

AUSTRALIAN CAPITAL TERRITORY

TENANCY TRIBUNAL ACT 1994

VARIATION

Instrument No. 194 of 1998

EXPLANATORY STATEMENT

The *Tenancy Tribunal Act 1994* ("the Act") provides mechanisms for the resolution of disputes arising under the *Commercial and Retail Leases Code of Practice* ("the Code"). The Code, approved by the Minister under paragraph 75(1)(a) of the Act, sets minimum standards of conduct for the parties to a lease to which the Code applies.

Paragraph 75(1)(b) of the Act provides the Minister with the power to approve a variation to the Code. In accordance with section 76 of the Act, the approval is disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

This Variation, approved in accordance with the Act, amends the Code by specifying a lease for the purposes of Schedule 4 of the Code. Leases specified in Schedule 4 are excluded from the operation of the Code by virtue of subclause 7(b) of the Code, which was inserted by Variation Instrument No. 5 of 1997 as notified in Special Gazette No. S10 of 1997.

The lease specified in this Variation is between Perpetual Trustee Company Ltd ("Perpetual") and Coles Supermarkets Australia Pty Ltd ("Coles Supermarkets") who are clearly parties of equal bargaining power and access to legal advice and are outside the original policy intention of the Code to provide protection for small business.

The parties to the specified lease have requested its exclusion from the operation of the Code, indicating that the Code's application would unduly regulate their commercial activities.

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Minister for Justice and Community Safety

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