

## Fair Trading Amendment Bill 2019

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Western Australia

LEGISLATIVE COUNCIL

## **Fair Trading Amendment Bill 2019**

**A Bill for**

**An Act to amend the *Fair Trading Act 2010*.**

The Parliament of Western Australia enacts as follows:

**s. 1**

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1   **1.     Short title**

2           This is the *Fair Trading Amendment Act 2019*.

3   **2.     Commencement**

4           This Act comes into operation as follows —

5           (a) sections 1 and 2 — on the day on which this Act  
6                receives the Royal Assent;

7           (b) the rest of the Act — on the day after that day.

8   **3.     Act amended**

9           This Act amends the *Fair Trading Act 2010*.

10 **4.     Section 17 amended**

11          In section 17 insert in alphabetical order:

12

13                   *amend* includes replace;

14                   *amending law* means a Commonwealth Act that  
15                   amends —

16                   (a) Schedule 2 to the *Competition and Consumer*  
17                        *Act 2010* (Commonwealth); or

18                   (b) the regulations made under section 139G of that  
19                        Act;

20

21 **5.     Section 19 amended**

22          (1) In section 19(1):

23                   (a) delete paragraph (a) and insert:

24

25                   (a) Schedule 2 to the *Competition and Consumer*  
26                        *Act 2010* (Commonwealth) as in force on  
27                        1 March 2019 and as amended by all amending

1 laws that have effect for the purposes of this  
2 section under sections 19B and 19C; and

3

4 (b) in paragraph (b) delete “time.” and insert:

5

6 time, subject to subsection (1A).

7

8 (2) After section 19(1) insert:

9

10 (1A) For the purposes of subsection (1)(b), an amending law  
11 does not amend regulations made under section 139G  
12 of that Act until the amending law has effect for the  
13 purposes of this section under sections 19B and 19C.

14

15 **6. Sections 19A to 19E inserted**

16 After section 19 insert:

17

18 **19A. Tabling amending laws**

19 An amending law must be laid before each House of  
20 Parliament within 18 sitting days of the House after the  
21 day on which the law receives the Royal Assent.

22 **19B. Whether amending laws have effect in the State**

23 (1) In this section —

24 *disallowance period*, in relation to a disallowance  
25 resolution notice of which is given in a House of  
26 Parliament, means the period of 30 sitting days of the  
27 House after the day on which the notice is given;

28 *disallowance resolution* means a resolution that an  
29 amending law be disallowed;

- 1                    *notice period*, in relation to an amending law laid  
2                    before a House of Parliament under section 19A,  
3                    means the period of 14 sitting days of the House after  
4                    the day on which the amending law is laid before it.
- 5                    (2) An amending law has effect for the purposes of  
6                    section 19 if the amending law is laid before each  
7                    House of Parliament under section 19A and either —
- 8                            (a) no notice of a disallowance resolution is given  
9                            in either House within the notice period; or
- 10                            (b) each disallowance resolution, notice of which is  
11                            given in a House within the notice period, is —
- 12                                    (i) lost in the House; or
- 13                                    (ii) not agreed to within the disallowance  
14                                    period for the resolution.
- 15                    (3) For the purposes of this section —
- 16                            (a) the period specified in section 19A, a notice  
17                            period or a disallowance period continues to  
18                            run even though a House of Parliament is  
19                            dissolved, prorogued or expires; and
- 20                            (b) notice of a disallowance resolution given in a  
21                            House of Parliament does not lapse even  
22                            though the House is dissolved, prorogued or  
23                            expires.

24                    **19C. When amending laws have effect in the State**

- 25                    (1) In this section —
- 26                            *amending provision*, of an amending law, means a  
27                            provision of the amending law that amends —
- 28                            (a) Schedule 2 to the *Competition and Consumer*  
29                            *Act 2010* (Commonwealth); or
- 30                            (b) the regulations made under section 139G of that  
31                            Act.

- 1 (2) If, under section 19B(2), an amending law has effect  
 2 for the purposes of section 19, the Governor must  
 3 declare that fact by proclamation as soon as  
 4 practicable.
- 5 (3) If an amending provision of the amending law has  
 6 come into operation in the Commonwealth before the  
 7 proclamation is published in the *Gazette*, the amending  
 8 provision has effect for the purposes of section 19 on a  
 9 day fixed by the proclamation.
- 10 (4) If an amending provision of the amending law has not  
 11 come into operation in the Commonwealth before the  
 12 proclamation is published in the *Gazette*, the amending  
 13 provision has effect for the purposes of section 19  
 14 when the amending provision comes into operation in  
 15 the Commonwealth in accordance with the amending  
 16 law.

17 **19D. Amending laws enacted after 1 March 2019 but**  
 18 **before commencement day**

19 If an amending law receives the Royal Assent after  
 20 1 March 2019 but before the day (*commencement day*)  
 21 on which the *Fair Trading Amendment Act 2019*  
 22 section 6 comes into operation, sections 19A to 19C  
 23 apply to the amending law as if the amending law  
 24 received the Royal Assent on commencement day.

25 **19E. Application of Standing Orders to disallowance**  
 26 **resolution**

- 27 (1) In this section, *disallowance resolution* has the  
 28 meaning given in section 19B(1).
- 29 (2) Subsection (3) applies if a Standing Order of a House  
 30 of Parliament —  
 31 (a) sets out a procedure for dealing with a notice of  
 32 motion given in the House under the

s. 7

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- 1                                    *Interpretation Act 1984* section 42(2) to  
2                                    disallow a regulation; and
- 3                                    (b) gives precedence to an order of the day to  
4                                    disallow a regulation over other orders of the  
5                                    day; and
- 6                                    (c) provides that, if a motion to disallow a  
7                                    regulation remains unresolved on the last of a  
8                                    specified number of sitting days after the  
9                                    motion was moved, the question on the motion  
10                                    is to be put before the House rises on that day.
- 11                                    (3) The Standing Order —
- 12                                    (a) applies with all necessary changes as if —
- 13    (i) an amending law were a regulation; and
- 14    (ii) a notice of a disallowance resolution  
15    were a notice of motion to disallow a  
16    regulation; and
- 17    (iii) the specified number of sitting days  
18    referred to in subsection (2)(c) were  
19    30 sitting days;
- 20                                    but
- 21                                    (b) does not apply to the extent that it requires the  
22                                    question on a motion to be put before the House  
23                                    rises on the proposed last sitting day before a  
24                                    general election.
- 25                                    (4) This section does not apply if the Standing Orders of  
26                                    the House provide specifically for how a notice of a  
27                                    disallowance resolution relating to an amending law is  
28                                    to be dealt with.
- 29

30    **7.        Section 36 deleted; particular regulations repealed**

- 31        (1) Delete section 36.



1       (2)   The *Fair Trading (Permitted Calling Hours) Regulations 2014*  
2       are repealed.

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