

2010

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

# Fair Trading (Australian Consumer Law) Amendment Bill 2010

## Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended—schs 1 to 3	2
4 Legislation repealed	2
<b>Schedule 1 Fair Trading Act 1992</b>	<b>3</b>
<b>Schedule 2 Fair Trading (Consumer Affairs) Act 1973</b>	<b>29</b>

	Page
<b>Schedule 3</b>	<b>Consequential amendments</b> 41
Part 3.1	Agents Act 2003 41
Part 3.2	Cemeteries and Crematoria Act 2003 42
Part 3.3	Civil Law (Sale of Residential Property) Act 2003 42
Part 3.4	Civil Law (Wrongs) Act 2002 43
Part 3.5	Competition Policy Reform Act 1996 44
Part 3.6	Crimes (Child Sex Offenders) Regulation 2005 45
Part 3.7	Fair Trading Regulation 2009 46
Part 3.8	Fair Trading (Motor Vehicle Repair Industry) Act 2010 47
Part 3.9	Financial Management Act 1996 49
Part 3.10	Government Procurement Act 2001 49
Part 3.11	Health Act 1993 50
Part 3.12	Insurance Authority Act 2005 50
Part 3.13	Jurisdiction of Courts (Cross-vesting) Act 1993 51
Part 3.14	Leases (Commercial and Retail) Act 2001 51
Part 3.15	Legislation Act 2001 52
Part 3.16	Liquor Act 2010 52
Part 3.17	Magistrates Court (Agents Infringement Notices) Regulation 2003 53
Part 3.18	Magistrates Court (Sale of Residential Property Infringement Notices) Regulation 2004 54
Part 3.19	Magistrates Court (Security Industry Infringement Notices) Regulation 2003 54
Part 3.20	Racing Act 1999 55
Part 3.21	Road Transport (Public Passenger Services) Act 2001 55
Part 3.22	Sale of Motor Vehicles Act 1977 56
Part 3.23	Second-hand Dealers Regulation 2002 57

Contents

---

		Page
<b>Part 3.24</b>	<b>Security Industry Act 2003</b>	57
<b>Part 3.25</b>	<b>Security Industry Regulation 2003</b>	58
<b>Part 3.26</b>	<b>Territory Records Act 2002</b>	58
<b>Part 3.27</b>	<b>Utilities Act 2000</b>	58



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## **Fair Trading (Australian Consumer Law) Amendment Bill 2010**

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### **A Bill for**

An Act to amend the *Fair Trading Act 1992* to apply the Australian Consumer Law as a law of the Territory and to make amendments consequential on the application of that Law, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **1 Name of Act**

2 This Act is the *Fair Trading (Australian Consumer Law)*  
3 *Amendment Act 2010*.

4 **2 Commencement**

- 5 (1) This Act (other than schedule 1, amendment 1.42) commences on  
6 1 January 2011.

7 *Note* The naming and commencement provisions automatically commence on  
8 the notification day (see Legislation Act, s 75 (1)).

- 9 (2) Schedule 1, amendment 1.42 commences on the later of—

10 (a) the commencement of the *Plastic Shopping Bags Ban*  
11 *Act 2010*, section 3; and

12 (b) 1 January 2011.

13 **3 Legislation amended—schs 1 to 3**

14 This Act amends the legislation mentioned in schedules 1 to 3.

15 **4 Legislation repealed**

- 16 (1) The following legislation is repealed:

- 17 • *Door-to-Door Trading Act 1991* (A1991-7)  
18 • *Door-to-Door Trading Regulation 2009* (SL2009-49)  
19 • *Fair Trading (Consumer Affairs) Act 1973* (A1973-17)  
20 • *Fair Trading (Consumer Product Standards) Regulation 2009*  
21 (SL2009-19)  
22 • *Lay-by Sales Agreements Act 1963* (A1963-9).

- 23 (2) All other legislative instruments under the Acts mentioned in  
24 subsection (1) are repealed.

# Schedule 1 Fair Trading Act 1992

(see s 3)

## [1.1] Long title

*substitute*

An Act about fair trading and consumer protection, and for other purposes.

## [1.2] Section 1

*substitute*

### 1 Name of Act

This Act is the *Fair Trading (Australian Consumer Law) Act 1992*.

## [1.3] Section 2, note 1

*substitute*

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*consumer*—see the *Australian Consumer Law (ACT)*, section 2 (1).' means that the term 'consumer' is defined in that law and the definition applies to this Act.

## [1.4] New section 4

*insert*

### 4 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1* *Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1), except the following offences:

- s 37 (4)

- 1                                   • s 43 (2)  
2                                   • s 45 (6)  
3                                   • s 52 (2).

4                                   The chapter sets out the general principles of criminal responsibility  
5                                   (including burdens of proof and general defences), and defines terms  
6                                   used for offences to which the Code applies (eg *conduct*, *intention*,  
7                                   *recklessness* and *strict liability*).

8                                   Note 2   *Penalty units*

9                                   The Legislation Act, s 133 deals with the meaning of offence penalties  
10                                   that are expressed in penalty units.

11   **[1.5]   Sections 5 to 10**

12                                   *omit*

13   **[1.6]   Part 2**

14                                   *substitute*

15   **Part 2                                   The Australian Consumer Law**

16   **Division 2.1                           Definitions**

17   **5                                   Definitions—pt 2**

18                                   (1) In this part:

19                                   *application law* means—

20                                   (a) a law of a participating jurisdiction that applies the Australian  
21                                   Consumer Law, either with or without modifications, as a law  
22                                   of the participating jurisdiction; or

23                                   (b) any regulations or other legislative instrument made under a  
24                                   law described in paragraph (a); or

25                                   (c) the Australian Consumer Law, applying as a law of the  
26                                   participating jurisdiction, either with or without modifications.



- 
- 1            ***Australian Consumer Law*** means (according to the context)—
- 2            (a) the Australian Consumer Law text; or
- 3            (b) the Australian Consumer Law text, applying as a law of a
- 4            participating jurisdiction, either with or without modifications.
- 5            ***Australian Consumer Law text*** means the text described in
- 6            section 6.
- 7            ***instrument*** means any document, including the following:
- 8            (a) an Act or an instrument made under an Act;
- 9            (b) a law of this jurisdiction or an instrument made under that law;
- 10           (c) an award or other industrial determination or order, or an
- 11           industrial agreement;
- 12           (d) any other order (whether executive, judicial or otherwise);
- 13           (e) a notice, certificate or licence;
- 14           (f) an agreement;
- 15           (g) an application made, information or complaint laid, affidavit
- 16           sworn, or warrant issued, for any purpose;
- 17           (h) an indictment, presentment, summons or writ;
- 18           (i) any other pleading in, or process issued in connection with, a
- 19           legal or other proceeding.
- 20           ***Intergovernmental Agreement*** means the Intergovernmental
- 21           Agreement for the Australian Consumer Law made on 2 July 2009
- 22           between the Commonwealth, the State of New South Wales, the
- 23           State of Victoria, the State of Queensland, the State of Western
- 24           Australia, the State of South Australia, the State of Tasmania, the
- 25           Australian Capital Territory and the Northern Territory of Australia,
- 26           as in force for the time being.
- 27           ***jurisdiction*** means a State or the Commonwealth.

- 1            **law**, in relation to a Territory, means a law of, or in force in, that  
2            Territory.
- 3            **modifications** includes additions, omissions and substitutions.
- 4            **month** means a period commencing at the beginning of a day of one  
5            of the 12 months of the year and ending immediately before the  
6            beginning of the corresponding day of the next month or, if there is  
7            no corresponding day, ending at the expiration of the next month.
- 8            **participating jurisdiction** means a jurisdiction that is a party to the  
9            Intergovernmental Agreement and applies the Australian Consumer  
10           Law as a law of the jurisdiction, either with or without  
11           modifications.
- 12           **State** includes a Territory.
- 13           **Territory** means the Australian Capital Territory or the Northern  
14           Territory.
- 15           **this jurisdiction** means the Australian Capital Territory.
- 16           (2) Terms used in this part and also in the *Australian Consumer*  
17           *Law (ACT)* have the same meanings in this part as they have in that  
18           law.
- 19           (3) For this part—
- 20           (a) a jurisdiction is taken to have applied the Australian Consumer  
21           Law as a law of the jurisdiction if a law of the jurisdiction  
22           substantially corresponds to the provisions of the Australian  
23           Consumer Law text, as in force from time to time; and
- 24           (b) that corresponding law is taken to be the Australian Consumer  
25           Law, or the Australian Consumer Law text, applying as a law  
26           of that jurisdiction.

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1 **Division 2.2**                    **Application of Australian Consumer**  
2    **Law**

3 **6**                    **The Australian Consumer Law text**

4 The Australian Consumer Law text consists of—

5 (a) the *Competition and Consumer Act 2010* (Cwlth), schedule 2;  
6 and

7 (b) the regulations under that Act, section 139G.

8 *Note*        The Australian Consumer Law text is accessible at [www.comlaw.gov.au](http://www.comlaw.gov.au).

9 **7**                    **Application of Australian Consumer Law**

10 (1) The Australian Consumer Law text, as in force from time to time—

11 (a) applies as a law of this jurisdiction; and

12 (b) as so applying may be referred to as the *Australian Consumer*  
13 *Law (ACT)*; and

14 (c) as so applying is a part of this Act.

15 (2) This section has effect subject to section 8, section 9 and section 10.

16 **8**                    **Future modifications of Australian Consumer Law text**

17 (1) A modification made by a Commonwealth law to the Australian  
18 Consumer Law text after the commencement of this section does not  
19 apply under section 7, if the modification is declared by regulation  
20 under this Act to be excluded from the operation of that section.

21 *Note*        A regulation must be notified, and presented to the Legislative  
22 Assembly, under the Legislation Act.

23 (2) A regulation under subsection (1) has effect only if it is notified not  
24 later than 2 months after the date of the modification.

25 (3) Subsection (1) ceases to apply to the modification if a further  
26 regulation under this Act so provides.

- 1 (4) For this section, the date of the modification is the date on which the  
2 Commonwealth Act effecting the modification receives the Royal  
3 Assent or the regulation effecting the modification is registered  
4 under the *Legislative Instruments Act 2003* (Cwlth).

5 **9 Meaning of generic terms in Australian Consumer Law for**  
6 **purposes of this jurisdiction**

7 In the *Australian Consumer Law (ACT)*:

8 *court* includes the ACAT.

9 *regulator* means the commissioner for fair trading.

10 **10 Interpretation of Australian Consumer Law**

11 (1) The *Acts Interpretation Act 1901* (Cwlth) applies as a law of this  
12 jurisdiction to the *Australian Consumer Law (ACT)*.

13 (2) For subsection (1), the Commonwealth Act mentioned in that  
14 subsection applies as if—

15 (a) the statutory provisions in the *Australian Consumer Law (ACT)*  
16 were a Commonwealth Act; and

17 (b) the regulations in the *Australian Consumer Law (ACT)* or  
18 instruments under that law were regulations or instruments  
19 under a Commonwealth Act.

20 (3) The Legislation Act does not apply to—

21 (a) the *Australian Consumer Law (ACT)*; or

22 (b) any instrument under that law.

23 **11 Application of Australian Consumer Law**

24 (1) The *Australian Consumer Law (ACT)* applies to and in relation to—

25 (a) people carrying on business within this jurisdiction; or

- 1 (b) bodies corporate incorporated or registered under the law of  
2 this jurisdiction; or
- 3 (c) people ordinarily resident in this jurisdiction; or
- 4 (d) people otherwise connected with this jurisdiction.
- 5 (2) Subject to subsection (1), the *Australian Consumer Law (ACT)*  
6 extends to conduct, and other acts, matters and things, occurring or  
7 existing outside or partly outside this jurisdiction (whether within or  
8 outside Australia).

9 **Division 2.3** **References to Australian Consumer**  
10 **Law**

11 **12** **References to Australian Consumer Law**

- 12 (1) A reference in any instrument to the Australian Consumer Law is a  
13 reference to the Australian Consumer Law of any or all of the  
14 participating jurisdictions.
- 15 (2) Subsection (1) has effect except so far as the contrary intention  
16 appears in the instrument or the context of the reference otherwise  
17 requires.

18 **13** **References to Australian Consumer Law of other**  
19 **jurisdictions**

- 20 (1) This section has effect for an Act, a law of this jurisdiction or an  
21 instrument under an Act or such a law.
- 22 (2) If a law of a participating jurisdiction other than this jurisdiction  
23 provides that the Australian Consumer Law text as in force for the  
24 time being applies as a law of that jurisdiction, the Australian  
25 Consumer Law of that jurisdiction is the Australian Consumer Law  
26 text, applying as a law of that jurisdiction.

1     **Division 2.4                   Application of Australian Consumer**  
2                                   **Law to jurisdictions**

3     **14            Division does not apply to Commonwealth**

4                   In this division, *participating jurisdiction* or *other jurisdiction* does  
5                   not include the Commonwealth.

6     **15            Application law of this jurisdiction**

7                   The application law of this jurisdiction binds (so far as the  
8                   legislative power of the Legislative Assembly allows) each  
9                   participating jurisdiction, so far as the jurisdiction carries on a  
10                  business, either directly or by an authority of the jurisdiction  
11                  concerned.

12    **16            Application law of other jurisdictions**

- 13                  (1) The application law of each participating jurisdiction other than this  
14                  jurisdiction binds this jurisdiction, so far as this jurisdiction carries  
15                  on a business, either directly or by an authority of this jurisdiction.
- 16                  (2) If, because of this part, a provision of the law of another  
17                  participating jurisdiction binds this jurisdiction, this jurisdiction is  
18                  subject to that provision despite any prerogative right or privilege.

19    **17            Activities that are not business**

- 20                  (1) For section 15 and section 16, the following do not amount to  
21                  carrying on a business:
- 22                   (a) imposing or collecting—
- 23                         (i) taxes; or
- 24                         (ii) levies; or
- 25                         (iii) fees for authorisations;

- 1 (b) granting, refusing to grant, revoking, suspending or varying  
2 authorisations (whether or not they are subject to conditions);
- 3 (c) a transaction involving—
- 4 (i) only people who are all acting for the same jurisdiction  
5 (and none of whom is an authority of a State); or
- 6 (ii) only people who are all acting for the same authority of a  
7 State; or
- 8 (iii) only a State and 1 or more non-commercial authorities of  
9 that State; or
- 10 (iv) only non-commercial authorities of the same State;
- 11 (d) the acquisition of primary products by a government body  
12 under legislation, unless the acquisition occurs because—
- 13 (i) the body chooses to acquire the products; or
- 14 (ii) the body has not exercised a discretion that it has under  
15 the legislation that would allow it not to acquire the  
16 products.
- 17 (2) Subsection (1) does not limit the things that do not amount to  
18 carrying on a business for section 15 and section 16.
- 19 (3) In this section:
- 20 ***acquisition of primary products by a government body under***  
21 ***legislation*** includes vesting of ownership of primary products in a  
22 government body by legislation.
- 23 ***authorisation*** means a licence, permit, certificate or other  
24 authorisation that allows the holder of the authorisation to supply  
25 goods or services.
- 26 ***government body*** means a State or an authority of a State.

- 1            *primary products* means—
- 2            (a) agricultural or horticultural produce; or
- 3            (b) crops, whether on or attached to the land or not; or
- 4            (c) animals (whether dead or alive); or
- 5            (d) the bodily produce (including natural increase) of animals.
- 6            (4) For this section, an authority of a State is *non-commercial* if—
- 7            (a) it is constituted by only one person; and
- 8            (b) it is neither a trading corporation nor a financial corporation.

9            **18            Jurisdictions not liable to pecuniary penalty or**

10            **prosecution**

- 11            (1) Nothing in the application law of this jurisdiction makes any
- 12            jurisdiction liable to a pecuniary penalty or to be prosecuted for an
- 13            offence.
- 14            (2) Without limiting subsection (1), nothing in the application law of a
- 15            participating jurisdiction makes this jurisdiction liable to a
- 16            pecuniary penalty or to be prosecuted for an offence.
- 17            (3) The protection in subsection (1) or (2) does not apply to an authority
- 18            of any jurisdiction.

19            **Division 2.5            Miscellaneous**

20            **19            Conferral of functions and powers on certain bodies**

- 21            (1) The authorities and officers of the Commonwealth mentioned in the
- 22            *Australian Consumer Law (ACT)* have the functions and powers
- 23            conferred or expressed to be conferred on them under the *Australian*
- 24            *Consumer Law (ACT)*.



- 1 (2) In addition to the powers mentioned in subsection (1), the  
2 authorities and officers mentioned in that subsection have power to  
3 do all things necessary or convenient to be done in connection with  
4 the performance of the functions and exercise of the powers  
5 mentioned in that subsection.

6 **20 No doubling-up of liabilities**

- 7 (1) If—  
8 (a) an act or omission is an offence against the *Australian*  
9 *Consumer Law (ACT)* and is also an offence against an  
10 application law of another participating jurisdiction; and  
11 (b) the offender has been punished for the offence under the  
12 application law of the other jurisdiction;  
13 the offender is not liable to be punished for the offence against the  
14 *Australian Consumer Law (ACT)*.  
15 (2) If a person has been ordered to pay a pecuniary penalty under the  
16 application law of another participating jurisdiction, the person is  
17 not liable to a pecuniary penalty under the *Australian Consumer*  
18 *Law (ACT)* in relation to the same conduct.

19 **[1.7] Section 33 (1)**

- 20 *omit*  
21 shall  
22 *substitute*  
23 must

1 **[1.8] Section 33 (1)**

2 *omit*

3 so

4 **[1.9] Section 34 (5)**

5 *omit*

6 **[1.10] Section 35**

7 *omit*

8 **[1.11] Section 36 (1)**

9 *substitute*

10 (1) If the commissioner believes on reasonable grounds that a person in  
11 carrying on a business has not complied with an approved code, the  
12 commissioner may request the person to give within a stated time a  
13 written undertaking about 1 or more of the following:

14 (a) stopping the conduct;

15 (b) future compliance with the code;

16 (c) the action the person will take to rectify any consequence of  
17 the non-compliance.

18 **[1.12] Section 36 (3)**

19 *omit*

20 **[1.13] Section 37**

21 *substitute*

22 **37 Enforcement of undertakings**

23 (1) If a person fails to comply with a request by the commissioner to  
24 give an undertaking under section 36, the commissioner may apply  
25 to the Magistrates Court for an order under subsection (2).

- 1 (2) If the court is satisfied that there were grounds for requesting the  
2 undertaking, the court may make 1 or more of the following orders:
- 3 (a) an order directing the person to do something that would have  
4 been required to be done under the undertaking if the  
5 undertaking had been given;
- 6 (b) any other order that the court considers appropriate.
- 7 (3) If the commissioner considers that a person has breached an  
8 undertaking, the commissioner may apply to the Magistrates Court  
9 for an order under subsection (4).
- 10 (4) If the court is satisfied that the person has breached the undertaking,  
11 the court may make 1 or more of the following orders:
- 12 (a) an order directing the person to comply with the undertaking;
- 13 (b) any other order that the court considers appropriate.
- 14 (5) A person commits an offence if the person fails to comply with an  
15 order under this section.
- 16 Maximum penalty: 50 penalty units.

17 **[1.14] Section 39**

18 *substitute*

19 **39 Register of undertakings**

- 20 (1) The commissioner must keep a register of undertakings.
- 21 (2) The register may include any other information the commissioner  
22 considers appropriate.
- 23 (3) The register may be kept in any form, including electronically, that  
24 the commissioner decides.
- 25 (4) The commissioner may correct any mistake, error or omission in the  
26 register.

1 (5) The commissioner may change a detail included in the register to  
2 keep the register up-to-date.

3 (6) The register must be available for public inspection, free of charge,  
4 during normal business hours on any business day.

5 **[1.15] Sections 32 to 39 (as amended)**  
6 *renumber as sections 21 to 27*

7 **[1.16] Part 4**  
8 *substitute*

9 **Part 4 Advisory committees**

10 **28 Establishment of advisory committees**

11 (1) The Minister may establish advisory committees to provide advice  
12 to the Minister or the commissioner about fair trading and consumer  
13 protection.

14 (2) An instrument establishing a committee is a notifiable instrument.  
15 *Note* A notifiable instrument must be notified under the Legislation Act.

16 (3) An advisory committee must provide advice as required by the  
17 Minister or the commissioner and may provide advice on its own  
18 initiative.

19 (4) In exercising its functions, an advisory committee may consult with  
20 members of the public and with other entities interested in fair  
21 trading and consumer protection matters.

22 **29 Advisory committee membership**

23 An advisory committee is made up of—  
24 (a) the commissioner; and

- 1 (b) other members appointed by the Minister who the Minister  
2 considers have the experience or expertise in relation to fair  
3 trading and consumer protection matters to qualify the person  
4 to exercise the functions of a committee member.

5 **30 Advisory committee—general procedure**

- 6 (1) Meetings of an advisory committee are to be held when and where it  
7 decides.  
8 (2) An advisory committee may conduct its proceedings (including its  
9 meetings) as it considers appropriate.

10 **31 Reimbursement of expenses for advisory committee  
11 members**

- 12 (1) A member of an advisory committee is not entitled to be paid for the  
13 exercise of the member's functions.  
14 (2) However, a member may apply to the commissioner for  
15 reimbursement of expenses reasonably incurred by the member for  
16 the purpose of attending a meeting of a committee.

17 **[1.17] Part 4A heading**

18 *renumber as part 6*

19 **[1.18] Section 51C, new definition of *code***

20 *insert*

21 *code* means the National Credit Code.

22 **[1.19] Sections 51C to 51E (as amended)**

23 *renumber as sections 62 to 64*

1 **[1.20] Part 5**

2 *substitute*

3 **Part 7 Miscellaneous**

4 **65 Certificate evidence**

5 (1) A certificate that appears to be signed by the commissioner, and  
6 states any of the following matters, is evidence of the matter:

7 (a) that a stated investigation made, or being made, by the  
8 commissioner or another stated person was made, or is being  
9 made, under part 5;

10 (b) that on a stated date, or during a stated period, a stated person  
11 was an investigator.

12 (2) A court must accept a certificate under this section as proof of the  
13 matters stated in it if there is no evidence to the contrary.

14 **66 Protection of officials from liability**

15 (1) In this section:

16 *official* means—

17 (a) the commissioner; or

18 (b) a person who is exercising, or has exercised, a function under  
19 this Act; or

20 (c) a person who is, or has been, engaged in the administration of  
21 this Act.

22 (2) An official, or anyone engaging in conduct under the direction of an  
23 official, is not civilly liable for conduct engaged in honestly and  
24 without recklessness—

25 (a) in the exercise of a function under this Act; or

1 (b) in the reasonable belief that the conduct was in the exercise of  
2 a function under this Act.

3 (3) Any liability that would, apart from this section, attach to an official  
4 attaches instead to the Territory.

5 *Note* A reference to an Act includes a reference to the statutory instruments  
6 made or in force under the Act, including any regulation (see  
7 Legislation Act, s 104).

## 8 **67 Regulation-making power**

9 (1) The Executive may make regulations for this Act.

10 *Note* A regulation must be notified, and presented to the Legislative  
11 Assembly, under the Legislation Act.

12 (2) A regulation may create offences and fix maximum penalties of not  
13 more than 20 penalty units for the offences.

### 14 **[1.21] New schedule 1**

15 *insert*

## 16 **Schedule 1 Australian consumer law** 17 **transitional provisions**

### 18 **1.1 Definitions—sch 1**

19 In this schedule:

20 *commencement day* means 1 January 2011.

21 *repealed Acts* means—

22 (a) the *Door-to-Door Trading Act 1991*; and

23 (b) the *Fair Trading (Consumer Affairs) Act 1973*; and

24 (c) the *Lay-by Sales Agreements Act 1963*.

1     **1.2           Transitional—reference to a repealed Act**

- 2           (1) In any Act, instrument made under an Act or a document, a  
3           reference to a repealed Act is, in relation to anything to which the  
4           *Australian Consumer Law (ACT)* applies, a reference to the  
5           *Australian Consumer Law (ACT)*.
- 6           (2) In any Act, instrument made under an Act or a document, a  
7           reference to a provision of a repealed Act is, in relation to anything  
8           to which the *Australian Consumer Law (ACT)* applies, a reference to  
9           the corresponding provision of the *Australian Consumer Law*  
10          *(ACT)*.
- 11          (3) In any Act, instrument made under an Act or a document, a  
12          reference to anything that is no longer applicable because of the  
13          repeal or amendment of a repealed Act by this Act and for which  
14          there is a corresponding thing under the *Australian Consumer Law*  
15          *(ACT)*, is taken to be a reference to the corresponding thing under  
16          the *Australian Consumer Law (ACT)*, if the context allows and if  
17          otherwise appropriate.

18           *Note*     A reference to an Act includes a reference to the statutory instruments  
19                      made or in force under the Act, including any regulation (see  
20                      Legislation Act, s 104).

21     **1.3           Transitional—advisory committees**

- 22           (1) Subsection (2) applies to an advisory committee established under  
23           the *Fair Trading (Consumer Affairs) Act 1973*, section 3 in  
24           existence immediately before commencement day.
- 25           (2) The committee is taken to be an advisory committee established  
26           under this Act.
- 27           (3) Subsection (4) applies if, immediately before commencement day, a  
28           person is a member of an advisory committee under the *Fair*  
29           *Trading (Consumer Affairs) Act 1973*, section 3.
- 30           (4) The person is taken to be a member of the relevant committee under  
31           this Act.



1 **1.4 Transitional—regulations**

- 2 (1) A regulation may prescribe transitional matters necessary or  
3 convenient to be prescribed because of the repeal of the repealed  
4 Acts.
- 5 (2) A regulation may modify this schedule (including in relation to  
6 another territory law) to make provision in relation to anything that,  
7 in the Executive's opinion, is not, or is not adequately or  
8 appropriately, dealt with in this schedule.
- 9 (3) A regulation under subsection (2) has effect despite anything  
10 elsewhere in this Act.

11 **1.5 Expiry—sch 1**

- 12 (1) This schedule expires on 1 January 2014.
- 13 (2) This schedule is a law to which the Legislation Act, section 88  
14 (Repeal does not end effect of transitional laws etc) applies.

15 **[1.22] Dictionary, note 2**

16 *omit*

- 17 • ACT  
18 • contravene  
19 • liability  
20 • month

21 **[1.23] Dictionary, note 2**

22 *insert*

- 23 • ACAT

24 **[1.24] Dictionary, definition of *acquire***

25 *omit*

- 1 **[1.25] Dictionary, new definition of *advisory committee***  
2 *insert*  
3 *advisory committee* means a committee established under  
4 section 28.
- 5 **[1.26] Dictionary, definition of *annual percentage rate***  
6 *substitute*  
7 *annual percentage rate*, for part 6 (Maximum annual percentage  
8 rate and disclosure)—see section 62.
- 9 **[1.27] Dictionary, new definition of *application law***  
10 *insert*  
11 *application law*, for part 2 (The Australian Consumer Law)—see  
12 section 5 (1).
- 13 **[1.28] Dictionary, definition of *arrive at***  
14 *omit*
- 15 **[1.29] Dictionary, new definitions**  
16 *insert*  
17 *Australian Consumer Law*, for part 2 (The Australian Consumer  
18 Law)—see section 5 (1).  
19 *Australian Consumer Law (ACT)* means the provisions applying in  
20 this jurisdiction because of section 7.  
21 *Australian Consumer Law text*, for part 2 (The Australian  
22 Consumer Law)—see section 5 (1).
- 23 **[1.30] Dictionary, definition of *business***  
24 *substitute*  
25 *business*—see the *Australian Consumer Law (ACT)*, section 2 (1).

- 
- 1 **[1.31] Dictionary, new definition of *business premises***
- 2 *insert*
- 3 *business premises*, for division 5.2 (Investigations)—see section 35.
- 4 **[1.32] Dictionary, definition of *code***
- 5 *substitute*
- 6 *code*, for part 6 (Maximum annual percentage rate and disclosure)—
- 7 see section 62.
- 8 **[1.33] Dictionary, definition of *commissioner***
- 9 *substitute*
- 10 *commissioner* means the Commissioner for Fair Trading appointed
- 11 under section 32.
- 12 **[1.34] Dictionary, definition of *conduct***
- 13 *omit*
- 14 **[1.35] Dictionary, new definition of *connected***
- 15 *insert*
- 16 *connected*, for division 5.2 (Investigations)—see section 35.
- 17 **[1.36] Dictionary, definitions of *consumer* and *contract***
- 18 ***document***
- 19 *substitute*
- 20 *consumer*—see the *Australian Consumer Law (ACT)*, section 2 (1).
- 21 *contract document*, for part 6 (Maximum annual percentage rate
- 22 and disclosure)—see section 62.

1 **[1.37] Dictionary, new definition of *court***

2 *insert*

3 *court* includes any tribunal or person having authority under a law,  
4 or by consent of parties, to receive evidence.

5 **[1.38] Dictionary, definition of *covenant***

6 *omit*

7 **[1.39] Dictionary, definitions of *credit*, *credit contract* and *credit*  
8 *fees and charges***

9 *substitute*

10 *credit*, for part 6 (Maximum annual percentage rate and  
11 disclosure)—see section 62.

12 *credit contract*, for part 6 (Maximum annual percentage rate and  
13 disclosure)—see section 62.

14 *credit fees and charges*, for part 6 (Maximum annual percentage  
15 rate and disclosure)—see section 62.

16 **[1.40] Dictionary, definitions of *disposal* and *engaging***

17 *omit*

18 **[1.41] Dictionary, new definition of *fair trading legislation***

19 *insert*

20 *fair trading legislation* means—

- 21 (a) the *Agents Act 2003*; or  
22 (b) the *Australian Consumer Law (ACT)*; or  
23 (c) the *Eggs (Labelling and Sale) Act 2001*; or  
24 (d) the *Fair Trading (Australian Consumer Law) Act 1992*; or  
25 (e) the *Liquor Act 2010*; or

1 (f) the *Security Industry Act 2003*.

2 **[1.42] Dictionary, definition of *fair trading legislation*, new**  
3 **paragraph (ea)**

4 *insert*

5 (ea) the *Plastic Shopping Bags Ban Act 2010*; or

6 **[1.43] Dictionary, definition of *goods***

7 *substitute*

8 *goods*—see the *Australian Consumer Law (ACT)*, section 2 (1).

9 **[1.44] Dictionary, new definitions**

10 *insert*

11 *identity card* means an identity card issued to an investigator under  
12 section 37.

13 *instrument*, for part 2 (The Australian Consumer Law)—see  
14 section 5 (1).

15 *Intergovernmental Agreement*, for part 2 (The Australian  
16 Consumer Law)—see section 5 (1).

17 *investigation* means an investigation under part 5.

18 *investigator* means the commissioner or a person who is authorised  
19 by the commissioner under section 36.

20 **[1.45] Dictionary, definition of *involved***

21 *omit*

- 1 **[1.46] Dictionary, new definitions**
- 2 *insert*
- 3 *jurisdiction*, for part 2 (The Australian Consumer Law)—see  
4 section 5 (1).
- 5 *law*, in relation to a Territory, for part 2 (The Australian Consumer  
6 Law)—see section 5 (1).
- 7 *modifications*, for part 2 (The Australian Consumer Law)—see  
8 section 5 (1).
- 9 *month*, for part 2 (The Australian Consumer Law)—see  
10 section 5 (1).
- 11 **[1.47] Dictionary, definition of *new participant***
- 12 *omit*
- 13 **[1.48] Dictionary, new definitions of *occupier* and *offence***
- 14 *insert*
- 15 *occupier*, of premises, for division 5.2 (Investigations)—see  
16 section 35.
- 17 *offence*, for division 5.2 (Investigations)—see section 35.
- 18 **[1.49] Dictionary, definition of *offering***
- 19 *omit*
- 20 **[1.50] Dictionary, new definition of *other jurisdiction***
- 21 *insert*
- 22 *other jurisdiction*, for division 2.4 (Application of Australian  
23 Consumer Law to jurisdictions)—see section 14.
- 24 **[1.51] Dictionary, definitions of *participant* and *participate***
- 25 *omit*

---

**[1.52] Dictionary, new definition of *participating jurisdiction***

*insert*

*participating jurisdiction*—

(a) for part 2 (The Australian Consumer Law)—see section 5 (1);  
and

(b) for division 2.4 (Application of Australian Consumer Law to  
jurisdictions)—see section 14.

**[1.53] Dictionary**

*omit the definitions of*

*participation payment*

*payment*

*price*

*provision*

*published*

*pyramid selling scheme*

*recruitment payment*

*refusing*

*require*

*resupply*

*send*

**[1.54] Dictionary, definition of *services***

*substitute*

*services*—see the *Australian Consumer Law (ACT)*, section 2 (1).

- 1 **[1.55] Dictionary, definition of *share***  
2 *omit*
- 3 **[1.56] Dictionary, new definition of *State***  
4 *insert*  
5 *State*, for part 2 (The Australian Consumer Law)—see section 5 (1).
- 6 **[1.57] Dictionary, definition of *statement***  
7 *omit*
- 8 **[1.58] Dictionary, new definition of *supplier***  
9 *insert*  
10 *supplier*—see the *Australian Consumer Law (ACT)*, section 2 (1).
- 11 **[1.59] Dictionary, definition of *supply***  
12 *substitute*  
13 *supply*—see the *Australian Consumer Law (ACT)*, section 2 (1).
- 14 **[1.60] Dictionary, new definitions of *Territory* and *this***  
15 ***jurisdiction***  
16 *insert*  
17 *Territory*, for part 2 (The Australian Consumer Law)—see  
18 section 5 (1).  
19 *this jurisdiction*, for part 2 (The Australian Consumer Law)—see  
20 section 5 (1).
- 21 **[1.61] Dictionary, definitions of *trade or commerce, unsolicited***  
22 ***goods and unsolicited services***  
23 *omit*



1 **Schedule 2 Fair Trading (Consumer**  
2 **Affairs) Act 1973**

3 (see s 3)

4 **[2.1] Section 7 (1) (f)**

5 *omit*

6 Territory law

7 *substitute*

8 territory law

9 **[2.2] Section 7 (2)**

10 *omit*

11 his or her

12 *substitute*

13 the commissioner's

14 **[2.3] Section 9**

15 *omit*

16 section 7 (1) (b), (c) or (d)

17 *substitute*

18 section 33 (1) (b), (c) or (d)

1 **[2.4] Section 10 (3) (c)**

2 *omit*  
3 under the regulations  
4 *substitute*  
5 by regulation

6 **[2.5] Section 10 (4)**

7 *omit*  
8 his or her  
9 *substitute*  
10 the person's

11 **[2.6] Section 11**

12 *substitute*

13 **11 Power not to be exercised before identity card shown**

14 An investigator may exercise a power under a territory law in  
15 relation to a person only if the investigator first shows the person the  
16 investigator's identity card.

17 **[2.7] Section 12A (1)**

18 *omit everything before paragraph (b), substitute*

19 **12A Consent to entry**

20 (1) When asking for the occupier's consent to enter premises under this  
21 division, an investigator must—  
22 (a) show the investigator's identity card; and

1 **[2.8] Section 12C (1)**

2 *after*

3 fax,

4 *insert*

5 email,

6 **[2.9] Section 12D (1) (f)**

7 *omit*

8 section 12E (Power to seize evidence)

9 *substitute*

10 section 45 (Power to seize evidence)

11 **[2.10] Section 12I, note 1**

12 *omit*

13 Territory law

14 *substitute*

15 territory law

16 **[2.11] Section 12N (4)**

17 *omit*

18 The regulations

19 *substitute*

20 A regulation

1 **[2.12] Section 13 (1) (a)**

2 *omit*  
3 his or her  
4 *substitute*  
5 the person's

6 **[2.13] Section 13 (1) (a) (i) to (iii)**

7 *omit*  
8 specified  
9 *substitute*  
10 stated

11 **[2.14] Section 13 (1) (b) and (c)**

12 *substitute*  
13 (b) may, on giving a corporation a written warning of its  
14 obligation to comply with a requirement under this section, by  
15 written notice, require the executive officer of the  
16 corporation—  
17 (i) to give to the investigator, by writing signed by the  
18 officer, information stated in the notice; and  
19 (ii) to give to the investigator, orally, information stated in  
20 the notice; and  
21 (iii) to produce to the investigator a document stated in the  
22 notice; and  
23 (c) may require an entity mentioned in paragraph (a) or (b) to give  
24 the information or produce the document—  
25 (i) at a place stated in the notice; and  
26 (ii) at or within a time stated in the notice.

---

1 **[2.15] Section 13 (3)**

2 *omit*  
3 specified  
4 *substitute*  
5 stated

6 **[2.16] Section 13 (4)**

7 *omit*  
8 section 12  
9 *substitute*  
10 section 39

11 **[2.17] Section 13 (4)**

12 *omit*  
13 his or her  
14 *substitute*  
15 the investigator's

16 **[2.18] New section 13 (5)**

17 *insert*  
18 (5) In this section:  
19 *executive officer* means a person (however described and whether  
20 or not the person is a director of the corporation) who is concerned  
21 with, or takes part in, the corporation's management.

1 **[2.19] Section 14 heading**

2 *omit*

3 **s 13**

4 *substitute*

5 **s 52**

6 **[2.20] Section 14 (1) (a)**

7 *omit*

8 section 13

9 *substitute*

10 section 52

11 **[2.21] Section 14 (1) (b)**

12 *omit*

13 such a

14 *substitute*

15 the

16 **[2.22] Section 14 (2)**

17 *omit*

18 shall

19 *substitute*

20 must

---

**[2.23] Section 14 (2)**

1                    *omit*  
2  
3                    afforded  
4                    *substitute*  
5                    given

**[2.24] Section 15**

6                    *substitute*  
7

**15                Secrecy**

- 8                    (1) A person to whom this section applies commits an offence if—  
9  
10                  (a) the person—  
11                      (i) makes a record of protected information about someone  
12                      else; and  
13                      (ii) is reckless about whether the information is protected  
14                      information about someone else; or  
15                  (b) the person—  
16                      (i) does something that divulges protected information about  
17                      someone else; and  
18                      (ii) is reckless about whether—  
19                          (A) the information is protected information about  
20                          someone else; and  
21                          (B) doing the thing would result in the information  
22                          being divulged to someone else.

23                    Maximum penalty: 50 penalty units, imprisonment for 6 months or  
24                    both.

- 1           (2) Subsection (1) does not apply if the record is made, or the  
2           information is divulged—
- 3           (a) under this Act or another law applying in the Territory; or
- 4           (b) in relation to the exercise of a function, as a person to whom  
5           this section applies, under this Act or another law applying in  
6           the Territory.
- 7           *Note*     The defendant has an evidential burden in relation to the matters  
8           mentioned in ss (2) and (3) (see Criminal Code, s 58).
- 9           (3) Subsection (1) does not apply to the divulging of protected  
10          information about someone with the person's consent.
- 11          (4) A person to whom this section applies commits an offence if, in a  
12          criminal proceeding against a defendant, the person divulges  
13          protected information to a court, or produces a document to a court,  
14          that was given or produced by the defendant in accordance with a  
15          requirement under section 13 (1) unless—
- 16          (a) the proceeding is for an offence against section 13 (2); or
- 17          (b) the proceeding is in respect of the falsity of the information or  
18          of a statement in the document.
- 19          Maximum penalty: 50 penalty units, imprisonment for 6 months or  
20          both.
- 21          (5) A person to whom this section applies need not divulge protected  
22          information to a court, or produce a document containing protected  
23          information to a court, unless it is necessary to do so for this Act or  
24          another law applying in the Territory.
- 25          (6) In this section:
- 26          *court* includes a tribunal, authority or person having power to  
27          require the production of documents or the answering of questions.
- 28          *divulge* includes communicate.



1            *person to whom this section applies* means a person —

2            (a) who is or has been—

3                 (i) the commissioner; or

4                 (ii) a member of the staff of the commissioner; or

5            (b) mentioned in section 7 (2); or

6            (c) who exercises, or has exercised, a function under this Act.

7            *produce* includes allow access to.

8            *protected information* means information about a person that is  
9            disclosed to, or obtained by, a person to whom this section applies  
10           because of the exercise of a function under this Act by the person or  
11           someone else.

12    **[2.25] Section 16**

13            *substitute*

14    **16 Commissioner may begin or defend legal proceeding on**  
15            **behalf of consumer**

16            (1) This section applies if a complaint or other matter involving a  
17            consumer is made or referred to the commissioner.

18            (2) The commissioner may, on behalf of the consumer and either alone  
19            or jointly, begin a legal proceeding against another person or defend  
20            a proceeding brought against the consumer for the purpose of  
21            enforcing or protecting the rights of the consumer in relation to an  
22            infringement, or suspected infringement, by that other person of—

23                 (a) those rights; or

24                 (b) a law in force in the Territory relating to the interests of  
25                 consumers.

- 1           (3) The commissioner must not begin or defend a proceeding under  
2           subsection (2) unless the commissioner is satisfied that—
- 3           (a) the consumer has a cause of action or a good defence to the  
4           proceeding; or
- 5           (b) it is otherwise in the public interest to do so.
- 6       **16A           Commissioner must obtain consent in relation to**  
7       **proceeding**
- 8           (1) The commissioner must not begin or defend a proceeding under  
9           section 16 unless the commissioner has—
- 10          (a) the written consent of the consumer; and
- 11          (b) the written consent of the Minister.
- 12          (2) Nothing in subsection (1) requires the commissioner to obtain the  
13          consent of the consumer or the Minister in relation to the defence of  
14          a counterclaim, set-off or cross-action.
- 15          (3) A consent given under subsection (1) (a) is irrevocable except with  
16          the consent of the commissioner.
- 17          (4) A consent given under subsection (1) (b) is subject to the conditions  
18          the Minister considers appropriate.
- 19       **16B           Conduct of proceeding by commissioner**
- 20          (1) Subject to section 16A (1), the commissioner may, without  
21          consulting or seeking the consent of the consumer, conduct a  
22          proceeding under section 16 (2) in the name of the consumer and in  
23          the way the commissioner considers appropriate.
- 24          (2) For the purpose of conducting a proceeding under section 16 (2), the  
25          commissioner has the same rights as the consumer would have had  
26          in the conduct of the proceeding, including the right—
- 27               (a) to sign documents in connection with the proceeding on behalf  
28               of the consumer; and

- 1 (b) to settle an action or part of an action; and  
2 (c) to give an undertaking in relation to costs.

3 **16C Court's powers**

4 In a proceeding under section 16 (2), a court has the same powers as  
5 it would have had if the proceeding had been begun by the  
6 consumer.

7 **16D Recovery of money other than costs**

8 Money (other than costs) recovered by the commissioner as a result  
9 of a proceeding under section 16 (2) must be paid to the consumer  
10 without deduction.

11 **16E Costs**

12 (1) If an order for costs is made against the consumer in relation to a  
13 proceeding under section 16 (2)—

- 14 (a) the costs must be paid by the commissioner; and  
15 (b) the order may be enforced against the commissioner as if the  
16 commissioner were the consumer; and  
17 (c) the order must not be enforced against the consumer.

18 (2) If an order for costs is made in favour of the consumer—

- 19 (a) the costs are payable to the commissioner; and  
20 (b) the order may be enforced by the commissioner.

21 **16F Commissioner not personally liable**

22 The commissioner is not personally liable as a result of a proceeding  
23 under section 16 (2) but any amount that the commissioner becomes  
24 liable to pay under section 16E (1) must be paid by the Territory.

**Schedule 2** Fair Trading (Consumer Affairs) Act 1973

Amendment [2.26]

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- 1 **[2.26] Part 3 (as amended)**
- 2 *relocate to the Fair Trading Act 1992 as part 5 and renumber*
- 3 *sections 6 to 16F as sections 32 to 61*
- 4 **[2.27] Schedules 2 and 3**
- 5 *relocate to the Fair Trading Act 1992 as schedules 2 and 3*

1 **Schedule 3**                      **Consequential amendments**

2 (see s 3)

3 **Part 3.1**                              **Agents Act 2003**

4 **[3.1]**                      **Section 7, definition of *fair trading legislation* and note**

5 *substitute*

6 *fair trading legislation*—see the *Fair Trading (Australian*  
7 *Consumer Law) Act 1992*, dictionary.

8 *Note*                      This Act forms part of the fair trading legislation. Other fair trading  
9 legislation includes the *Fair Trading (Australian Consumer Law)*  
10 *Act 1992*, the *Australian Consumer Law (ACT)* and the *Security*  
11 *Industry Act 2003*. As part of the fair trading legislation, this Act is  
12 subject to various provisions of the *Fair Trading (Australian Consumer*  
13 *Law) Act 1992* about the administration and enforcement of the fair  
14 trading legislation generally.

15 **[3.2]**                      **Division 3.4 heading, note**

16 *omit*

17 *Fair Trading (Consumer Affairs) Act 1973*, s 7

18 *substitute*

19 *Fair Trading (Australian Consumer Law) Act 1992*, s 33

20 **[3.3]**                      **Division 4.4 heading, note**

21 *omit*

22 *Fair Trading (Consumer Affairs) Act 1973*, s 7

23 *substitute*

24 *Fair Trading (Australian Consumer Law) Act 1992*, s 33

1 **[3.4] Dictionary, note 2**

2 *insert*

- 3 • Australian Consumer Law (ACT)

4 **[3.5] Dictionary, definition of *investigator***

5 *omit*

6 *Fair Trading (Consumer Affairs) Act 1973*

7 *substitute*

8 *Fair Trading (Australian Consumer Law) Act 1992*

9 **Part 3.2 Cemeteries and Crematoria**  
10 **Act 2003**

11 **[3.6] Section 30 (5)**

12 *omit*

13 *Trade Practices Act 1974 (Cwlth)*

14 *substitute*

15 *Competition and Consumer Act 2010 (Cwlth)*

16 **Part 3.3 Civil Law (Sale of Residential**  
17 **Property) Act 2003**

18 **[3.7] Section 8 (2) (c)**

19 *substitute*

- 20 (c) land or a unit subject to the Retirement Villages Industry Code  
21 of Practice under the *Fair Trading (Australian Consumer Law)*  
22 *Act 1992*; or

1 **Part 3.4** **Civil Law (Wrongs) Act 2002**

2 **[3.8] Section 107B (2) (b)**

3 *substitute*

- 4 (b) a claim for economic loss or damage to property in an action  
5 for damages under the *Australian Consumer Law (ACT)*,  
6 section 236 for a contravention of that law, part 3.1 (Unfair  
7 practices).

8 **[3.9] Section 107C (3)**

9 *substitute*

- 10 (3) In this section:

11 *acquire*—see the *Australian Consumer Law (ACT)*, section 2 (1).

12 *business*—see the *Australian Consumer Law (ACT)*, section 2 (1).

13 *goods*—see the *Australian Consumer Law (ACT)*, section 2 (1).

14 *resupply*, of goods acquired from a person, includes—

- 15 (a) a supply of the goods (the *first goods*) to another person in an  
16 altered form or condition; and

- 17 (b) a supply to another person of goods in which the first goods  
18 have been incorporated.

19 *services*—see the *Australian Consumer Law (ACT)*, section 2 (1).

20 *supply*—see the *Australian Consumer Law (ACT)*, section 2 (1).

21 **[3.10] Schedule 3, section 3.2, paragraph (b)**

22 *substitute*

- 23 (b) an action for breach of the *Competition and Consumer*  
24 *Act 2010* (Cwlth) or the *Australian Consumer Law (ACT)*; or

1 **[3.11] Dictionary, note 2**

2 *insert*

- 3
  - Australian Consumer Law (ACT)

4 **Part 3.5 Competition Policy Reform**  
5 **Act 1996**

6 **[3.12] Section 2 etc**

7 *omit*

8 Trade Practices Act

9 *substitute*

10 Competition and Consumer Act

11 *in*

- 12
  - section 2, note 1
  - 13 • sections 3 and 4
  - 14 • section 8 (6)
  - 15 • section 27
  - 16 • sections 34 and 35
  - 17 • section 39
  - 18 • dictionary, definition of *commission*

19 **[3.13] Dictionary, new definition of *Competition and Consumer***  
20 ***Act***

21 *insert*

22 *Competition and Consumer Act* means the *Competition and*  
23 *Consumer Act 2010* (Cwlth).



1 **[3.14] Dictionary, definitions of *council*, *officer* and *schedule***  
2 ***version of part 4***

3 *omit*

4 Trade Practices Act

5 *substitute*

6 Competition and Consumer Act

7 **[3.15] Dictionary, definition of *Trade Practices Act***

8 *omit*

9 **[3.16] Dictionary, definition of *tribunal***

10 *omit*

11 Trade Practices Act

12 *substitute*

13 Competition and Consumer Act

14 **Part 3.6 Crimes (Child Sex Offenders)**  
15 **Regulation 2005**

16 **[3.17] Section 3, note 1**

17 *omit*

18 For example, the signpost definition '*credit card*—see the *Fair Trading*  
19 *Act 1992*, section 28 (Unsolicited credit and debit cards).' means that  
20 the term 'credit card' is defined in that dictionary and the definition  
21 applies to this regulation.

22 *substitute*

23 For example, the signpost definition '*credit card*—see the *Australian*  
24 *Consumer Law (ACT)*, section 2 (1).' means that the term 'credit card'  
25 is defined in that law and the definition applies to this regulation.

1 **[3.18] Dictionary, note 2**

2 *insert*

- 3 • Australian Consumer Law (ACT)

4 **[3.19] Dictionary, definitions of *credit card* and *debit card***

5 *substitute*

6 *credit card*—see the *Australian Consumer Law (ACT)*, section 2 (1).

7 *debit card*—see the *Australian Consumer Law (ACT)*, section 2 (1).

8 **Part 3.7 Fair Trading Regulation 2009**

9 **[3.20] Section 3 heading and note**

10 *omit*

11 s 51D

12 *substitute*

13 s 63

14 **[3.21] Section 4 (7)**

15 *omit*

16 section 158 to section 160

17 *substitute*

18 section 180 to section 182

1 **Part 3.8** **Fair Trading (Motor Vehicle**  
2 **Repair Industry) Act 2010**

3 **[3.22] Section 3, note 1**

4 *omit*

5 For example, the signpost definition '*consumer*—see the *Fair Trading*  
6 *Act 1992*, section 6.' means that the term 'consumer' is defined in that  
7 section and the definition applies to this Act.

8 *substitute*

9 For example, the signpost definition '*consumer*—see the *Australian*  
10 *Consumer Law (ACT)*, section 2 (1).' means that the term 'consumer' is  
11 defined in that law and the definition applies to this Act.

12 **[3.23] Section 10 (6) (d) and (e)**

13 *substitute*

14 (d) an offence against the *Competition and Consumer Act 2010*  
15 (Cwlth); or

16 (e) an offence against the *Australian Consumer Law (ACT)* or a  
17 corresponding law of a State; or

18 **[3.24] Part 7 heading, note**

19 *omit*

20 *Fair Trading (Consumer Affairs) Act 1973*

21 *substitute*

22 *Fair Trading (Australian Consumer Law) Act 1992*

1 **[3.25] Section 49 (2)**

2 *omit*

3 *Trade Practices Act 1974 (Cwlth)*

4 *substitute*

5 *Competition and Consumer Act 2010 (Cwlth)*

6 **[3.26] Section 49 (4)**

7 *substitute*

8 (4) In this section:

9 *goods*—see the *Australian Consumer Law (ACT)*, section 2 (1).

10 *price*—see the *Australian Consumer Law (ACT)*, section 2 (1).

11 *services*—see the *Australian Consumer Law (ACT)*, section 2 (1).

12 *supply*—see the *Australian Consumer Law (ACT)*, section 2 (1).

13 *trade or commerce*—see the *Australian Consumer Law (ACT)*,  
14 section 2 (1).

15 **[3.27] Section 64 heading**

16 *omit*

17 **Fair Trading (Consumer Affairs) Act 1973**

18 *substitute*

19 **Fair Trading (Australian Consumer Law) Act 1992**

20 **[3.28] Dictionary, note 2**

21 *insert*

- 22
  - Australian Consumer Law (ACT)

1 **[3.29] Dictionary, definition of *consumer***

2 *substitute*

3 *consumer*—see the *Australian Consumer Law (ACT)*, section 2 (1).

4 **Part 3.9 Financial Management Act 1996**

5 **[3.30] Section 103 (3)**

6 *omit*

7 *Trade Practices Act 1974 (Cwlth)*

8 *substitute*

9 *Competition and Consumer Act 2010 (Cwlth)*

10 **Part 3.10 Government Procurement**  
11 **Act 2001**

12 **[3.31] Section 8 (5)**

13 *omit*

14 *Trade Practices Act 1974 (Cwlth)*

15 *substitute*

16 *Competition and Consumer Act 2010 (Cwlth)*

1 **Part 3.11 Health Act 1993**

2 **[3.32] Section 107 heading**

3 *omit*

4 **Trade Practices Act**

5 *substitute*

6 **Competition and Consumer Act**

7 **[3.33] Section 107**

8 *omit*

9 *Trade Practices Act 1974 (Cwlth)*

10 *substitute*

11 *Competition and Consumer Act 2010 (Cwlth)*

12 **Part 3.12 Insurance Authority Act 2005**

13 **[3.34] Section 13 (4)**

14 *omit*

15 *Trade Practices Act 1974 (Cwlth)*

16 *substitute*

17 *Competition and Consumer Act 2010 (Cwlth)*

1 **Part 3.13** **Jurisdiction of Courts**  
2 **(Cross-vesting) Act 1993**

3 **[3.35] Section 10 heading**

4 *omit*

5 **Trade Practices Act**

6 *substitute*

7 **Competition and Consumer Act**

8 **[3.36] Section 10 (b)**

9 *omit*

10 *Trade Practices Act 1974 (Cwlth)*

11 *substitute*

12 *Competition and Consumer Act 2010 (Cwlth)*

13 **Part 3.14** **Leases (Commercial and Retail)**  
14 **Act 2001**

15 **[3.37] Section 100 (4)**

16 *omit*

17 *Trade Practices Act 1974 (Cwlth)*

18 *substitute*

19 *Competition and Consumer Act 2010 (Cwlth)*

1 **Part 3.15** **Legislation Act 2001**

2 **[3.38] Dictionary, part 1, new definition of *Australian Consumer***  
3 ***Law (ACT)***

4 *insert*

5 *Australian Consumer Law (ACT)* means the provisions applying  
6 because of the *Fair Trading (Australian Consumer Law) Act 1992*,  
7 section 7 (Application of Australian Consumer Law).

8 **[3.39] Dictionary, part 1, definition of *commissioner for fair***  
9 ***trading***

10 *omit*

11 *Fair Trading (Consumer Affairs) Act 1973*

12 *substitute*

13 *Fair Trading (Australian Consumer Law) Act 1992*

14 **[3.40] Dictionary, part 1, definition of *office of fair trading***

15 *omit*

16 **Part 3.16** **Liquor Act 2010**

17 **[3.41] Section 3, note 1**

18 *omit*

19 *Fair Trading (Consumer Affairs) Act 1973*

20 *substitute*

21 *Fair Trading (Australian Consumer Law) Act 1992*



1 **[3.42] Section 69 (1) (a) (viii), (ix) and (x)**

2 *substitute*

3 (viii) the *Competition and Consumer Act 2010* (Cwlth);

4 (ix) the *Fair Trading (Australian Consumer Law) Act 1992*;

5 (x) the *Australian Consumer Law (ACT)* or a corresponding  
6 law of a State;

7 **[3.43] Dictionary, note 2**

8 *insert*

- 9
  - Australian Consumer Law (ACT)

10 **[3.44] Dictionary, definitions of *identity card* and *investigator***

11 *omit*

12 *Fair Trading (Consumer Affairs) Act 1973*

13 *substitute*

14 *Fair Trading (Australian Consumer Law) Act 1992*

15 **Part 3.17** **Magistrates Court (Agents**  
16 **Infringement Notices)**  
17 **Regulation 2003**

18 **[3.45] Section 12**

19 *omit*

20 *Fair Trading (Consumer Affairs) Act 1973*, section 9

21 *substitute*

22 *Fair Trading (Australian Consumer Law) Act 1992*, section 36

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**Part 3.18                    Magistrates Court (Sale of  
Residential Property  
Infringement Notices)  
Regulation 2004**

**[3.46]    Section 11**

*omit*  
*Fair Trading (Consumer Affairs) Act 1973, section 9*  
*substitute*  
*Fair Trading (Australian Consumer Law) Act 1992, section 36*

**Part 3.19                    Magistrates Court (Security  
Industry Infringement Notices)  
Regulation 2003**

**[3.47]    Section 12**

*omit*  
*Fair Trading (Consumer Affairs) Act 1973, section 9*  
*substitute*  
*Fair Trading (Australian Consumer Law) Act 1992, section 36*

1 **Part 3.20 Racing Act 1999**

2 **[3.48] Section 61X heading**

3 *omit*

4 **Trade Practices Act**

5 *substitute*

6 **Competition and Consumer Act**

7 **[3.49] Section 61X (1) and (2)**

8 *omit*

9 *Trade Practices Act 1974 (Cwlth)*

10 *substitute*

11 *Competition and Consumer Act 2010 (Cwlth)*

12 **Part 3.21 Road Transport (Public**  
13 **Passenger Services) Act 2001**

14 **[3.50] Section 8 heading**

15 *omit*

16 **Trade Practices Act**

17 *substitute*

18 **Competition and Consumer Act**

- 1 **[3.51] Section 8**
- 2 *omit*
- 3 *Trade Practices Act 1974 (Cwlth)*
- 4 *substitute*
- 5 *Competition and Consumer Act 2010 (Cwlth)*

6 **Part 3.22 Sale of Motor Vehicles Act 1977**

- 7 **[3.52] Section 71 (7) (b) and (c)**
- 8 *substitute*
- 9 (b) an offence against the *Competition and Consumer Act 2010*
- 10 (Cwlth); or
- 11 (c) an offence against the *Australian Consumer Law (ACT)* or a
- 12 corresponding law of a State; or

- 13 **[3.53] Dictionary, note 2**
- 14 *insert*
- 15
  - Australian Consumer Law (ACT)

1 **Part 3.23** **Second-hand Dealers**  
2 **Regulation 2002**

3 **[3.54] Section 3, note 1**

4 *omit*

5 For example, the signpost definition '*credit card*—see the *Fair Trading*  
6 *Act 1992*, section 28 (Unsolicited credit and debit cards).' means that  
7 the term 'credit card' is defined in that section and the definition applies  
8 to this regulation.

9 *substitute*

10 For example, the signpost definition '*credit card*—see the *Australian*  
11 *Consumer Law (ACT)*, section 2 (1).' means that the term 'credit card'  
12 is defined in that law and the definition applies to this regulation.

13 **[3.55] Dictionary, note 2**

14 *insert*

- 15
  - Australian Consumer Law (ACT)

16 **[3.56] Dictionary, definitions of *credit card* and *debit card***

17 *substitute*

18 *credit card*—see the *Australian Consumer Law (ACT)*, section 2 (1).

19 *debit card*—see the *Australian Consumer Law (ACT)*, section 2 (1).

20 **Part 3.24** **Security Industry Act 2003**

21 **[3.57] Section 41 (4)**

22 *omit*

23 *Fair Trading (Consumer Affairs) Act 1973*

24 *substitute*

25 *Fair Trading (Australian Consumer Law) Act 1992*

1 **Part 3.25 Security Industry**  
2 **Regulation 2003**

3 **[3.58] Section 6 (1) (g)**

4 *omit*

5 *Fair Trading (Consumer Affairs) Act 1973*

6 *substitute*

7 *Fair Trading (Australian Consumer Law) Act 1992*

8 **Part 3.26 Territory Records Act 2002**

9 **[3.59] Section 39 (5)**

10 *omit*

11 *Trade Practices Act 1974 (Cwlth)*

12 *substitute*

13 *Competition and Consumer Act 2010 (Cwlth)*

14 **Part 3.27 Utilities Act 2000**

15 **[3.60] Section 20 (2) (d)**

16 *substitute*

17 (d) *the Australian Consumer Law (ACT);*

18 **[3.61] Dictionary, note 2**

19 *insert*

- 20
  - Australian Consumer Law (ACT)

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2010.

**2 Notification**

Notified under the Legislation Act on 2010.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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