

## Fair Trading Amendment Bill 2021

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Western Australia

LEGISLATIVE COUNCIL

## **Fair Trading Amendment Bill 2021**

**A Bill for**

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

The Parliament of Western Australia enacts as follows:

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1   **1.     Short title**

2           This is the *Fair Trading Amendment Act 2021*.

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(1) insert in alphabetical order:

12

13                   *amend* includes replace;

14                   *amending law* means a Commonwealth Act that  
15                   amends either or both of the following —

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

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

1                   1 June 2021 and as amended by each provision  
2                   that —  
3                   (i) is in an amending law that has effect for  
4                   the purposes of this section under  
5                   section 19B; and  
6                   (ii) has come into operation for the purposes  
7                   of this section under section 19C;  
8                   and

9  
10                   (b) in paragraph (b) delete “time.” and insert:  
11  
12                   time, subject to subsection (1A).

13  
14                   (2) After section 19(1) insert:

15  
16                   (1A) For the purposes of subsection (1)(b), a provision of an  
17                   amending law does not amend regulations made under  
18                   the *Competition and Consumer Act 2010*  
19                   (Commonwealth) section 139G unless —  
20                   (a) the amending law has effect for the purposes of  
21                   this section under section 19B; and  
22                   (b) the provision has come into operation for the  
23                   purposes of this section under section 19C.  
24

25                   Note: The heading to amended section 19 is to read:  
26                   **Application of Australian Consumer Law text**

1   **6.       Sections 19A to 19D inserted**

2           After section 19 insert:

3

4           **19A.     Tabling amending laws**

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

8           **19B.     Disallowance of amending laws**

9           (1) In this section —

10           *disallowance period*, in relation to a disallowance  
11           resolution notice of which is given in a House of  
12           Parliament, means the period of 30 sitting days of the  
13           House after the day on which the notice is given;

14           *disallowance resolution* means a resolution that an  
15           amending law be disallowed;

16           *notice period*, in relation to an amending law laid  
17           before a House of Parliament under section 19A,  
18           means the period of 14 sitting days of the House after  
19           the day on which the amending law is laid before it.

20           (2) An amending law has effect for the purposes of  
21           section 19 if the amending law is laid before each  
22           House of Parliament under section 19A and either —

23           (a) no notice of a disallowance resolution is given  
24           in either House within the notice period; or

25           (b) at least 1 notice of a disallowance resolution is  
26           given in a House within the notice period and,  
27           for each such notice, 1 of the following  
28           applies —

29           (i) the notice is withdrawn or discharged  
30           within the disallowance period;

- 1 (ii) the disallowance resolution is lost in the  
2 House or not agreed to within the  
3 disallowance period.
- 4 (3) For the purposes of this section and section 19A —
- 5 (a) the period specified in section 19A, a notice  
6 period or a disallowance period continues to  
7 run even though a House of Parliament is  
8 prorogued or dissolved or expires; and
- 9 (b) notice of a disallowance resolution given in a  
10 House of Parliament, or a motion that an  
11 amending law be disallowed in the House, does  
12 not lapse even though the House is prorogued  
13 or dissolved or expires.

14 **19C. Commencement of amending laws**

- 15 (1) In this section —
- 16 *amending provision* means a provision of an amending  
17 law that amends either or both of the following —
- 18 (a) Schedule 2 to the *Competition and Consumer*  
19 *Act 2010* (Commonwealth);
- 20 (b) the regulations made under section 139G of that  
21 Act.
- 22 (2) If, under section 19B(2), an amending law has effect  
23 for the purposes of section 19, the Governor must  
24 declare that fact by proclamation as soon as  
25 practicable.
- 26 (3) If an amending provision has come into operation in  
27 the Commonwealth before the proclamation is  
28 published in the *Gazette*, the amending provision  
29 comes into operation for the purposes of section 19 on  
30 a day fixed by the proclamation.

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- 1           (4) If an amending provision has not come into operation  
2           in the Commonwealth before the proclamation is  
3           published in the *Gazette*, the amending provision  
4           comes into operation for the purposes of section 19  
5           when the amending provision comes into operation in  
6           the Commonwealth in accordance with the amending  
7           law.

8           **19D. Amending laws enacted after 1 June 2021 but**  
9           **before commencement day**

10           If an amending law receives the Royal Assent after  
11           1 June 2021 but before the day (*commencement day*)  
12           on which the *Fair Trading Amendment Act 2021*  
13           section 6 comes into operation, sections 19A to 19C  
14           apply to the amending law as if the amending law  
15           received the Royal Assent on commencement day.  
16

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

- 18       (1) Delete section 36.  
19       (2) The *Fair Trading (Permitted Calling Hours) Regulations 2014*  
20       are repealed.

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