

Fair Trading Amendment Bill 2018

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Western Australia

LEGISLATIVE COUNCIL

Fair Trading Amendment Bill 2018

A Bill for

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

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Fair Trading Amendment Act 2018*.

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)(a) delete “on 1 January 2013” and insert:

23

24 from time to time

25

1 (2) In section 19(3) after “sections” insert:

2

3 19C,

4

5 **6. Sections 19A to 19C inserted**

6 After section 19 insert:

7

8 **19A. Tabling and disallowing amending laws**

9 (1) A copy of an amending law must be laid before each
10 House of Parliament within 18 sitting days of the
11 House after the day on which the law receives the
12 Royal Assent.

13 (2) Either House of Parliament may pass a resolution
14 disallowing the amending law.

15 (3) For the resolution to be effective, notice of the
16 resolution must be given in the House within 14 sitting
17 days of the House after the day on which the copy of
18 the amending law is laid before the House.

19 **19B. Clerk to publish notice of disallowance under s. 19A**

20 If a House of Parliament passes a resolution under
21 section 19A(2) disallowing an amending law, the Clerk
22 of the Parliaments must publish notice of the resolution
23 in the *Gazette* as soon as practicable after the day on
24 which the resolution is passed.

- 1 **19C. Effect of failing to table, or disallowance of,**
2 **amending laws under s. 19A**
- 3 (1) In this section —
4 ***disapplying day***, in relation to an amending law,
5 means —
- 6 (a) if the amending law is not laid before each
7 House of Parliament in accordance with
8 section 19A(1) — the last day for compliance
9 with section 19A(1); or
- 10 (b) if the amending law is disallowed under
11 section 19A(2) — the day on which the
12 amending law is disallowed.
- 13 (2) If an amending law is not laid before each House of
14 Parliament in accordance with section 19A(1), or is
15 disallowed under section 19A(2), the *Australian*
16 *Consumer Law (WA)* —
- 17 (a) does not include the amendments made by the
18 amending law; and
- 19 (b) includes any provision repealed or amended by
20 the amending law as if the amending law had
21 not been enacted or made.
- 22 (3) Subsection (2) has effect on and from the day after the
23 disapplying day.
- 24 (4) If subsection (2) applies in relation to an amending
25 law, anything done under the *Australian Consumer*
26 *Law (WA)* on or before the disapplying day ceases to
27 have effect to the extent that the thing could not have
28 been done but for the amending law.
- 29 (5) Subsection (4) has effect —
- 30 (a) at the beginning of the day after the disapplying
31 day; and

- 1 (b) subject to the limits of the legislative power of
2 the State.
- 3 (6) In subsection (4), a reference to the doing of anything
4 includes a reference to not doing anything.
- 5 (7) This section does not affect the validity or cure the
6 invalidity of anything done or not done on or before the
7 disapplying day.
8

9 **7. Section 63B amended**

10 Delete section 63B(2) and insert:

- 11
- 12 (2) The Minister must appoint a Committee member to be
13 the Chairperson.
14

15 **8. Section 63F amended**

16 Delete section 63F(2) and insert:

- 17
- 18 (2) The Minister must appoint a Committee member to be
19 the Chairperson.
20

21 **9. Section 63J amended**

22 Delete section 63J(2) and insert:

- 23
- 24 (2) The Minister must appoint a Committee member to be
25 the Chairperson.
26

s. 10

1 **10. Section 108 amended**

2 (1) In section 108(1) and (2):

3 (a) in paragraph (a) delete “court” and insert:

4

5 court, or an admission of a fact by the person, in
6 proceedings

7

8 (b) in paragraph (b) after “finding” (each occurrence) insert:

9

10 or admission

11

12 (2) In section 108(3) delete “a finding of fact by a court that is
13 made in”.

14 Note: The heading to amended section 108 is to read:

15 **Findings of fact or admissions in certain proceedings to be**
16 **evidence in others**

17
