

Passed by both Houses



New South Wales

# Fair Trading Amendment (Enforcement and Compliance Powers) Bill 2000

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*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney, , 2000*



New South Wales

## **Fair Trading Amendment (Enforcement and Compliance Powers) Bill 2000**

Act No , 2000

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An Act to amend the *Fair Trading Act 1987* with respect to the suspension of certain licences, permits and authorities and the investigation of alleged contraventions of consumer protection legislation.

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*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

*Chairman of Committees of the Legislative Assembly.*

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Fair Trading Amendment (Enforcement and Compliance Powers) Act 2000*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

**3 Amendment of Fair Trading Act 1987 No 68**

The *Fair Trading Act 1987* is amended as set out in Schedule 1.

## Schedule 1 Amendments

(Section 3)

### [1] Section 8 Delegation by Director-General

Insert after section 8 (2):

- (3) This section does not apply to the functions of the Director-General under section 64A.

### [2] Section 19 Powers of entry

Insert “or any other legislation administered by the Minister” after “this Act” in section 19 (4).

### [3] Section 64A

Insert after section 64:

#### 64A Suspension of licences

- (1) In this section, *licence* means any licence, permit or other authority granted or issued (whether before or after the commencement of this section) under any legislation administered by the Minister, and *licensee* means the holder of the licence, permit or authority.
- (2) If the Director-General is of the opinion that there are reasonable grounds to believe that:
  - (a) a licensee has engaged in conduct that, under legislation administered by the Minister, constitutes grounds for suspension or cancellation of the licence, and
  - (b) it is likely that the licensee will continue to engage in that conduct, and
  - (c) there is a danger that a person or persons may suffer significant harm, or significant loss or damage, as a result of that conduct unless action is taken urgently,

the Director-General may, by notice served on the licensee, suspend the licence for a period of not more than 60 days specified in the notice, commencing on service of the notice.

- (3) A notice under subsection (2) has effect according to its terms, whether or not the licensee has been afforded an opportunity to be heard as to whether the licence should be suspended.
- (4) Within 7 days after a licence has been suspended under this section, the licensee must:
  - (a) lodge the suspended licence at an office of the Department of Fair Trading, or
  - (b) if unable to lodge the suspended licence, lodge at an office of the Department of Fair Trading a statement signed by the licensee and providing accurate and complete details of why the licence cannot be lodged.

Maximum penalty: 10 penalty units.

- (5) If, during the suspension of a licence under this section, the Director-General is satisfied that the facts and circumstances that gave rise to the suspension have so altered that the suspension should be terminated, it is the duty of the Director-General, by further notice specifying the date of termination, to terminate the suspension without delay and restore the licence to the licensee.
- (6) Without affecting the generality of subsection (2):
  - (a) a second or subsequent notice may be served on a licensee under that subsection in respect of conduct of the kind to which that subsection refers, and
  - (b) any such notice may be served during a period of suspension of the licence concerned.
- (7) This section has effect despite the provisions of any other Act, and the power conferred by this section is in addition to, and does not limit or displace, a power conferred by or under any other Act that authorises the Director-General or any other person to suspend or cancel a licence or take other action in respect of a licence or in respect of the conduct concerned.

- (8) A licensee may apply to the Administrative Decisions Tribunal for a review of a decision of the Director-General under this section.