




 **FRANCHISOR NEWS****END OF TERM ARRANGEMENTS**

Under the Code, the Franchisor is required, at least 6 months before the end of the term of the Franchise Agreement, to provide written notice to the existing Franchisee as to whether the Franchisor:










-  will renew the Franchise Agreement; or
-  has decided not to renew the Franchise Agreement; or
-  intends to enter into a new Franchise Agreement.

If the term is less than 6 months, then the notice period is shortened to only 1 month.

From a practical perspective, Franchisors should maintain appropriate diary records noting the expiry dates of all of their Franchise Agreements, and ensure that notice is given to their Franchisees within the prescribed time period.

Notwithstanding the notice (in the case of renewal) the Franchisee would still need to satisfy any pre-conditions to renewal as set out in the Franchise Agreement.

In addition, the Code prescribes that Franchisors must set out in the Disclosure Document the process to apply at the end of the Franchise Agreement, including:

-  whether the Franchisee will have any options to renew the Franchise Agreement;
-  whether the Franchisor will require the Franchisee to enter into a new Franchise Agreement;
-  if any exit payment is payable to the Franchisee at the expiry of the Franchise Agreement;
-  what is to happen to unsold stock;
-  how marketing material is to be dealt with, eg. is such material to be returned to the Franchisor ?
-  what happens to the plant & equipment and any premises fitout at the end of the term ?
-  will the Franchisee be entitled to sell the franchised business at the end of the term;
-  whether the Franchisor is granted any right of first refusal to acquire the franchised business, and if so, what is the mechanism to determine the market value ?;
-  what happens to any significant capital expenditure by the Franchisee associated with the franchised business – how will this affect the arrangements to apply at the end of the Franchise Agreement?

It is important to ensure that the Disclosure Document and Franchise Agreement appropriately deal with these issues.

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