

40TH PARLIAMENT



Report 122

STANDING COMMITTEE ON UNIFORM LEGISLATION AND STATUTES REVIEW

Fair Trading Amendment Bill 2019 - Extension of time

Presented by
Hon Michael Mischin MLC (Chairman)

June 2019

Standing Committee on Uniform Legislation and Statutes Review

Members as at the time of this inquiry:

Hon Michael Mischin MLC (Chairman)

Hon Pierre Yang MLC (Deputy Chair)

Hon Laurie Graham MLC

Hon Robin Scott MLC

Staff as at the time of this inquiry:

Felicity Mackie (Advisory Officer (Legal))

David Graham (Committee Clerk)

Address:

Parliament House

4 Harvest Terrace, West Perth WA 6005

Telephone: 08 9222 7300

Email: lcco@parliament.wa.gov.au

Website: www.parliament.wa.gov.au

ISBN 978-1-925578-68-3



Fair Trading Amendment Bill 2019

Extension of time

On 3 April 2019, the Legislative Council referred the Fair Trading Amendment Bill 2019 (Bill) to the Standing Committee on Uniform Legislation and Statutes Review (Committee) for consideration and report. The reporting date is 4 June 2019, the next sitting day after the 45 day period mandated by Standing Order 126.

The Bill addresses two key issues:

- It applies the Australian Consumer Law as in force on 1 March 2019 as the *Australian Consumer Law (WA)*.
- It provides an alternative disallowance mechanism for Commonwealth amending laws to that in the Fair Trading Amendment Bill 2018, which the Committee found derogated from Parliamentary sovereignty.

The amendments have arisen to address concerns identified by the Committee in its report on the Fair Trading Amendment Bill 2018.¹

The Committee has identified Parliamentary sovereignty issues raised by the Bill. These include:

- the lack of provision for the partial disallowance or amendment of Commonwealth amending laws
- the disallowance mechanism relies on modifications to Legislative Council Standing Order 67.

The Committee is proposing amendments to the Bill. The amendments are complex and have not been settled.

On 21 May 2019, the Committee passed a motion to seek an extension of the time in which it was to report to the Legislative Council. The extension of time is requested to enable the Committee to properly discharge its reporting obligations to the Legislative Council due to the:

- need to receive advice on, and consider, the significant Parliamentary sovereignty issues raised by the Bill
- need to receive advice on, and settle, the Committee's proposed amendments to the Bill
- Committee Members' commitments, including work on other Parliamentary committees.

The Committee therefore requests an extension of time in which to report on the Bill from 4 June 2019 to 22 August 2019.



Hon Michael Mischin MLC

Chairman

¹ Western Australia, Legislative Council, Standing Committee on Uniform Legislation and Statutes Review, Report 119, *Fair Trading Amendment Bill 2018*, November 2018.

Standing Committee on Uniform Legislation and Statutes Review

Date first appointed:

17 August 2005

Terms of Reference:

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

'6. Uniform Legislation and Statutes Review Committee

- 6.1 *A Uniform Legislation and Statutes Review Committee is established.*
- 6.2 The Committee consists of 4 Members.
- 6.3 The functions of the Committee are –
 - (a) to consider and report on Bills referred under Standing Order 126;
 - (b) on reference from the Council, to consider or review the development and formulation of any proposal or agreement whose implementation would require the enactment of legislation made subject to Standing Order 126;
 - (c) to review the form and content of the statute book; and
 - (d) to consider and report on any matter referred by the Council.
- 6.4 In relation to function 6.3(a) and (b), the Committee is to confine any inquiry and report to an investigation as to whether a Bill or proposal may impact upon the sovereignty and law-making powers of the Parliament of Western Australia.'



Parliament House,
4 Harvest Terrace, West Perth WA 6005
Telephone: +61 8 9222 7222
Email: lcco@parliament.wa.gov.au
Website: <http://www.parliament.wa.gov.au>