

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

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

- 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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