

**2011**

**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL  
TERRITORY**

**FAIR TRADING (AUSTRALIAN CONSUMER LAW)(TRANSITIONAL  
PROVISIONS) REGULATION 2011**

**SUBORDINATE LAW 2011–4**

**EXPLANATORY STATEMENT**

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## **Fair Trading (Australian Consumer Law)(Transitional Provisions) Regulation 2011**

### **EXPLANATORY STATEMENT**

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#### **Outline**

- In the *National Partnership Agreement to Deliver a Seamless National Economy*, the Council of Australian Governments (COAG) agreed to work together to implement a coordinated national approach to the consumer policy framework, known as the Australian Consumer Law (ACL).
- The ACT Office of Regulatory Services (along with the ACCC and ASIC) has powers to enforce the ACL in the ACT.
- The *Fair Trading (Australian Consumer Law) Amendment Act 2010* (FT (ACL) Amendment Act) was passed by the Legislative Assembly on 9 December 2010. The FT (ACL) Amendment Act amended the *Fair Trading (Australian Consumer Law) Act 1992* (FT (ACL) Act) to apply the ACL as a law of the Territory, and to make consequential amendments.
- The Explanatory Statement to the FT (ACL) Amendment Act indicates that the amendments were intended to preserve the Commissioner for Fair Trading's existing enforcement powers through the retention of part 3 of the (repealed) FT (CA) Act.
- The *Fair Trading (Motor Vehicle Repair Industry) Act 2010* (FT (MVRI) Act) came into operation on 7 October 2010 to provide for the licensing and regulation of the motor vehicle repair industry. The *Fair Trading (Motor Vehicle Repair Industry) Bill 2009* amended the definition of 'fair trading legislation' in the now repealed *Fair Trading (Consumer Affairs) Act 1973* (FT (CA) Act) to include reference to the FT (MVRI) Act in order to ensure that the Commissioner for Fair Trading could exercise enforcement powers over this sector.
- Due to a technical omission, amendment 3.27 of the FT (ACL) Amendment Act did not include the FT (MVRI) Act in the dictionary definition of 'fair trading legislation' in the FT (ACL) Act.
- The passage of a transitional regulation will enable the Commissioner of Fair Trading to continue to exercise enforcement powers in relation to the motor vehicle repair industry which existed prior to the repeal of the *Fair Trading (Consumer Affairs) Act 1973*.

- Section 1.4 of the FT (ACL) Act provides the power to make this transitional regulation.
- The transitional regulation expires on 1 January 2014. To ensure this corrective measure has effect beyond the expiry of this term, a reference to the FT (MVRI) Act will be inserted into the definition of ‘fair trading legislation’ in the FT (ACL) Act in an upcoming JACS Bill.

## **Summary of Clauses**

### ***Clause 1 Name of regulation***

This clause names the regulation as the *Fair Trading (Australian Consumer Law) (Transitional Provisions) Regulation 2011*.

### ***Clause 2 Commencement***

This clause provides that the regulation will commence on the day after its notification day.

### ***Clause 3 – Modification of Act, sch 1- Act, sch 1, s 1.4***

#### **1.3A Transitional – definition of *fair trading legislation***

This clause provides that the definition of ‘fair trading legislation’ in the dictionary to the *Fair Trading (Australian Consumer Law) Act 1992* applies as if it included a reference to the *Fair Trading (Motor Vehicle Repair Industry) Act 2010*.

### ***Clause 4 Expiry***

This clause provides that the regulation expires on 1 January 2014.