



New South Wales

Fair Trading Legislation Amendment (Reform) Bill 2018

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

The *Charitable Fundraising Amendment Bill 2018* is cognate with this Bill.

Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Fair Trading Act 1987* and the regulations made under that Act to do the following:
 - (i) to enable the Commissioner for Fair Trading (the **Commissioner**) to publish certain information about licence holders and traders on the internet for free public access,
 - (ii) to require suppliers to notify consumers about substantially prejudicial terms relating to the supply of goods or services and to disclose the existence of commissions and referral fees,
 - (iii) to enable the regulations to prescribe information standards for the supply of goods or services and to create an offence for non-compliance with any such standard,
 - (iv) to prevent non-disclosure agreements from limiting the information that may be provided to the Commissioner about complaints relating to the supply of goods or services,
- (b) to amend various Acts and regulations to provide for 1, 3 and 5 year licence terms and to allow a licence to be restored if an application for restoration is made within 3 months of the licence expiring,
- (c) to amend various Acts to allow the Commissioner to ignore the fact that a corporation is the subject of a winding up order or is in external administration when deciding whether the corporation (or a person managing the corporation) should hold a licence or other authority,

- (d) to make other miscellaneous amendments to various Acts and regulations relating to licensing and service agreements as follows:
 - (i) to amend the *Home Building Act 1989* and the regulations made under that Act to provide that an authority for a special trade category continues in force until it is surrendered, suspended or cancelled and that it is a condition of the authority that the holder provides certain information to the Commissioner every 5 years and to include certain electrical and liquefied petroleum gas work in a caravan or recreational vehicle as specialist work,
 - (ii) to amend the *Motor Dealers and Repairers Act 2013* and the regulations made under that Act to allow licence holders to trade at premises that have been notified to the Commissioner and to allow the Commissioner to grant a specialised authority for certain work prescribed by the regulations,
 - (iii) to amend the *Strata Schemes Management Act 2015* to provide for the expiry of utility agreements with owners corporations,
 - (iv) to amend the *Tow Truck Industry Act 1998* to enable the Commissioner to exempt a person from the requirement to hold a licence or a drivers certificate under that Act and to enter into arrangements to supply the Commissioner of Police with information kept on the register of licences, drivers certificates and exemptions,
- (e) to amend the *Conveyancers Licensing Act 2003* and the *Property, Stock and Business Agents Act 2002* to remove redundant provisions relating to record keeping and to streamline duplicative reporting requirements in those Acts,
- (f) to dissolve certain advisory bodies established by the *Fair Trading Act 1987* and the *Home Building Act 1989*,
- (g) to amend various Acts to provide for modern methods of electronic service of documents and to authorise documents to be served by ordinary post instead of registered post,
- (h) to provide for the use of approved forms under various Acts (instead of forms prescribed by regulations under those Acts),
- (i) to remove provisions of Acts relating to false and misleading advertising that are also provided for by the *Australian Consumer Law (NSW)* and the *Competition and Consumer Act 2010* of the Commonwealth,
- (j) to remove redundant provisions of various Acts relating to the use of seals for the authentication of documents,
- (k) to amend the *Associations Incorporation Act 2009* to allow the Commissioner to exempt an association from financial reporting requirements,
- (l) to repeal the *Regulatory and Other Legislation (Amendments and Repeals) Act 2016* and the *Workers Compensation Legislation Amendment Act 2000*.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act, except as provided by subclause (2).

Clause 3 makes it clear that the explanatory notes contained in the Schedules do not form part of the proposed Act.

Schedule 1 Amendments relating to disclosure of information and prescribing information standards

Schedule 1 makes the amendments referred to in paragraph (a) of the Overview.

The amendments to each Act and instrument are explained in detail in the explanatory note relating to the Act or instrument concerned set out in the Schedule.

Schedule 2 Amendments relating to 1, 3 and 5 year terms and restorations

Schedule 2 makes the amendments referred to in paragraph (b) of the Overview.

The amendments to each Act and instrument are explained in detail in the explanatory note relating to the Act or instrument concerned set out in the Schedule.

Schedule 3 Amendments relating to businesses in external administration

Schedule 3 makes the amendments referred to in paragraph (c) of the Overview.

The amendments to each Act are explained in detail in the explanatory note relating to the Act concerned set out in the Schedule.

Schedule 4 Miscellaneous amendments relating to licensing and service agreements

Schedule 4 makes the amendments referred to in paragraph (d) of the Overview.

The amendments to each Act and instrument are explained in detail in the explanatory note relating to the Act or instrument concerned set out in the Schedule.

Schedule 5 Amendments relating to record keeping

Schedule 5 makes the amendments referred to in paragraph (e) of the Overview.

The amendments to each Act are explained in detail in the explanatory note relating to the Act concerned set out in the Schedule.

Schedule 6 Amendments relating to dissolution of advisory bodies

Schedule 6 makes the amendments referred to in paragraph (f) of the Overview.

The amendments to each Act and instrument are explained in detail in the explanatory note relating to the Act or instrument concerned set out in the Schedule.

Schedule 7 Amendments relating to electronic service of documents and service by ordinary post

Schedule 7 makes the amendments referred to in paragraph (g) of the Overview.

The amendments to each Act and instrument are explained in detail in the explanatory note relating to the Act or instrument concerned set out in the Schedule.

Schedule 8 Amendments relating to approval of forms

Schedule 8 makes the amendments referred to in paragraph (h) of the Overview.

The amendments to each Act and instrument are explained in detail in the explanatory note relating to the Act or instrument concerned set out in the Schedule.

Schedule 9 Amendments relating to advertising

Schedule 9 makes the amendments referred to in paragraph (i) of the Overview.

The amendments to each Act and instrument are explained in detail in the explanatory note relating to the Act or instrument concerned set out in the Schedule.

Schedule 10 Amendments relating to use of seals for authentication of documents

Schedule 10 makes the amendments referred to in paragraph (j) of the Overview.

The amendments to each Act are explained in detail in the explanatory note relating to the Act concerned set out in the Schedule.

Schedule 11 Amendments relating to exemptions for associations

Schedule 11 makes the amendments referred to in paragraph (k) of the Overview.

The amendments to each Act and instrument are explained in detail in the explanatory note relating to the Act or instrument concerned set out in the Schedule.

Schedule 12 Repeals

Schedule 12 makes the amendments referred to in paragraph (l) of the Overview.