

**Authorised Version No. 003**  
**Fair Trading (Recreational Services)**  
**Regulations 2004**

**S.R. No. 34/2004**

Authorised Version incorporating amendments as at  
1 January 2011

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**1 Objective**

The objective of these Regulations is to prescribe particulars for the purposes of section 32N of the **Fair Trading Act 1999**.

**2 Authorising provision**

These Regulations are made under section 165 of the **Fair Trading Act 1999**.

**3 Commencement**

These Regulations come into operation on 1 June 2004.

**4 Definition**

In these Regulations *gross negligence*, in relation to an act or omission, means that the act or omission was done or omitted to be done with reckless disregard, with or without consciousness, for the consequences of the act or omission.

**5 Limitation of liability in relation to supply of recreational services**

- (1) For the purposes of section 32N(2)(c) of the **Fair Trading Act 1999**, a term excluding, restricting or modifying the application of, the exercise of a right conferred by, or any liability of a supplier for a breach of, the guarantees set out in sections 60 and 61 of the Australian Consumer Law (Victoria) or that has that effect must—

Reg. 5(1)  
amended by  
S.R. No.  
124/2010  
reg. 7.

- (a) if the term is contained in or on a sign displayed at the place at which the recreational services are being supplied, include the warning and note set out in Schedule 1 in a form that complies with subregulation (2); and
  - (b) if the term is contained in or on a notice given to the purchaser, include the warning and note set out in Schedule 1; and
  - (c) if the term is contained in a form to be signed by the purchaser, include the warning and note set out in Schedule 2.
- (2) For the purposes of subregulation (1)(a), the warning and note must be in a font size at least equal to the largest font size used elsewhere in the sign, excluding the name or logo of the supplier.
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**SCHEDULES**

**SCHEDULE 1**

**WARNING:** If you participate in these activities your rights to sue the supplier under the **Fair Trading Act 1999** if you are killed or injured because the activities were not supplied with due care and skill or were not reasonably fit for their purpose, are excluded, restricted or modified in the way set out in or on this \*sign/\*notice.

**NOTE:** The change to your rights, as set out in or on this \*sign/\*notice, does not apply if your death or injury is due to gross negligence on the supplier's part. "Gross negligence" is defined in the Fair Trading (Recreational Services) Regulations 2004.

\*Delete whichever is not applicable.

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Sch. 2  
substituted by  
S.R. No.  
124/2010  
reg. 8.

**SCHEDULE 2**

**WARNING UNDER THE FAIR TRADING ACT 1999**

Under the Australian Consumer Law (Victoria), several statutory guarantees apply to the supply of certain goods and services. These guarantees mean that the supplier named on this form is required to ensure that the recreational services it supplies to you—

- are rendered with due care and skill; and
- are reasonably fit for any purpose which you, either expressly or by implication, make known to the supplier; and
- might reasonably be expected to achieve any result you have made known to the supplier.

Under section 32N of the **Fair Trading Act 1999**, the supplier is entitled to ask you to agree that these statutory guarantees do not apply to you. If you sign this form, you will be agreeing that your rights to sue the supplier under the **Fair Trading Act 1999** if you are killed or injured because the services provided were not in accordance with these guarantees, are excluded, restricted or modified in the way set out in this form.

**NOTE:** The change to your rights, as set out in this form, does not apply if your death or injury is due to gross negligence on the supplier's part. **Gross negligence** is defined in the Fair Trading (Recreational Services) Regulations 2004.

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## ENDNOTES

### 1. General Information

The Fair Trading (Recreational Services) Regulations 2004, S.R. No. 34/2004 were made on 4 May 2004 by the Chief Justice, Administrator of the State of Victoria as the Governor's Deputy with the advice of the Executive Council under section 165 of the **Fair Trading Act 1999**, No. 16/1999 and came into operation on 1 June 2004: regulation 3.

The Fair Trading (Recreational Services) Regulations 2004 will sunset 10 years after the day of making on 4 May 2014 (see section 5 of the **Subordinate Legislation Act 1994**).

Fair Trading (Recreational Services) Regulations 2004

Endnotes

S.R. No. 34/2004

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**2. Table of Amendments**

This Version incorporates amendments made to the Fair Trading (Recreational Services) Regulations 2004 by statutory rules, subordinate instruments and Acts.

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Fair Trading Amendment and Revocation Regulations 2010, S.R. No. 124/2010

*Date of Making:* 26.10.10

*Date of Commencement:* Regs 7, 8 on 1.1.11: reg. 3

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**3. Explanatory Details**

No entries at date of publication.