

BusinessPlus+ Newsletter

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Win for Small Business - “Loaded Contracts” Crackdown

The Federal government has announced that big business will face new fines and penalties for entering into unfair contracts with consumers and small businesses, under a crackdown agreed to by the Federal and State governments.

This shakeup is aimed at stopping big business squeezing small business partners, such as through changing supply contracts without approvals, suddenly terminating contracts and the auto-renewal of contracts without an agreement and enforcing long lead times to cancel.

The government originally extended an unfair contract term protection for consumers to small business in 2016.

However, the law only allows big businesses to be taken to court to have the relevant terms declared unfair and void. Even if the contract term is proven to be unfair, it is not illegal and there is no penalty to big business.

The Small Business Ombudsman, Kate Carnell, has pressed the government to make unfair contract terms between big and small businesses illegal and subject to penalties. The governments have agreed to strengthen unfair contract term protections.

The shakeup will include making unfair terms unlawful and giving courts the power to impose a civil penalty.

The definition of small business will be expanded from less than 20 employees to less than 100 employees, with an annual turnover test of less than \$10 million.

The government’s Small Business Ombudsman has indicated that the new small business thresholds would ensure 99% of businesses were covered by the tougher unfair contract rules.

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