for, or the Commission's proposal for, the revocation of a merger authorisation and the substitution of another merger authorisation.

Authorised Version C2026C00323 registered 22/07/2026

(9) For the purposes of the review, the Tribunal may allow a person to provide new information, documents or evidence that the Tribunal is satisfied was not in existence at the time the Commission made the determination.

(10) Despite subsection (1), the Tribunal must not, for the purposes of the review, have regard to any information, documents or evidence other than:

(a) information that was referred to in the Commission's reasons for making the determination; and

(b) any information or report given to the Tribunal under subsection (6); and

(c) the information, documents or evidence referred to in subsection (7); and

(d) information given to the Tribunal as a result of the Tribunal seeking such relevant information, and consulting with such persons, as it considers reasonable and appropriate for the sole purpose of clarifying the information, documents or evidence referred to in subsection (7); and

(e) any information, documents or evidence referred to in subsection (9).

Authorised Version C2026C00323 registered 22/07/2026

Division 2—Procedure and Evidence

102A Reviews are re-hearings

A review by the Tribunal under this Part is a re-hearing of the matter, unless it is a review of:

(a) a determination by the Commission:
  (i) in relation to an application for a merger authorisation or a minor variation of a merger authorisation; or
  (ii) in relation to the revocation of a merger authorisation, or the revocation of a merger authorisation and the substitution of another merger authorisation; or

(b) an acquisition determination.

103 Procedure generally

(1) In proceedings before the Tribunal:
  (a) the procedure of the Tribunal is, subject to this Act and the regulations, within the discretion of the Tribunal;
  (b) the proceedings shall be conducted with as little formality and technicality, and with as much expedition, as the requirements of this Act and a proper consideration of the matters before the Tribunal permit; and
  (c) the Tribunal is not bound by the rules of evidence.

(2) The powers of the Tribunal with respect to matters of procedure in particular proceedings may be exercised by a presidential member.

(3) The powers mentioned in subsection (2) may be exercised by a presidential member:
  (a) whether or not the Tribunal has been constituted under section 37 in relation to the proceedings; and
  (b) once the Tribunal is so constituted—whether or not that member is part of the Division of the Tribunal so constituted.

Authorised Version C2026C00323 registered 22/07/2026

104 Regulations as to certain matters

The regulations may make provision:

(a) for securing, by means of preliminary statements of facts and contentions, and by the production of documents, that all material facts and considerations are brought before the Tribunal by all persons participating in any proceedings before the Tribunal or by the Commission; and

(aa) with respect to evidence in proceedings before the Tribunal, including the appointment of persons to assist the Tribunal by giving evidence (whether personally or by means of a written report); and

(b) with respect to the representation in any such proceedings of persons having a common interest in the proceedings.

105 Power to take evidence on oath

(1) The Tribunal may take evidence on oath or affirmation and for that purpose a member of the Tribunal may administer an oath or affirmation.

(2) A member of the Tribunal may summon a person to appear before the Tribunal to give evidence and to produce such documents (if any) as are referred to in the summons.

106 Hearings to be in public except in special circumstances

(1) Subject to this section, the hearing of proceedings before the Tribunal shall be in public.

(2) Where the Tribunal is satisfied that it is desirable to do so by reason of the confidential nature of any evidence or matter or for any other reason, the Tribunal may:

(a) direct that a hearing or part of a hearing shall take place in private and give directions as to the persons who may be present; or

(b) give directions prohibiting or restricting the publication of evidence given before the Tribunal, whether in public or in

Authorised Version C2026C00323 registered 22/07/2026

private, or of matters contained in documents filed or lodged with the Registrar, received in evidence by the Tribunal or placed in the records of the Tribunal.

(3) The powers of the Tribunal under this section may be exercised by the Tribunal as constituted for the purposes of the hearing or by the Tribunal constituted by a presidential member.

107 Evidence in form of written statement

The Tribunal may permit a person appearing as a witness before the Tribunal to give evidence by tendering, and, if the Tribunal thinks fit, verifying by oath or affirmation, a written statement, which shall be filed with the Registrar.

108 Taking of evidence by single member

The Tribunal as constituted for the purposes of any proceedings in which evidence may be taken may authorise a presidential member to take evidence for the purposes of the proceedings on its behalf, with such limitations (if any) as the Tribunal so constituted directs, and, where such an authority is given:

(a) that member may take evidence accordingly; and

(b) for the purposes of this Act, that member shall, in relation to the taking of evidence in accordance with the authority, be deemed to constitute the Tribunal.

109 Participants in proceedings before Tribunal

(1) A person to whom an authorisation under Division 1 of Part VII was granted is entitled to participate in any proceedings before the Tribunal instituted by another person in relation to that authorisation.

(1AA) A notifying party of a notification of an acquisition is entitled to participate in any proceedings before the Tribunal under Division 1B instituted by another person for review of an acquisition determination in respect of the notification.

Authorised Version C2026C00323 registered 22/07/2026

(1A) A person to whom a notice was given by the Commission under subsection 93(3), (3A) or (3B) or 93AC(1), (2) or (2A) is entitled to participate in any proceedings before the Tribunal instituted by another person in relation to that notice.

(2) The Tribunal may, upon such conditions as it thinks fit, permit a person to intervene in proceedings before the Tribunal.

110 Representation

In proceedings before the Tribunal:

(a) a natural person may appear in person;

(aa) a person other than a body corporate may be represented by an employee of the person approved by the Tribunal;

(b) a body corporate may be represented by an employee, or a director or other officer, of the body corporate approved by the Tribunal;

(c) an unincorporated association of persons or a member of an unincorporated association of persons may be represented by a member or officer of the association approved by the Tribunal; and

(d) any person may be represented by a barrister or a solicitor of the Supreme Court of a State or Territory or of the High Court.

111 Tribunal may order costs be awarded

(1) If the Tribunal is satisfied that it is appropriate to do so, the Tribunal may order that a participant in proceedings for review under Division 1A or 1B pay all or a specified part of the costs of another participant in the proceedings.

(2) If the Tribunal makes an order under subsection (1), it may make further orders that it believes appropriate in relation to the assessment or taxation of the costs.

Authorised Version C2026C00323 registered 22/07/2026

(3) The Minister may, by legislative instrument, make provision for and in relation to fees payable for the assessment or taxation of costs ordered by the Tribunal to be paid.

(4) If a participant (the ***first participant***) is ordered to pay some or all of the costs of another participant under subsection (1), the amount of the costs may be recovered in the Federal Court as a debt due by the first participant to the other participant.

112 Tribunal may charge fees

(1) For the purposes of Division 1A or 1B, the Tribunal may, on behalf of the Commonwealth, charge fees determined under subsection (2) for the purposes of this subsection.

(2) The Minister may, by legislative instrument, determine fees for the purposes of subsection (1).

(3) A determination under subsection (2) may provide for fees to be payable in respect of the following:
  (a) applications to the Tribunal under Division 1A or 1B;
  (b) proceedings in the Tribunal under Division 1A or 1B;
  (c) taxation of costs by the Tribunal in relation to such proceedings.

(4) Without limiting the scope of a determination that may be made under subsection (2), such a determination may determine, or determine matters relating to, any or all of the following:
  (a) the circumstances in which a fee is to be paid;
  (b) who must pay;
  (c) the time when payment is required;
  (d) remittal, refund and waiver of fees.

(5) A determination made under subsection (2) may do any or all of the following:
  (a) determine fees in respect of a particular class or classes of applications, costs or proceedings;

Authorised Version C2026C00323 registered 22/07/2026

(b) determine different fees in respect of different classes of applications, costs or proceedings;
(c) determine the amount of, or a method for working out the amount of, a fee;
(d) make provision in relation to the whole or a part of a fee;
(e) provide for the Tribunal to make orders relating to the payment of a fee in relation to a proceeding.

(6) A fee must not be such as to amount to taxation.

(7) A fee charged under subsection (1):
(a) is a debt due to the Tribunal, on behalf of the Commonwealth; and
(b) is recoverable by the Tribunal, on behalf of the Commonwealth, in a court of competent jurisdiction.

113 Standing of Commission to seek judicial review

(1) This section extends (and does not limit) the meaning of the term ***person aggrieved*** in the *Administrative Decisions (Judicial Review) Act 1977* for the purposes of the application of that Act in relation to:
(a) a decision made by the Tribunal under this Part (including a decision of the Tribunal that is taken to be a decision of the Commission); or
(b) a failure to make a decision under this Part; or
(c) conduct engaged in for the purpose of making a decision under this Part.

(2) The Commission is taken to be a person aggrieved by the decision, failure or conduct.

(3) A term (except person aggrieved) used in this section and in the *Administrative Decisions (Judicial Review) Act 1977* has the same meaning in this section as it has in that Act.

Authorised Version C2026C00323 registered 22/07/2026