



Australian Government

The Treasury

INDUSTRY CODES OF CONDUCT POLICY FRAMEWORK

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FOREWORD

The Australian Government is committed to ensuring that the right policy settings are in place to support Australia's vibrant business environment.

Our role is to implement sound policies that effectively encourages all businesses — big and small — to invest, innovate, create jobs and above all, to have the confidence to 'have a go' in our economy. We want to foster efficient and properly functioning markets that deliver the best outcomes for Australian consumers.

The business community lies at the heart of building competitive markets to promote sustainability and growth. Prescribed industry codes of conduct are an example of where industry participants can come together to develop commercial norms to improve commercial transparency and the way they deal with each other, particularly where an imbalance of bargaining power exists.

Prescribed industry codes are a special feature of the *Competition and Consumer Act 2010* that can be used to guard against unfair and opportunistic conduct that can distort markets, impair Australia's entrepreneurial and innovative capabilities and harm consumers. Codes can play a role in getting the balance right by putting in place necessary regulations to foster the effective operation of the industry.

The Government does not take a decision to regulate a specific industry lightly and is well aware of the red tape burdens imposed on business. This is why the Government will only prescribe a code in very limited circumstances where there is a compelling case for intervention, supported by robust evidence.

It is important that industry stakeholders understand the high threshold requirements before they embark on the development of a prescribed code. Industry must make a compelling case before the Government will consider initiating a formal process for investigating the merits of prescribing a code. Other options must be fully explored.

This decision-making process involves public consultation and detailed analysis to determine whether a code can provide the right regulatory support without imposing unnecessary red tape on business.

I am pleased to release this Policy Framework to help industry stakeholders to understand the role of industry codes, when they might be appropriate, and the factors that the Government takes into account before prescribing them in law.



The Hon Michael McCormack MP
Minister for Small Business

INTRODUCTION

The purpose of this Policy Framework is to provide businesses, consumers, industry representatives and policy makers with an understanding of industry codes of conduct prescribed under the *Competition and Consumer Act 2010 (CCA)*.

Prescribed codes allow industries to develop tailored and targeted regulation to raise the standard of business conduct. Codes can play a valuable role in bringing industry participants together, often small businesses and their larger business counterparts, to find ways to address problems in commercial dealings between them. If left unresolved, these issues may hold back the industry as a whole.

Industry codes can provide the necessary regulatory support for industry to guard against misconduct and opportunistic behaviour, while fostering long term changes to business culture that can drive competitiveness, sustainability and productivity in the sector.

Codes are designed to complement the objectives of the CCA — to enhance the welfare of Australians through the promotion of competition and fair trading. They give industry a unique mechanism to recast fundamental CCA principles into more practical and relevant requirements to directly address specific problems.

While codes offer a flexible regulatory tool to address market concerns, it is important to remember that codes do come at a cost to business. Codes are only prescribed by the Government in very limited circumstances where there is a compelling case for intervention, supported by robust evidence.

WHAT ARE INDUSTRY CODES OF CONDUCT?

Industry codes can be described as a set of rules or standards of conduct for an industry, including the relationship between industry participants or their customers. This Policy Framework primarily deals with codes that regulate dealings between industry participants.

Industry codes can be broken up into three categories; self-regulation, where a voluntary code is developed and maintained by an industry body; voluntary prescribed codes of conduct, a code that is prescribed under the CCA and binding when an industry participant signs-up to it; and mandatory prescribed codes of conduct that are prescribed under the CCA and are automatically binding on all industry participants. More detail on these three different types of codes has been provided below.

SELF-REGULATION

The health and prosperity of any industry is ultimately the responsibility of businesses in that industry. They may decide to establish their own code to encourage industry members to adhere to a higher standard of behaviour or ethics. These types of codes can be referred to as self-regulated, voluntary codes.

These codes are typically developed by industry associations or peak bodies to address issues of importance to that industry. This is done with little or no involvement from the Government. Other industry participants may choose to voluntarily sign-up to the code and comply with it. This may be driven by considerations such as altruistic corporate social responsibility, consumer/community expectations, or to gain a competitive advantage by differentiating themselves from competitors.

Enforcement of these codes and dealing with breaches is a matter for industry itself and the Government does not enforce such codes. For example, an industry group may establish its own code administration body, tasked with activities such as promoting, enforcing and maintaining the code on behalf of signatories to the code.

The Government encourages businesses to regulate themselves rather than rely on the Government to do it for them and supports industry-led cooperative schemes such as codes of conduct. Effective self-regulated codes are generally the preferred method of addressing specific problems in an industry.

In fact, the Government will generally not consider bringing forward a prescribed industry code unless evidence exists to indicate that self-regulation has been attempted within the industry and failed to address the problem adequately.

Effective industry self-regulation can avoid the often overly-prescriptive nature of regulation and provide industry with the flexibility and agility to adapt the rules to changing circumstances and market conditions. Further, it avoids the potentially time consuming Government approval process associated with prescribing codes into law under the CCA.

Industry is encouraged to explore the merits of developing its own code, but should be mindful that getting together with competitors to discuss such matters can potentially raise competition concerns. It is a good idea to contact the Australian Competition and Consumer Commission (ACCC) before embarking on a code to avoid the risk of potentially breaching competition laws. The ACCC can also provide general guidance to industries looking to develop their own voluntary industry code.

EXAMPLE: FILM EXHIBITION AND DISTRIBUTION CODE OF CONDUCT

In 1998, film distributors and exhibitors agreed to a voluntary industry self-regulated code of conduct (the Code). It is intended to promote transparent and co-operative relationships.

Following its inception the Code has undergone several reviews. The 2013 review found that while the Code had improved commercial relations, there were opportunities to modify it to account for the digital evolution of the industry. As the Code is self-regulation, it was possible for industry representatives to agree to and enact new clauses in the Code, such as the inclusion of digital formats, without negotiating with Government or awaiting legislative change.

PRESCRIBED INDUSTRY CODES

Under Part IVB of the CCA, regulations may be made to prescribe industry codes to regulate the conduct between industry participants or towards consumers in the industry.¹

Being an industry code 'prescribed under the CCA' means that the code has the force of law. A breach of an industry code is a breach of the CCA.² There are a range of remedies for breaches of a prescribed industry code, as discussed further below.

Current Prescribed Industry Codes of Conduct

As of November 2017, there are six mandatory codes and one voluntary code currently prescribed under the CCA.

MANDATORY CODES:

Franchising Code of Conduct	Regulates the conduct between franchisors and franchisees, including requirements for franchisors to disclose information to prospective franchisees.
Horticulture Code of Conduct	Regulates the conduct between produce growers and traders.
Wheat Port Code of Conduct	Regulates the conduct of bulk wheat port terminal operators to allow exporters access to port terminal services.
Oil Code of Conduct	Regulates the conduct of participants in the petroleum marketing industry, including requirements for wholesalers to set and post terminal gate prices.
Unit Pricing Code	Regulates the food price labelling practices of certain grocery retailers by requiring the use of unit pricing for particular grocery items sold to consumers.
Sugar Code	Regulates the conduct of growers, mill owners and marketers (of grower economic interest sugar) in relation to contracts or agreements for the supply of cane or the on-supply of sugar.

VOLUNTARY CODES:

Food and Grocery Code of Conduct	Regulates the conduct of retailers and wholesalers that sign-up, in their dealings with suppliers. The first voluntary code to be prescribed under the CCA.
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¹ Under section 51AE of the CCA.

² Under section 51ACB of the CCA.

Prescribed industry codes are designed to achieve minimum standards of conduct in an industry where there is an identifiable problem to address. They can be used as an alternative to primary legislation in instances where a market failure has been identified. Codes are a unique regulatory tool as they offer industry participants with an opportunity to become highly involved in the process – including initiating the code, shaping the rules and educating their members once the code is in place.

Prescribed industry codes may be enforced by the ACCC or through private legal action. The ACCC is responsible for regulating the codes, monitoring compliance and taking enforcement action when necessary.

Further information and guidance on the current prescribed industry codes can be found on the ACCC's website at www.accc.gov.au.

Prescribed mandatory codes

Prescribed mandatory codes are legally binding on all industry participants specified within that code. For example, the Franchising Code is a mandatory code that applies to all franchisors and franchisees as defined in that code.

Mandatory codes can be used to address problematic behaviour between industry participants that often stems from an imbalance of bargaining power.

For example, small businesses supplying to larger businesses may be forced to accept inappropriate types of costs and risks being shifted upon them if they are in a weak negotiating position. This can take the form of:

- Lack of sufficient disclosure of business information or material facts before entering into a long term contractual arrangement;
- Difficulties in negotiating fair trading terms;
- Lack of clarity and transparency in trading terms;
- Lack of contractual certainty, such as exposure to retrospective or unilateral contract variations; and
- Reluctance to make complaints or enforce legal rights due to fear of retribution or loss of contract.

Such conduct may go well beyond hard bargaining or vigorous competition and can distort the market. It can cause significant harm to small businesses by inhibiting the ability to plan for their business, and reducing incentives to invest, innovate or expand capacity. In turn, this can have long-term costs for Australian consumers through higher long-run prices, limited product ranges and variety, and poor quality goods or services.

Industry codes can be used to identify the specific behaviours in an industry that should be prevented (or required) and to better ensure risk is allocated efficiently between the parties to enhance the operation of the market.

Codes do not have a standard form, as they are tailored to the industry and the problem they are addressing. This means the features of a code should be determined on a case-by-case basis.

However, industry codes do have some common features and often contain a set of requirements to: (1) improve transparency and certainty in contracts; (2) set minimum standards of conduct; and (3) provide for dispute resolution procedures.

Prescribed voluntary codes

The key difference between prescribed voluntary and mandatory codes is the way in which they are applied to industry participants.

Prescribed voluntary industry codes are only binding on industry participants if they agree to 'opt-in'. For example, the Food and Grocery Code of Conduct (currently the only prescribed voluntary code) applies only to grocery retailers that have given written notice to the ACCC stating they agree to be bound by the code.

Once a corporation has opted-in, they are legally obliged to adhere to the code requirements and can be subject to enforcement action for any breaches in the same way as if the code was mandatory.

Signatories to a voluntary code can subsequently opt-out or withdraw at any stage, and thus cease to be bound by the code. However, corporations will still be held accountable for any breaches of the code that occurred during the time in which they were signatories.

A prescribed voluntary code may have the advantage of fostering a stronger commitment for signatories to comply with the spirit and substance of a code compared to one that is mandated. The cooperative nature of voluntary codes may lead to more robust and enduring behavioural changes that can strengthen business relationships within the supply chain.

Voluntary codes may also lend themselves to greater flexibility and scope for the parties to compromise in order to arrive at mutually acceptable terms. If parties are unwilling to reach an agreement on a voluntary code, it may influence the Government's decision on the necessity to implement a mandatory code.

In most other respects, including the Government's approach and decision-making processes, prescribed mandatory and voluntary industry codes are very similar.

ENFORCEMENT OF PRESCRIBED CODES

Prescribed industry codes are enforceable by the ACCC or by private action under the CCA, with a wide range of remedies available. These include:

- injunctions to either prevent or require particular conduct (section 80);
- damages to compensate for loss or damage resulting from a contravention of a code (section 82);
- non-punitive orders such as community service orders (section 86C—only on application of the ACCC); and
- other compensatory orders (section 87).

The ACCC can accept administrative undertakings, which are on the public record, where companies generally agree to: remedy the harm caused by the conduct; accept responsibility for their actions; and establish or review and improve their trade practices compliance programs and culture.

The ACCC also has the ability to undertake random compliance checks and access information and documents that industry participants may be required to 'keep, generate or publish' under a code.³

CIVIL PECUNIARY PENALTIES AND INFRINGEMENT NOTICES

In 2014, the Government introduced a package of legislative reforms to the Franchising Code, including amendments to the CCA to allow pecuniary penalties and infringement notices to be imposed for breaches of an industry code.

The *Competition and Consumer Amendment (Industry Code Penalties) Act 2014* amended the CCA to allow for industry codes to include pecuniary penalties not exceeding 300 penalty units (currently \$63,000) for breach of a civil penalty provision of an industry code.

It also allowed for the ACCC to issue an infringement notice where it has reasonable grounds to believe a person (or body corporate) has contravened a civil penalty provision of an industry code. Infringement notice amounts are 50 penalty units (currently \$10,500) for a body corporate and 10 penalty units (currently \$2,100) in any other case.

Currently, only the Franchising Code and Horticulture Code contain civil penalties, and only for breaches of certain provisions of the codes that were deemed to be serious or egregious in nature. Other prescribed codes currently do not have penalty provisions — separate policy and legislative action would be required to specifically introduce penalties under those codes.

³ Under section 51ADD of the CCA.

Having penalties in industry codes can provide the ACCC with a powerful compliance and enforcement tool to allow them to punish those that breach the code and deter others from doing so. However, penalties in codes also impose significant sanctions on a specific industry sector that do not apply elsewhere in the economy.

Not all industry codes need penalties in order to be effective. Codes should focus on providing an effective framework for industry to resolve their issues with minimal regulatory intervention. That is, penalties should only be considered in necessary and appropriate circumstances — for example, where there is systematic or egregious misconduct occurring in the industry that is unlikely to be effectively addressed by a code without the threat of penalties for non-compliance.

Penalties and infringement notices were introduced in the Franchising Code following many years of industry experience with the code, numerous reviews and incremental reforms over time before such measures were deemed necessary.

Policymakers should consider whether non-punitive remedies are sufficient in encouraging compliance (see above). They should also keep in mind that the general prohibitions of the CCA such as in relation to unconscionable or misleading conduct continue to apply, making significant penalties already available to deal with serious misconduct.

WHEN SHOULD THE GOVERNMENT INTERVENE WITH A CODE?

Well-functioning markets are central to the growth of the Australian economy and the wellbeing of the Australian community. In markets that function efficiently, resources flow to those parts of the economy that serve the national interest most productively.

As a general principle, the Government considers that markets should be free to operate without excessive regulation, particularly in relation to small business. This allows competitive markets to deliver greater choice and benefits to consumers.

The Government is keenly aware that any intervention can have unintended or unforeseen consequences which distort the market and create further problems for market participants. It can impose an unnecessary administrative burden on businesses that are required to comply with regulation. Regulation can also create significant barriers to entry for new firms and can stifle innovation and choice. Once regulation becomes established, it may be difficult to alter and can become out of date when market conditions change.

The Government will only prescribe mandatory or voluntary codes in very limited circumstances — when it is absolutely necessary for supporting the efficient operation of markets or the welfare of consumers. This high threshold is reflected in the limited number of codes that have been prescribed over the years.

Government intervention will only be considered where there is a demonstrable problem affecting industry participants or consumers which the market cannot or will not overcome, and where such intervention is likely to result in a net public benefit.

If industry wishes to ask the Government to introduce a prescribed code of conduct, it must make a compelling case and bring forward strong evidence to justify why intervention is absolutely necessary.

MARKET FAILURE

Market failure occurs when there are problems with the operation of a market that prevents it producing optimal outcomes. In these situations resources cannot flow to their best use, to the detriment of industry participants and consumers. Examples of market failures that may lead to the establishment of prescribed industry codes are asymmetric information and imperfect competition.

Asymmetric information occurs where market participants do not have access to the same information. This prevents parties from making informed decisions and bargaining on a level playing field. For example, the Franchising Code requires a disclosure statement be provided to prospective franchisees so they can make a reasonably informed decision about entering into a franchise agreement.

Imperfect competition occurs when there are relatively few producers compared with the number of consumers (or suppliers compared with retailers) in a market, or vice versa. This can result in an imbalance of bargaining power between the parties. Where this occurs parties may be unable to negotiate a fair contract. For example, the Food and Grocery Code of Conduct sets out minimum terms to be included in a grocery supply agreement and requires retailers to adhere to minimum standards of behaviour, such as placing restrictions on the ability to retrospectively or unilaterally vary contracts.

Market failure does not automatically mean that a code is required. There may be several solutions to the market issue that do not require any Government involvement. For example, industry education may be an effective solution to improve industry participants' knowledge, awareness and the quality of information availability to them, which may lead to improved market outcomes.

MINISTERIAL RESPONSIBILITY FOR INDUSTRY CODES

A Minister in the Treasury portfolio is responsible for administering the industry code provisions within Part IVB of the CCA, and has overarching responsibility for the industry codes framework (referred to hereafter as the Treasury Minister).

The Treasury Minister is responsible for maintaining the integrity of the industry codes framework and oversees the making of regulation to prescribe industry codes and any subsequent amendments to them.

Other Ministers may have primary policy carriage of particular codes that fall within their portfolio responsibilities. For example, the Minister for Agriculture has policy responsibility for the Horticulture Code of Conduct. It falls upon the relevant policy Minister to maintain, amend and review their codes, which is done in close consultation with the Treasury Minister who must be in agreement.

Industry participants or other persons affected by conduct occurring within a particular industry may approach the Government with a proposed code. In the first instance, industry should bring their issues to the attention of the relevant policy Minister for consideration. If the relevant policy Minister, in consultation with the Treasury Minister, agrees that there is a problem to be addressed, the Ministers will then commence a process that may lead to the prescription of an industry code.

DECISION-MAKING CRITERIA FOR PRESCRIBING INDUSTRY CODES

Industries often propose codes and ask the Government to consider prescribing them into law. Such codes can have wide implications for other industry participants and for consumers, and may overlap with broader national policy agendas. It is important that the Government applies a robust decision-making process to allow all relevant factors to be properly considered.

Before the Government undertakes any formal detailed analysis of a proposed code developed by industry, it must first be satisfied that certain threshold criteria have been met.

1. IS THERE AN IDENTIFIABLE PROBLEM IN THE INDUSTRY?

Industry must clearly identify the market failure and its implications for the welfare of the industry and consumers. That is, industry must identify the problematic conduct being engaged in, the harm being caused, and to whom. The nature and magnitude of the problem should be identified with precision, to ensure that any regulatory response can be adequately targeted. Ideally, qualitative and quantitative data should be provided by industry to support the case for Government intervention.

There should be compelling evidence to indicate that the problems experienced are so significant that they have effects beyond individual firms or groups of firms within an industry, such that there is a national public interest in the prescription of a code.

2. CAN THE PROBLEM BE ADDRESSED USING EXISTING LAWS OR REGULATIONS?

The Government prefers not to impose a regulatory burden on industries when other options are effective. The Government is unlikely to intervene with a code if existing laws and regulations, at the national, State and Territory levels, already exist to address the identified problem. For example, the generic provisions of the CCA such as the prohibition against unconscionable conduct or the fair trading provisions under the Australian Consumer Law may be sufficient to address the identified problem. Alternatively, there may be relevant State or Territory regulatory regimes that already deal with specific issues in that industry.

3. HAS INDUSTRY SELF-REGULATION BEEN ATTEMPTED?

The path to prescribing an industry code is usually a progressive one. Industry codes will generally not be prescribed unless there is evidence that existing measures, including any self-regulation that has been attempted within an industry, have failed to address the identified problem.

The Government generally prefers to see industry attempt self-regulation to resolve its issues before proposing a prescribed code. Options for self-regulation will often be one of the alternatives to regulation considered by the Government as part of the Regulation Impact Statement (RIS). See below for more details on the RIS process.

4. IS AN INDUSTRY CODE THE MOST SUITABLE MECHANISM FOR RESOLVING THE PROBLEM?

Industry must demonstrate that not only is a code a suitable mechanism for resolving the problem, it is the most effective solution.

Industry codes are not designed to regulate every aspect of the dealings between industry participants. Codes are primarily focused on improving transparency and certainty in commercial dealings. They are particularly well suited for parties within a supply chain that are engaged in long term, inter-dependent commercial relationships.

While codes often arise in the context of an imbalance of power, they are not designed to protect smaller participants from competitive pressures that relate to bargaining power, access to markets or limited scale when purchasing. Codes should not be used to restrict competition or unduly interfere with the parties' freedom to contract. Rather, codes are intended to address conduct that goes beyond hard bargaining or vigorous competition, where inappropriate types and levels of costs and risks are being shifted by a stronger party onto a weaker party.

5. IS THERE LIKELY TO BE A NET PUBLIC BENEFIT?

The existence of a market failure itself does not necessarily mean that the Government should intervene. There must be evidence that prescription of a code will provide public benefits that will outweigh the costs associated with regulation. Industry should be able to quantify the likely benefits and provide an indication of the estimated compliance costs. This will assist the Government in arriving at a preliminary view on whether further investigation is warranted.

If the Government subsequently decides to initiate the formal process for prescribing a code, a detailed cost-benefit analysis will be conducted as part of the RIS. A RIS must accompany every policy proposal to introduce regulation, including regulations to prescribe industry codes. The RIS process involves extensive public consultation to explore other regulatory options as well as costing information to estimate compliance costs to business.

For more information on the RIS process please visit: <https://cuttingredtape.gov.au/handbook/australian-government-guide-regulation>.

EXAMPLE: THE ROAD TO A PRESCRIBED INDUSTRY CODE — THE FRANCHISING CODE OF CONDUCT

Franchising issues in Australia have been the subject of many government and parliamentary committee inquiries, both at the federal and state levels, long before the concept of having specific franchising regulation was first raised in 1976.

It was not until 1993 that the industry decided to establish a voluntary industry self-regulated code of conduct, the Franchising Code of Practice (FCP). Unfortunately, after only a year of operation the FCP was found to be ineffective as there was not sufficient coverage and industry participants did not always fully comply with it.

**EXAMPLE: THE ROAD TO A PRESCRIBED INDUSTRY CODE —
THE FRANCHISING CODE OF CONDUCT (CONTINUED)**

Following the failure of industry self-regulation and continuing problems within Australia's small business franchising sector, a review was undertaken in 1997 by the House of Representatives Committee on Industry, Science and Technology. The Committee's report recommended that the then Government introduce a mandatory prescribed code of conduct.

In 1998, the mandatory Franchising Code of Conduct (Franchising Code) was introduced. Since then, the Franchising Code has been reviewed a number of times. It has been amended incrementally based on stakeholder feedback and industry experience that have formed the evidence base for such reforms.

The most recent review was conducted by Mr Alan Wein, who released his independent report in 2013. The Government undertook an extensive public consultation and rigorous cost-benefit analysis before implemented the majority of the Wein report's recommendations.

The new Franchising Code commenced on 1 January 2015, demonstrating Australia's continued commitment to international best practice industry regulation.

PROCESS FOR IMPLEMENTING A PRESCRIBED INDUSTRY CODE OF CONDUCT

If a Minister is satisfied an industry code should be prescribed, that Minister may decide to commence the required formal process to prescribe such a code. This process is outlined briefly below:

STAGE 1 — MINISTER TO SEEK GOVERNMENT POLICY APPROVAL PRIOR TO PUBLIC CONSULTATION

The policy Minister that is considering bringing forward an industry code for prescription consults with the Treasury Minister with responsibility for the industry codes framework under the CCA. The policy Minister must then seek Government policy approval to initiate a public consultation process to assess the merits of prescribing a code.

STAGE 2 — DRAFT REGULATION IMPACT STATEMENT (RIS) AND PUBLIC CONSULTATIONS

The Department with policy carriage (policy Department) will prepare a draft RIS. The RIS may take the form of a public consultation paper outlining a range of regulatory options (including prescription of a code) to address the problems identified in the industry. Businesses, consumers and relevant government agencies will have the opportunity to make written submissions and may attend meetings to put forward their views.

STAGE 3 — FINAL RIS AND GOVERNMENT APPROVAL TO PROCEED WITH A PRESCRIBED CODE

If the outcomes of the public consultation process and cost-benefit analysis support the need for an industry code, the policy Minister may seek Government approval to proceed with a prescribed code. The policy Department will amend and finalise the RIS to reflect this.

STAGE 4 — EXPOSURE DRAFT CODE RELEASED FOR PUBLIC CONSULTATION

The policy department will work with the Office of Parliamentary Counsel (OPC) to draft the text of the code (and its associated regulation) to ensure it meets Commonwealth legislative standards. This will then be released as exposure draft legislation (with a draft explanatory statement) to seek public feedback and comment.

The draft code may undergo subsequent legislative drafting changes in light of stakeholder views. The policy Minister will seek the Treasury Minister's agreement before finalising the proposed code for prescription.

STAGE 5 — MAKING REGULATIONS

At the conclusion of this process, the code will be submitted to the Federal Executive Council (often by the policy Minister with the agreement and on behalf of the Treasury Minister) for approval. If the Executive Council approves the code for prescription, the Governor-General will be asked to make regulation to this effect.

The code regulation is registered and then tabled in each House of Parliament, where it can be disallowed within 15 sitting days in each House.

REVIEWING PRESCRIBED INDUSTRY CODES

A prescribed industry code may be subject to a review after it has been implemented for a period of time. This involves a public consultation process to seek feedback from a wide range of stakeholders. A review can be conducted by the Government Department with policy responsibility for the particular code or alternatively by an independent body or industry experts. The review may consider options for repealing the code or amending it.

Ministers will need to seek the agreement of the Treasury Minister prior to commencing consultations.