



Queensland

Fair Trading (Australian Consumer Law) Amendment Bill 2010



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2010

A Bill

for

An Act to amend the *Fair Trading Act 1989* to apply the Australian Consumer Law of the Commonwealth as a law of Queensland and for other particular purposes, to make consequential amendments to the Acts stated in the schedule, and to amend the *Security Providers Act 1993* for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Fair Trading (Australian Consumer Law) Amendment Act 2010*. 4
5

Clause 2 Commencement 6

This Act commences on a day to be fixed by proclamation. 7

Part 2 Amendment of Fair Trading Act 1989 8
9

Clause 3 Act amended 10

This part amends the *Fair Trading Act 1989*. 11

Clause 4 Amendment of long title 12

Long title, ‘consumer authorities’— 13
omit, insert— 14
‘**a commissioner for fair trading**’. 15

Clause 5 Amendment of s 3 (Objective of this Act) 16

Section 3, from ‘to provide’— 17
omit, insert— 18

‘to improve consumer wellbeing through consumer empowerment and protection, fostering effective competition and enabling the confident participation of consumers in markets in which both consumers and suppliers trade fairly.’.

Clause 6	Replacement of s 4 (Application of Act)	5
	Section 4—	6
	<i>omit, insert—</i>	7
‘4	This part does not apply for the Australian Consumer Law (Queensland)	8 9
	‘This part (other than sections 1 and 3) does not apply for the interpretation or operation of the Australian Consumer Law (Queensland).’	10 11 12
	<i>Example—</i>	13
	The definitions in section 5 of this Act do not apply for the interpretation of the Australian Consumer Law (Queensland). That law has its own list of definitions in section 2 of that law.	14 15 16
‘4A	Application of Act	17
	‘(1) This Act applies to and in relation to—	18
	(a) persons carrying on business within Queensland; or	19
	(b) bodies corporate incorporated or registered under the law of Queensland; or	20 21
	(c) persons ordinarily resident in Queensland; or	22
	(d) persons otherwise connected with Queensland.	23
	‘(2) Subject to subsection (1), this Act extends to conduct, and other acts, matters and things, occurring or existing outside or partly outside Queensland (whether within or outside Australia).’	24 25 26 27

[s 7]

‘4B	Reference to this Act or to a particular provision of the Australian Consumer Law (Queensland)	1 2
‘(1)	To remove any doubt, a reference in this Act to this Act may be taken to include a reference to the Australian Consumer Law (Queensland).	3 4 5
	<i>Example—</i>	6
	Section 90 (Power to obtain information) refers to any matter relevant to the operation or enforcement of this Act, which would include any matter relevant to the operation or enforcement of the Australian Consumer Law (Queensland).	7 8 9 10
‘(2)	In this Act, a reference to a particular provision of the Australian Consumer Law (Queensland) is a reference to the provision of that number in schedule 2 of the Competition and Consumer Act, applying as a law of Queensland under part 3.’.	11 12 13 14 15
Clause 7	Amendment of s 5 (Definitions)	16
(1)	Section 5, definitions <i>acquire</i> , <i>approved form</i> , <i>auction</i> , <i>business</i> , <i>committee</i> , <i>component part</i> , <i>consumer</i> , <i>council</i> , <i>court</i> , <i>credit</i> , <i>giving effect to</i> , <i>goods</i> , <i>hire-purchase agreement</i> , <i>interest</i> , <i>office</i> , <i>premises</i> , <i>price</i> , <i>provision</i> , <i>services</i> , <i>supply</i> , <i>TPA</i> , <i>trade or commerce</i> , <i>unsolicited goods</i> and <i>unsolicited services—</i>	17 18 19 20 21 22
	<i>omit.</i>	23
(2)	Section 5—	24
	<i>insert—</i>	25
	‘ ACL(Q) means the Australian Consumer Law (Queensland). acquire , in relation to services, includes accept application law , for part 3, see section 14(1).	26 27 28
	Australian Consumer Law (Queensland) means the Australian Consumer Law (Queensland) as provided for in part 3.	29 30 31
	Australian Consumer Law text see section 14(1).	32

<i>Competition and Consumer Act</i> means the <i>Competition and Consumer Act 2010</i> (Cwlth).	1 2
<i>consumer</i> has the same meaning as it has in the Australian Consumer Law (Queensland).	3 4
<i>consumer contract</i> has the same meaning as it has in the Australian Consumer Law (Queensland).	5 6
<i>District Court</i> means the District Court of Queensland.	7
<i>embargo notice</i> see section 39(1).	8
<i>embargo period</i> , for an embargo notice, means the period stated in the embargo notice under section 39(4)(c) or (d).	9 10
<i>evidential burden</i> , in relation to a matter, means the burden of adducing or pointing to evidence that suggests a reasonable possibility that the matter exists or does not exist.	11 12 13
<i>executive officer</i> , of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.	14 15 16 17
<i>extended application</i> see section 56(1).	18
<i>FTA consumer offence provision</i> means—	19
(a) section 84(1); or	20
(b) section 86.	21
<i>FTA offence provision</i> means—	22
(a) an FTA consumer offence provision; or	23
(b) section 45; or	24
(c) section 47; or	25
(d) section 90(4); or	26
(e) section 91; or	27
(f) section 92(1)(b), (c), (d) or (e); or	28
(g) section 92B; or	29

[s 7]

(h) section 104; or	1
(i) section 105.	2
<i>goods</i> has the same meaning as it has in the Australian Consumer Law (Queensland).	3 4
<i>infringement notice</i> means an infringement notice issued under section 31(1).	5 6
<i>infringement notice compliance period</i> see section 36(1).	7
<i>infringement notice provision</i> see section 31(2).	8
<i>instrument</i> , for part 3, see section 14(1).	9
<i>Intergovernmental Agreement</i> , for part 3, see section 14(1).	10
<i>involved</i> , in relation to a contravention, or conduct that constitutes a contravention, of a provision of this Act, has the same meaning as it has in the Australian Consumer Law (Queensland) in relation to a contravention, or conduct that constitutes a contravention, of a provision of that law.	11 12 13 14 15
<i>jurisdiction</i> see section 14(1).	16
<i>law</i> , for part 3, see section 14(1).	17
<i>listed corporation</i> has the meaning given by the Corporations Act, section 9.	18 19
<i>Magistrates Court</i> has the meaning given by the <i>Acts Interpretation Act 1954</i> , section 36.	20 21
<i>Note</i> —	22
The Competition and Consumer Act confers jurisdiction on the Federal Magistrates Court for particular matters arising under the Australian Consumer Law applying as a law of the Commonwealth, but that court does not have jurisdiction in relation to matters arising under the Australian Consumer Law (Queensland).	23 24 25 26 27
<i>modifications</i> , for part 3, see section 14(1).	28
<i>month</i> , for part 3, see section 14(1).	29
<i>participating jurisdiction</i> , for part 3, see section 14(1).	30
<i>premises</i> has the same meaning as it has in the Australian Consumer Law (Queensland).	31 32

<i>product related service</i> has the same meaning as it has in the Australian Consumer Law (Queensland).	1 2
<i>services</i> has the same meaning as it has in the Australian Consumer Law (Queensland).	3 4
<i>State</i> , for part 3, see section 14(1).	5
<i>supply</i> has the same meaning as it has in the Australian Consumer Law (Queensland).	6 7
<i>Supreme Court</i> means the Supreme Court of Queensland.	8
<i>Territory</i> , for part 3, see section 14(1).	9
<i>the tribunal</i> means QCAT.	10
<i>this jurisdiction</i> , for part 3, see section 14(1).	11
<i>trade or commerce</i> has the same meaning as it has in the Australian Consumer Law (Queensland).’.	12 13

Clause 8	Replacement of s 5A (Meaning of <i>engaging in conduct</i> and <i>conduct</i>)	14 15
	Section 5A—	16
	<i>omit, insert</i> —	17
‘5A	Engaging in conduct and related matters	18
	‘The Australian Consumer Law (Queensland), section 2(2) applies for the interpretation of this Act in relation to the matters mentioned in it.’.	19 20 21
Clause 9	Omission of s 5B (Effect of provision dealing with enforceability of a contract)	22 23
	Section 5B—	24
	<i>omit</i> .	25

[s 10]

Clause 10	Amendment of s 5C (Further meaning of acquisition, supply or resupply of goods or services)	1 2
	(1) Section 5C, heading, ‘, supply or resupply of goods or services’—	3 4
	<i>omit, insert—</i>	5
	‘or supply of services’.	6
	(2) Section 5C(a), (c) and (e)—	7
	<i>omit.</i>	8
	(3) Section 5C(b), ‘goods or’—	9
	<i>omit.</i>	10
	(4) Section 5C(d), ‘both; and’—	11
	<i>omit, insert—</i>	12
	‘both.’.	13
	(5) Section 5C(b) and (d), as amended—	14
	<i>renumber</i> as section 5C(a) and (b).	15
Clause 11	Omission of ss 5E–6	16
	Sections 5E to 6—	17
	<i>omit.</i>	18
Clause 12	Replacement of pt 2 hdg, pt 2, div 1 and pt 2, div 2 hdg	19
	Part 2, heading, part 2, division 1 and part 2, division 2, heading—	20 21
	<i>omit, insert—</i>	22
‘Part 2	Commissioner for fair trading	23
‘8	Commissioner for fair trading	24
	‘(1) There is to be a commissioner for fair trading.	25

-
- ‘(2) Subject to subsection (3), the person who is the chief executive is, without further appointment, also the commissioner for fair trading. 1
2
3
- ‘(3) If the chief executive appoints another person to be the commissioner, that person is the commissioner while the appointment is in force. 4
5
6
- ‘(4) A person may hold the office of commissioner as well as holding an office under the *Public Service Act 2008*. 7
8
- ‘(5) Judicial notice must be taken of the commissioner’s signature.’. 9
10

Clause 13 Amendment of s 19 (Commissioner and other officers) 11

- (1) Section 19, heading, ‘Commissioner and other’— 12
omit, insert— 13
‘Other’. 14
- (2) Section 19(1), ‘A commissioner for fair trading and the’— 15
omit, insert— 16
‘The’. 17
- (3) Section 19(2)— 18
omit. 19

Clause 14 Omission of s 20 (Office of Fair Trading) 20

- Section 20— 21
omit. 22

Clause 15 Amendment of s 21 (Functions of office) 23

- (1) Section 21, heading, ‘office’— 24
omit, insert— 25
‘commissioner’. 26
- (2) Section 21(1), ‘office shall be’— 27

[s 16]

omit, insert— 1

‘commissioner are’. 2

(3) Section 21(1)(f), ‘the bureau’— 3

omit, insert— 4

‘the commissioner’. 5

(4) Section 21(1)(g) and (h)— 6

omit. 7

(5) Section 21(1)(i), (j) and (k)— 8

renumber as section 21(1)(g), (h) and (i). 9

(6) Section 21(1)(i), as renumbered, ‘it’— 10

omit, insert— 11

‘the commissioner’. 12

(7) Section 21(2), ‘of the office’— 13

omit, insert— 14

‘of the department’. 15

Clause 16 Renumbering of ss 19–23 16

Sections 19, 19A, 21, 22 and 23— 17

renumber as sections 9, 10, 11, 12 and 13 respectively. 18

Clause 17 Omission of pt 2, div 3 (Consumer Safety Committee) 19

Part 2, division 3— 20

omit. 21

Clause 18 Replacement of pt 3 (Trade practices) 22

Part 3— 23

omit, insert— 24

‘Part 3	The Australian Consumer Law	1
‘Division 1	Definitions	2
‘14	Definitions for pt 3	3
	‘(1) In this part, unless the contrary intention appears—	4
	<i>application law</i> means—	5
	(a) a law of a participating jurisdiction that applies the Australian Consumer Law, either with or without modifications, as a law of the participating jurisdiction;	6
	or	7
	(b) any regulations or other legislative instrument made under a law described in paragraph (a); or	8
	(c) the Australian Consumer Law, applying as a law of the participating jurisdiction, either with or without modifications.	9
	<i>Australian Consumer Law</i> means (according to the context)—	10
	(a) the Australian Consumer Law text; or	11
	(b) the Australian Consumer Law text, applying as a law of a participating jurisdiction, either with or without modifications.	12
	<i>Australian Consumer Law text</i> means the text described in section 15.	13
	<i>instrument</i> means any document whatever, including the following—	14
	(a) an Act or an instrument made under an Act;	15
	(b) a law of this jurisdiction or an instrument made under such a law;	16
	(c) an award or other industrial determination or order, or an industrial agreement;	17

[s 18]

- (d) any other order (whether executive, judicial or otherwise); 1
2
- (e) a notice, certificate or licence; 3
- (f) an agreement; 4
- (g) an application made, information or complaint laid, affidavit sworn, or warrant issued, for any purpose; 5
6
- (h) an indictment, presentment, summons or writ; 7
- (i) any other pleading in, or process issued in connection with, a legal or other proceeding. 8
9

Intergovernmental Agreement means the Intergovernmental Agreement for the Australian Consumer Law made on 2 July 2009 between the Commonwealth, the State of New South Wales, the State of Victoria, the State of Queensland, the State of Western Australia, the State of South Australia, the State of Tasmania, the Australian Capital Territory and the Northern Territory of Australia, as in force for the time being. 10
11
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16

jurisdiction means a State or the Commonwealth. 17

law, in relation to a Territory, means a law of, or in force in, that Territory. 18
19

modifications includes additions, omissions and substitutions. 20

month means a period commencing at the beginning of a day of one of the 12 months of the year and ending immediately before the beginning of the corresponding day of the next month or, if there is no such corresponding day, ending at the expiration of the next month. 21
22
23
24
25

notification, for a regulation, see the *Statutory Instruments Act 1992*, section 47. 26
27

participating jurisdiction means a jurisdiction that is a party to the Intergovernmental Agreement and applies the Australian Consumer Law as a law of the jurisdiction, either with or without modifications. 28
29
30
31

State includes a Territory. 32

<i>Territory</i> means the Australian Capital Territory or the Northern Territory of Australia.	1 2
<i>this jurisdiction</i> means Queensland.	3
‘(2) Terms used in this part and also in the Australian Consumer Law (Queensland) have the same meanings in this part as they have in that law.	4 5 6
‘(3) For the purposes of this part—	7
(a) a jurisdiction is taken to have applied the Australian Consumer Law as a law of the jurisdiction if a law of the jurisdiction substantially corresponds to the provisions of the Australian Consumer Law text, as in force from time to time; and	8 9 10 11 12
(b) that corresponding law is taken to be the Australian Consumer Law, or the Australian Consumer Law text, applying as a law of that jurisdiction.	13 14 15
‘Division 2 Application of Australian Consumer Law	16 17
‘15 The Australian Consumer Law text	18
‘The Australian Consumer Law text consists of—	19
(a) schedule 2 to the <i>Competition and Consumer Act 2010</i> of the Commonwealth; and	20 21
(b) the regulations under section 139G of that Act.	22
‘16 Application of Australian Consumer Law	23
‘(1) The Australian Consumer Law text, as in force from time to time—	24 25
(a) applies as a law of this jurisdiction; and	26
(b) as so applying may be referred to as the Australian Consumer Law (Queensland); and	27 28

[s 18]

(c)	as so applying is a part of this Act.	1
‘(2)	This section has effect subject to sections 17, 18 and 19.	2
‘17	Future modifications of Australian Consumer Law text	3
‘(1)	A modification made by a Commonwealth law to the Australian Consumer Law text after the commencement of this section does not apply under section 16 if the modification is declared by a regulation under this Act to be excluded from the operation of that section.	4 5 6 7 8
‘(2)	A regulation under subsection (1) has effect only if its making is notified no later than 2 months after the date of the modification.	9 10 11
‘(3)	Subsection (1) ceases to apply to the modification if a further regulation under this Act so provides.	12 13
‘(4)	For the purposes of this section, the date of the modification is the date on which the Commonwealth Act effecting the modification receives the Royal Assent or the regulation effecting the modification is registered under the <i>Legislative Instruments Act 2003</i> of the Commonwealth.	14 15 16 17 18
‘18	Meaning of generic terms in Australian Consumer Law for purposes of this jurisdiction	19 20
	‘In the Australian Consumer Law (Queensland)—	21
	<i>regulator</i> means the commissioner for fair trading under this Act.	22 23
‘19	Interpretation of Australian Consumer Law	24
‘(1)	The <i>Acts Interpretation Act 1901</i> (Cwlth) applies as a law of this jurisdiction to the Australian Consumer Law (Queensland).	25 26 27
‘(2)	For the purposes of subsection (1), the Commonwealth Act mentioned in that subsection applies as if—	28 29

(a)	the statutory provisions in the Australian Consumer Law (Queensland) were a Commonwealth Act; and	1 2
(b)	the regulations in the Australian Consumer Law (Queensland) or instruments under that law were regulations or instruments under a Commonwealth Act.	3 4 5
‘(3)	The <i>Acts Interpretation Act 1954</i> of Queensland does not apply to—	6 7
(a)	the Australian Consumer Law (Queensland); or	8
(b)	any instrument under that law.	9
‘20	Application of Australian Consumer Law	10
‘(1)	The Australian Consumer Law (Queensland) applies to and in relation to—	11 12
(a)	persons carrying on business within this jurisdiction; or	13
(b)	bodies corporate incorporated or registered under the law of this jurisdiction; or	14 15
(c)	persons ordinarily resident in this jurisdiction; or	16
(d)	persons otherwise connected with this jurisdiction.	17
‘(2)	Subject to subsection (1), the Australian Consumer Law (Queensland) extends to conduct, and other acts, matters and things, occurring or existing outside or partly outside this jurisdiction (whether within or outside Australia).	18 19 20 21
‘Division 3	References to Australian Consumer Law	22 23
‘21	References to Australian Consumer Law	24
‘(1)	A reference in any instrument to the Australian Consumer Law is a reference to the Australian Consumer Law of any or all of the participating jurisdictions.	25 26 27

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‘(2)	Subsection (1) has effect except so far as the contrary intention appears in the instrument or the context of the reference otherwise requires.	1 2 3
‘22	References to Australian Consumer Law of other jurisdictions	4 5
‘(1)	This section has effect for the purposes of an Act, a law of this jurisdiction or an instrument under an Act or such a law.	6 7
‘(2)	If a law of a participating jurisdiction other than this jurisdiction provides that the Australian Consumer Law text as in force for the time being applies as a law of that jurisdiction, the Australian Consumer Law of that jurisdiction is the Australian Consumer Law text, applying as a law of that jurisdiction.	8 9 10 11 12 13
‘Division 4	Application of Australian Consumer Law to jurisdictions	14 15
‘23	Division does not apply to Commonwealth	16
	‘In this division, <i>participating jurisdiction</i> or <i>other jurisdiction</i> does not include the Commonwealth.	17 18
‘24	Application law of this jurisdiction	19
	‘The application law of this jurisdiction binds (so far as the legislative power of Parliament permits) this jurisdiction and each other jurisdiction, so far as the jurisdiction carries on a business, either directly or by an authority of the jurisdiction concerned.	20 21 22 23 24
‘25	Application law of other jurisdictions	25
‘(1)	The application law of each participating jurisdiction other than this jurisdiction binds this jurisdiction, so far as this	26 27

jurisdiction carries on a business, either directly or by an authority of this jurisdiction. 1
2

- (2) If, because of this part, a provision of the law of another participating jurisdiction binds this jurisdiction, this jurisdiction is subject to that provision despite any prerogative right or privilege. 3
4
5
6

‘26 Activities that are not business 7

- ‘(1) For the purposes of sections 24 and 25, the following do not amount to carrying on a business— 8
9
- (a) imposing or collecting— 10
 - (i) taxes; or 11
 - (ii) levies; or 12
 - (iii) fees for authorisations; 13
 - (b) granting, refusing to grant, revoking, suspending or varying authorisations (whether or not they are subject to conditions); 14
15
16
 - (c) a transaction involving— 17
 - (i) only persons who are all acting for the same jurisdiction (and none of whom is an authority of a State); or 18
19
20
 - (ii) only persons who are all acting for the same authority of a State; or 21
22
 - (iii) only a State and 1 or more non-commercial authorities of that State; or 23
24
 - (iv) only non-commercial authorities of the same State; 25
 - (d) the acquisition of primary products by a government body under legislation, unless the acquisition occurs because— 26
27
28
 - (i) the body chooses to acquire the products; or 29

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- (ii) the body has not exercised a discretion that it has under the legislation that would allow it not to acquire the products. 1
2
3
- ‘(2) Subsection (1) does not limit the things that do not amount to carrying on a business for the purposes of sections 24 and 25. 4
5
- ‘(3) In this section— 6
- acquisition of primary products by a government body under legislation* includes vesting of ownership of primary products in a government body by legislation. 7
8
9
- authorisation* means a licence, permit, certificate or other authorisation that allows the holder of the authorisation to supply goods or services. 10
11
12
- government body* means a State or an authority of a State. 13
- primary products* means— 14
- (a) agricultural or horticultural produce; or 15
- (b) crops, whether on or attached to the land or not; or 16
- (c) animals (whether dead or alive); or 17
- (d) the bodily produce (including natural increase) of animals. 18
19
- ‘(4) For the purposes of this section, an authority of a State is *non-commercial* if— 20
21
- (a) it is constituted by only one person; and 22
- (b) it is neither a trading corporation nor a financial corporation. 23
24
- ‘27 Jurisdictions not liable to penalty or prosecution 25**
- ‘(1) Nothing in the application law of this jurisdiction makes any jurisdiction liable to a pecuniary penalty or to be prosecuted for an offence. 26
27
28
- ‘(2) Without limiting subsection (1), nothing in the application law of a participating jurisdiction makes this jurisdiction liable to a pecuniary penalty or to be prosecuted for an offence. 29
30
31

‘(3)	The protection in subsection (1) or (2) does not apply to an authority of any jurisdiction.	1 2
‘Division 5	Miscellaneous	3
‘28	Conferral of functions and powers on certain bodies	4
‘(1)	The authorities and officers of the Commonwealth referred to in the Australian Consumer Law (Queensland) have the functions and powers conferred or expressed to be conferred on them under the Australian Consumer Law (Queensland).	5 6 7 8
‘(2)	In addition to the powers mentioned in subsection (1), the authorities and officers referred to in that subsection have power to do all things necessary or convenient to be done in connection with the performance of the functions and exercise of the powers referred to in that subsection.	9 10 11 12 13
‘29	No doubling-up of liabilities	14
‘(1)	If—	15
(a)	an act or omission is an offence against the Australian Consumer Law (Queensland) and is also an offence against an application law of another participating jurisdiction; and	16 17 18 19
(b)	the offender has been punished for the offence under the application law of the other jurisdiction;	20 21
	the offender is not liable to be punished for the offence against the Australian Consumer Law (Queensland).	22 23
‘(2)	If a person has been ordered to pay a pecuniary penalty under the application law of another participating jurisdiction, the person is not liable to a pecuniary penalty under the Australian Consumer Law (Queensland) in respect of the same conduct.	24 25 26 27 28

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‘Part 3A	Provisions supporting application of Australian Consumer Law as a law of Queensland	1 2 3 4
‘Division 1	Infringement notices	5
‘30	Purpose and effect of this division	6
‘(1)	The purpose of this division is to provide for the issue of an infringement notice to a person for an alleged contravention of an infringement notice provision as an alternative to proceedings for an order under the Australian Consumer Law (Queensland), section 224.	7 8 9 10 11
‘(2)	This division does not—	12
(a)	require an infringement notice to be issued to a person for an alleged contravention of an infringement notice provision; or	13 14 15
(b)	affect the liability of a person to proceedings under the Australian Consumer Law (Queensland), chapter 4 or chapter 5, part 5-2 in relation to an alleged contravention of an infringement notice provision if—	16 17 18 19
(i)	an infringement notice is not issued to the person for the alleged contravention; or	20 21
(ii)	an infringement notice issued to a person for the alleged contravention is withdrawn under section 37; or	22 23 24
(c)	prevent a court from imposing a higher penalty than the penalty stated in the infringement notice if the person does not comply with the notice.	25 26 27

‘31 Issuing infringement notice	1
‘(1) If the commissioner has reasonable grounds to believe that a person has contravened an infringement notice provision, the commissioner may issue an infringement notice to the person.	2 3 4
‘(2) Each of the following is an <i>infringement notice provision</i> —	5
(a) any of the following provisions of the Australian Consumer Law (Queensland)—	6 7
(i) a provision of chapter 2, part 2-2;	8
(ii) a provision of chapter 3, part 3-1 (other than section 32(1), 35(1), 36(1), (2) or (3), 40 or 43);	9 10
(iii) section 66(2);	11
(iv) a provision of chapter 3, part 3-2, division 2 (other than section 85);	12 13
(v) a provision of chapter 3, part 3-2, division 3 (other than section 96(2));	14 15
(vi) section 100(1) or (3), 101(3) or (4), 102(2) or 103(2);	16 17
(vii) section 106(1), (2), (3) or (5), 107(1) or (2), 118(1), (2), (3) or (5), 119(1) or (2), 125(4), 127(1) or (2), 128(2) or (6), 131(1), 132(1), 136(1), (2) or (3) or 137(1) or (2);	18 19 20 21
(viii) section 221(1) or 222(1);	22
(b) an FTA consumer offence provision.	23
‘(3) The commissioner must not issue more than 1 infringement notice to the person for the same alleged contravention of the infringement notice provision.	24 25 26
‘(4) The infringement notice does not have any effect if the notice—	27 28
(a) is issued more than 1 year after the day on which the contravention of the infringement notice provision is alleged to have occurred; or	29 30 31
(b) relates to more than 1 alleged contravention of an infringement notice provision by the person.	32 33

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‘32	Matters to be included in infringement notice	1
	‘An infringement notice must—	2
	(a) be identified by a unique number; and	3
	(b) state the day on which it is issued; and	4
	(c) state the name and address of the person to whom it is issued; and	5 6
	(d) identify the commissioner; and	7
	(e) state how the commissioner may be contacted; and	8
	(f) give details of the alleged contravention by the person, including—	9 10
	(i) the date of the alleged contravention; and	11
	(ii) the particular infringement notice provision that was allegedly contravened; and	12 13
	(g) state the maximum pecuniary penalty that the court could order the person to pay under the Australian Consumer Law (Queensland), section 224 for the alleged contravention; and	14 15 16 17
	(h) state the penalty that is payable in relation to the alleged contravention; and	18 19
	(i) state that the penalty is payable within the infringement notice compliance period for the notice; and	20 21
	(j) state that the penalty is payable to the commissioner on behalf of the State; and	22 23
	(k) explain how payment of the penalty is to be made; and	24
	(l) explain the effect of sections 34, 35, 36 and 37.	25
‘33	Amount of penalty	26
	‘(1) The penalty to be stated in an infringement notice that is to be issued to a person, in relation to an alleged contravention of a provision of the Australian Consumer Law (Queensland),	27 28 29

must be a penalty equal to the amount worked out using the following table—

1
2

Amount of penalty

Item	If the infringement notice is for an alleged contravention of one of the following provisions of the Australian Consumer Law (Queensland) ...	the amount is ...
1	a provision of chapter 2, part 2-2	(a) if the person is a listed corporation—600 penalty units; or (b) if the person is a body corporate other than a listed corporation—60 penalty units; or (c) if the person is not a body corporate—12 penalty units.
2	a provision of chapter 3, part 3-1 (other than section 32(1), 35(1), 36(1), (2) or (3), 40, 43 or 47(1))	(a) if the person is a listed corporation—600 penalty units; or (b) if the person is a body corporate other than a listed corporation—60 penalty units; or (c) if the person is not a body corporate—12 penalty units.
3	section 47(1)	(a) if the person is a body corporate—10 penalty units; or (b) if the person is not a body corporate—2 penalty units.
4	section 66(2)	(a) if the person is a body corporate—55 penalty units; or (b) if the person is not a body corporate—11 penalty units.
5	a provision of chapter 3, part 3-2, division 2 (other than section 85)	(a) if the person is a body corporate—60 penalty units; or (b) if the person is not a body corporate—12 penalty units.

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Amount of penalty

Item	If the infringement notice is for an alleged contravention of one of the following provisions of the Australian Consumer Law (Queensland) ...	the amount is ...
6	a provision of chapter 3, part 3-2, division 3 (other than section 96(2))	(a) if the person is a body corporate—55 penalty units; or (b) if the person is not a body corporate—11 penalty units.
7	section 100(1) or (3) or 101(3) or (4)	(a) if the person is a body corporate—20 penalty units; or (b) if the person is not a body corporate—4 penalty units.
8	section 102(2) or 103(2)	(a) if the person is a body corporate—60 penalty units; or (b) if the person is not a body corporate—12 penalty units.
9	section 106(1), (2), (3) or (5), 107(1) or (2), 118(1), (2), (3) or (5) or 119(1) or (2)	(a) if the person is a listed corporation—600 penalty units; or (b) if the person is a body corporate other than a listed corporation—60 penalty units; or (c) if the person is not a body corporate—12 penalty units.
10	section 125(4)	(a) if the person is a body corporate—30 penalty units; or (b) if the person is not a body corporate—6 penalty units.
11	section 127(1) or (2)	(a) if the person is a listed corporation—600 penalty units; or (b) if the person is a body corporate other than a listed corporation—60 penalty units; or (c) if the person is not a body corporate—12 penalty units.

Amount of penalty

Item	If the infringement notice is for an alleged contravention of one of the following provisions of the Australian Consumer Law (Queensland) ...	the amount is ...
12	section 128(2) or (6), 131(1) or 132(1)	(a) if the person is a body corporate—30 penalty units; or (b) if the person is not a body corporate—6 penalty units.
13	section 136(1), (2) or (3) or 137(1) or (2)	(a) if the person is a listed corporation—600 penalty units; or (b) if the person is a body corporate other than a listed corporation—60 penalty units; or (c) if the person is not a body corporate—12 penalty units.
14	section 221(1)	(a) if the person is a body corporate—30 penalty units; or (b) if the person is not a body corporate—6 penalty units.
15	section 222(1)	(a) if the person is a body corporate—50 penalty units; or (b) if the person is not a body corporate—10 penalty units.

- ‘(2) The penalty to be stated in an infringement notice that is to be issued to a person, in relation to an alleged contravention of an FTA consumer offence provision, must be—
- (a) if the person is a listed corporation—600 penalty units; or
 - (b) if the person is a body corporate other than a listed corporation—60 penalty units; or
 - (c) if the person is not a body corporate—12 penalty units.

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- ‘(3) For this section, the value of a penalty unit is the same value it has for the time being under the *Crimes Act 1914* (Cwlth) for a law of the Commonwealth. 1
2
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- ‘34 Effect of compliance with infringement notice 4**
- ‘(1) This section applies if— 5
- (a) an infringement notice for an alleged contravention of an infringement notice provision is issued to a person; 6
and 7
8
- (b) the person pays the penalty stated in the infringement notice within the infringement notice compliance period 9
and as required by the notice; and 10
11
- (c) the infringement notice is not withdrawn under section 37. 12
13
- ‘(2) The person is not, merely because of the payment, regarded as— 14
15
- (a) having contravened the infringement notice provision; 16
or 17
- (b) having been convicted of an offence constituted by the same conduct that constituted the alleged contravention 18
of the infringement notice provision. 19
20
- ‘(3) No proceedings (whether criminal or civil) may be started or continued against the person, by or for the State, in relation to— 21
22
23
- (a) the alleged contravention of the infringement notice provision; or 24
25
- (b) an offence constituted by the same conduct that constituted the alleged contravention. 26
27
- ‘35 Effect of failure to comply with infringement notice 28**
- ‘(1) This section applies if— 29

(a)	an infringement notice for an alleged contravention of an infringement notice provision is issued to a person; and	1 2 3
(b)	the person fails to pay the penalty stated in the infringement notice within the infringement notice compliance period and as required by the notice; and	4 5 6
(c)	the infringement notice is not withdrawn under section 37.	7 8
‘(2)	The person is liable—	9
(a)	to be proceeded against under the Australian Consumer Law (Queensland), chapter 5, part 5-2 in relation to the alleged contravention of the infringement notice provision; or	10 11 12 13
(b)	if the contravention also constitutes the commission of an offence provided for in the Australian Consumer Law (Queensland), chapter 4—to be proceeded against for the commission of the offence; or	14 15 16 17
(c)	if the contravention also constitutes the commission of an offence against an FTA consumer offence provision—to be proceeded against for the commission of the offence.	18 19 20 21
‘36	Infringement notice compliance period for infringement notice	22 23
‘(1)	Subject to this section, the <i>infringement notice compliance period</i> for an infringement notice is the period of 28 days beginning on the day after the day on which the infringement notice is issued by the commissioner.	24 25 26 27
‘(2)	The commissioner may extend, by notice in writing, the infringement notice compliance period for the notice if the commissioner is satisfied that it is appropriate to do so.	28 29 30
‘(3)	Only 1 extension may be given and the extension must not be for more than 28 days.	31 32

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- ‘(4) Notice of the extension must be given to the person who was issued the infringement notice. 1
2
- ‘(5) A failure to comply with subsection (4) does not affect the validity of the extension. 3
4
- ‘(6) If the commissioner extends the infringement notice compliance period for an infringement notice, a reference in this division to the infringement notice compliance period for an infringement notice is taken to be a reference to the infringement notice compliance period as so extended. 5
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‘37 Withdrawal of infringement notice 10

- ‘(1) The person to whom an infringement notice has been issued for an alleged contravention of an infringement notice provision may make written representations to the commissioner seeking the withdrawal of the infringement notice. 11
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- ‘(2) Evidence or information that the person, or a representative of the person, gives to the commissioner in the course of making representations under subsection (1) is not admissible in evidence against the person or representative in any proceedings (other than proceedings for an offence based on the evidence or information given being false or misleading). 16
17
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- ‘(3) The commissioner may, by written notice (the *withdrawal notice*) given to the person to whom an infringement notice was issued, withdraw the infringement notice if the commissioner is satisfied that it is appropriate to do so. 22
23
24
25
- ‘(4) Subsection (3) applies whether or not the person has made representations seeking the withdrawal. 26
27
- ‘(5) The withdrawal notice must state— 28
- (a) the name and address of the person; and 29
 - (b) the day on which the infringement notice was issued to the person; and 30
31
 - (c) that the infringement notice is withdrawn; and 32

-
- (d) that proceedings under the Australian Consumer Law (Queensland), chapter 4 or chapter 5, part 5-2 may be started or continued against the person in relation to—
- (i) the alleged contravention of the infringement notice provision; or
 - (ii) an offence constituted by the same conduct that constituted the alleged contravention.
- ‘(6) To be effective, the withdrawal notice must be given to the person within the infringement notice compliance period for the infringement notice.
- ‘(7) If the infringement notice is withdrawn after the person has paid the penalty stated in the infringement notice, the commissioner must refund to the person an amount equal to the amount paid.

‘Division 2 Embargo notices 15

‘38 Definition for div 2 16

- ‘In this division—
- services* includes product related services.

‘39 Embargo notices 19

- ‘(1) An inspector who enters premises under section 89 may give an **embargo notice** to the occupier of the premises in relation to the supply of goods or services from the premises.
- ‘(2) The inspector may give the embargo notice to the occupier only if the inspector is satisfied on reasonable grounds—
- (a) to the extent the embargo notice relates to goods—that the goods have been supplied, or offered to be supplied, from the premises in contravention of this Act; and
 - (b) to the extent the embargo notice relates to services—that the services have been supplied, or offered to be supplied, from the premises in contravention of this Act.

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- ‘(3) The inspector may give the notice to the occupier of the premises—
- (a) by causing a copy of the notice to be served on the occupier; or
 - (b) if the occupier cannot be located after all reasonable steps have been taken to do so—by causing a copy of the notice to be—
 - (i) served on a person on the premises who is reasonably believed to be in regular contact with the occupier; or
 - (ii) affixed to the premises, or to a thing on the premises, in a prominent position.
- ‘(4) The embargo notice must—
- (a) be in writing; and
 - (b) state the goods and services to which the notice relates; and
 - (c) if the notice relates to goods—state that the stated goods must not be—
 - (i) supplied in or from the premises; or
 - (ii) transferred, moved, altered, destroyed or otherwise interfered with;during the period stated in the notice; and
 - (d) if the notice relates to services—state that the stated services must not be supplied in or from the premises during the period stated in the notice; and
 - (e) explain the effect of—
 - (i) for goods—section 42; or
 - (ii) for services—section 43.
- ‘(5) Despite anything in any other law, a contract for the supply of goods or services that is prohibited by an embargo notice is void.
- ‘(6) If goods are supplied in contravention of an embargo notice—

-
- (a) the supplier must immediately return or refund to the person who acquired the goods any consideration (or the value of any consideration) that the person gave—
 - (i) under an agreement for the supply; or
 - (ii) under a related contract or instrument; and
 - (b) if the goods have been removed from the premises in which they were subject to the embargo notice—the person who acquired the goods must—
 - (i) return the goods to the premises; or
 - (ii) notify the supplier of the place where the supplier may collect the goods; and
 - (c) if paragraph (b)(ii) applies—the supplier must collect the goods from the place notified to the supplier, and return them to the premises.

‘40 Embargo period for embargo notice

- ‘(1) Subject to this section, the embargo period for an embargo notice must not be longer than—
 - (a) if the inspector giving the notice secures goods under section 42 or secures equipment under section 43—24 hours; or
 - (b) otherwise—28 days.
- ‘(2) An inspector may, before the embargo period ends, apply to a Magistrates Court for an extension of the period.
- ‘(3) If an inspector intends to make an application under subsection (2), the inspector must, before making the application, notify the occupier of the premises to which the embargo notice relates of that intention.
- ‘(4) The occupier of the premises is entitled to be heard in relation to the application.
- ‘(5) The court may extend the embargo period for a stated period if the judge is satisfied that the extension is necessary in all the circumstances.

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- ‘41 Multiple embargo notice for supply of the same kind of goods or services from the same premises** 1
2
- ‘If an inspector has given an embargo notice (the *earlier embargo notice*), an inspector must not give another embargo notice (the *later embargo notice*) if— 3
4
5
- (a) the later embargo notice would relate to goods or 6
services of the same kind, and to the same premises, as 7
the earlier embargo notice related to; and 8
- (b) the embargo period for the earlier embargo notice did 9
not end at least 5 days ago. 10
- ‘42 Power of inspector to secure goods** 11
- ‘If— 12
- (a) an embargo notice relates to goods; and 13
- (b) the inspector who gives the notice believes on 14
reasonable grounds that it is necessary to secure the 15
goods in order to ensure that the notice is complied 16
with; 17
- the inspector may, during the embargo period for the embargo 18
notice, do anything that the inspector thinks is necessary to 19
secure the goods (whether by locking them up, placing a 20
guard or otherwise). 21
- ‘43 Power of inspector to secure equipment used to supply services** 22
23
- ‘If— 24
- (a) an embargo notice relates to services; and 25
- (b) the inspector who gives the notice believes on 26
reasonable grounds that it is necessary to secure 27
equipment used to supply the services in order to ensure 28
that the notice is complied with; 29
- the inspector may, during the embargo period for the embargo 30
notice, do anything that the inspector thinks is necessary to 31

secure the equipment (whether by locking it up, placing a guard or otherwise).	1 2
‘44 Approval relating to embargoed goods or services	3
‘(1) If an embargo notice relating to goods has been given, the owner of the goods or another person who has an interest in the goods may, in writing, ask the commissioner for approval to do any of the following—	4 5 6 7
(a) supply the goods;	8
(b) transfer, move, alter, destroy or otherwise interfere with the goods.	9 10
‘(2) If an embargo notice relating to services has been given, the following persons may, in writing, ask the commissioner for approval to supply the services—	11 12 13
(a) the person who would, but for the embargo notice, supply the services;	14 15
(b) another person whose interests would be affected if the services were not supplied.	16 17
‘(3) If a request for an approval is made under subsection (1) or (2), the requested approval may be given, in writing, by the commissioner.	18 19 20
‘45 Compliance with embargo notice	21
‘(1) A person commits an offence if—	22
(a) the person knows that an embargo notice has been given; and	23 24
(b) the person, contrary to the embargo notice, does an act or omits to do an act.	25 26
Maximum penalty—	27
(a) if the person is a body corporate—200 penalty units; or	28
(b) if the person is not a body corporate—40 penalty units.	29
‘(2) A person commits an offence if—	30

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- (a) the person knows that an embargo notice has been given; and 1
2
- (b) the person causes another person to do an act or to omit to do an act; and 3
4
- (c) doing the act, or omitting to do the act, is contrary to the embargo notice. 5
6
- Maximum penalty— 7
- (a) if the person is a body corporate—200 penalty units; or 8
- (b) if the person is not a body corporate—40 penalty units. 9
- ‘(3) Subsections (1) and (2) do not apply in relation to— 10
- (a) an act done under an approval given under section 44; or 11
- (b) if the embargo notice relates to goods—an act done to protect or preserve the goods; or 12
13
- (c) if the embargo notice relates to services—an act done to protect or preserve equipment used to supply the services. 14
15
16
- ‘(4) Subsection (5) applies if— 17
- (a) a proceeding is brought against a person for a contravention of subsection (1) or (2); and 18
19
- (b) the person seeks to rely on a matter (the *relevant matter*) stated in subsection (3)(a), (b) or (c). 20
21
- ‘(5) The person has an evidential burden in relation to the matter. 22
- ‘(6) For this section, the value of a penalty unit is the same value it has for the time being under the *Crimes Act 1914* (Cwlth) for a law of the Commonwealth. 23
24
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‘Division 3	Orders for the preservation of property	1 2
‘46	Court may make order for preserving money or other property held by a person	3 4
‘(1)	The District Court may, on the application of the Minister or the commissioner, make an order or orders mentioned in subsection (3) if—	5 6 7
(a)	proceedings of a kind mentioned in subsection (2) have been taken against a person, or proceedings of a kind mentioned in subsection (2)(d) may be taken against a person; and	8 9 10 11
(b)	the court is satisfied that it is necessary or desirable to make the order or orders to preserve money or other property held by or for the person if the person is liable, or may become liable, under the Australian Consumer Law (Queensland)—	12 13 14 15 16
(i)	to pay money by way of a fine, damages, compensation, refund or otherwise; or	17 18
(ii)	to transfer, sell or refund other property; and	19
(c)	the court is satisfied that the making of such an order or orders will not unduly prejudice the rights and interests of any other person.	20 21 22
‘(2)	For subsection (1)(a), the kinds of proceedings are—	23
(a)	proceedings against the person for an offence against a provision of the Australian Consumer Law (Queensland), chapter 4 or against an FTA offence provision; or	24 25 26 27
(b)	an application under the Australian Consumer Law (Queensland), section 232 for an injunction against the person in relation to—	28 29 30
(i)	a contravention of a provision of the Australian Consumer Law (Queensland), chapter 2, 3 or 4, or of a relevant provision under section 65; or	31 32 33

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- (ii) a term of a consumer contract in relation to which a declaration under the Australian Consumer Law (Queensland), section 250 has been made; or
 - (c) an action under the Australian Consumer Law (Queensland), section 236(1) against the person in relation to a contravention of a provision of the Australian Consumer Law (Queensland), chapter 2, part 2-1 or chapter 3, or of a relevant provision under section 66; or
 - (d) an application for an order under the Australian Consumer Law (Queensland), section 237(1) or 239(1) against a person in relation to—
 - (i) a contravention of a provision of the Australian Consumer Law (Queensland), chapter 2, 3 or 4, or of a relevant provision under section 67; or
 - (ii) a term of a consumer contract in relation to which a declaration under the Australian Consumer Law (Queensland), section 250 has been made.
- ‘(3) The court may make the following orders under subsection (1) in relation to money or other property held by or for a person (the *respondent*)—
 - (a) an order prohibiting, either absolutely or subject to conditions, a person who is indebted to the respondent, or to an associate of the respondent, from making a payment, in total or partial discharge of the debt—
 - (i) to the respondent; or
 - (ii) to another person at the direction or request of the respondent;
 - (b) an order prohibiting, either absolutely or subject to conditions, a person who is holding money or other property for the respondent, or for an associate of the respondent—
 - (i) from paying all or any of the money to the respondent, or to another person at the direction or request of the respondent; or

-
- (ii) from transferring the other property to the respondent, or to another person at the direction or request of the respondent, or otherwise parting with possession of that property;
- (c) an order prohibiting, either absolutely or subject to conditions, the taking or sending by any person of money of the respondent, or of an associate of the respondent, to a place outside the State in which the money is held;
- (d) an order prohibiting, either absolutely or subject to conditions, the taking, sending or transfer by any person of other property of the respondent, or of an associate of the respondent, to a place outside the State in which that property is located;
- (e) if the respondent is an individual—an order appointing a receiver or trustee of the property, or of part of the property, of the respondent with such powers as are stated in the order.
- ‘(4) If the court makes such an order, the order operates—
- (a) for the period stated in the order (of not more than 30 days if the application for the order was an *ex parte* application); or
- (b) if proceedings in relation to which the order is made are concluded before the stated period ends—until the conclusion of the proceedings.
- ‘(5) This section—
- (a) has effect subject to the *Bankruptcy Act 1966* (Cwlth); and
- (b) does not affect any other powers of the court.
- ‘(6) In this section—
- associate**, of the respondent, means a person who—
- (a) holds money or other property for the respondent; or
-

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(b)	if the respondent is a body corporate—is a wholly-owned subsidiary (within the meaning of the Corporations Act) of the respondent.	1 2 3
‘47	Compliance with orders made under this division	4
‘(1)	A person commits an offence if—	5
(a)	an order made under section 46 applies to the person; and	6 7
(b)	the person contravenes, or refuses or fails to comply with, the order.	8 9
	Maximum penalty—	10
(a)	if the person is a body corporate—900 penalty units; or	11
(b)	if the person is not a body corporate—180 penalty units.	12
‘(2)	For this section, the value of a penalty unit is the same value it has for the time being under the <i>Crimes Act 1914</i> (Cwlth) for a law of the Commonwealth.	13 14 15
‘Division 4	Court jurisdiction	16
‘48	Purpose and scope of division	17
‘(1)	The purpose of this division is to confer jurisdiction to deal with particular matters arising under the Australian Consumer Law (Queensland).	18 19 20
‘(2)	This division does not apply in relation to—	21
(a)	provisions of the Australian Consumer Law (Queensland) that provide for offences; or	22 23
(b)	any FTA consumer offence provision to the extent a contravention or alleged contravention of the provision is being dealt with as for a criminal offence.	24 25 26

‘49	Jurisdiction extends to provisions having wider application	1 2
‘(1)	This section applies if—	3
(a)	this division confers jurisdiction on an entity to deal with matters arising under a particular provision of the Australian Consumer Law (Queensland); and	4 5 6
(b)	under part 3B, the particular provision has an extended application.	7 8
‘(2)	The conferral of jurisdiction also applies in relation to the provision’s extended application.	9 10
	<i>Example for subsection (2)—</i>	11
	Under part 3B of this Act, the application of the Australian Consumer Law (Queensland), chapter 5, part 5-2, division 2 (Injunctions) is extended to particular provisions of this Act, including, for example, the FTA consumer offence provisions. Under this division, depending on circumstances, either the District Court or the Supreme Court has jurisdiction for injunctions under the Australian Consumer Law (Queensland). That jurisdiction arrangement will therefore also apply for injunctions relating to contraventions of the FTA consumer offence provisions even though those provisions do not form part of the Australian Consumer Law (Queensland).	12 13 14 15 16 17 18 19 20 21
‘50	Proceedings referred to court of competent jurisdiction	22 23
‘(1)	A proceeding for the purposes of a provision of the Australian Consumer Law (Queensland) listed in the table to this section must be heard in the tribunal or in a court having jurisdiction for the proceeding, having regard to—	24 25 26 27
(a)	for the tribunal—whether the subject of the proceeding would be a minor civil dispute within the meaning of the QCAT Act; or	28 29 30
(b)	for a court—any civil jurisdictional limit, including any monetary limit, applying to the court.	31 32
‘(2)	Subsection (1) applies whether or not the listed provision already includes reference to a court of competent jurisdiction.	33 34 35

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Table

1

Provision of Australian Consumer Law (Queensland)	Name of provision	Nature of proceeding
section 43(4)	Assertion of right to payment for unauthorised entries or advertisements	Action to recover payment made by a person to another person
section 85(4)	Obligations and rights of consumers on termination	Recovery of compensation
section 99(2)	Effect of termination	Recovery of unpaid termination charge
section 138(2)	Liability for loss or damage suffered by an injured individual	Action to recover amount of loss or damage
section 139(2)	Liability for loss or damage suffered by a person other than an injured individual	Action to recover amount of loss or damage
section 140(2)	Liability for loss or damage suffered by a person if other goods are destroyed or damaged	Action to recover amount of loss or damage
section 141(2)	Liability for loss or damage suffered by a person if land, buildings or fixtures are destroyed or damaged	Action to recover amount of loss or damage
section 236(1)	Actions for damages	Action to recover amount of loss or damage
section 259(2), (3) and (4)	Action against suppliers of goods	s 259(2) - Action to recover reasonable costs incurred by consumer s 259(3) - Action to recover compensation for reduction in value of goods s 259(4) - Action to recover damages because of failure to comply with guarantee

Provision of Australian Consumer Law (Queensland)	Name of provision	Nature of proceeding
section 265(3)	Termination of contracts for the supply of services that are connected with rejected goods	Action to recover refund
section 267(2), (3) and (4)	Action against suppliers of services	s 267(2) - Action to recover reasonable costs incurred by consumer s 267(3) - Action to recover compensation for reduction in value of services s 267(4) - Action to recover damages because of failure to comply with guarantee
section 269(3)	Termination of contracts for the supply of services	Action to recover refund
section 271(1), (3) and (5)	Action for damages against manufacturers of goods	Action to recover damages from manufacturer
section 274(3)	Indemnification of suppliers by manufacturers	Action against manufacturer for legal or equitable relief
section 279(1)	Action by consumer to recover amount of loss or damage	Action to recover amount of loss or damage

- ‘51 Proceedings referred to particular court** 1
- ‘A proceeding for the purposes of a provision of the 2
Australian Consumer Law (Queensland) listed in the table to 3
this section must be heard in the court as provided for in the 4
table to this section. 5

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Table

1

Provision of Australian Consumer Law (Queensland)	Name of provision	Nature of proceeding	Court having jurisdiction
section 218(3)	Regulator may accept undertakings	Application for order under section 218(4) of ACL(Q) for breach of undertaking	District Court
chapter 5, part 5-2, division 1	Pecuniary penalties	Proceeding for the recovery of a pecuniary penalty	If the maximum amount of the pecuniary penalty payable under section 224 of ACL(Q) in relation to the contravention is equal to or less than the civil jurisdictional monetary limit applying under the <i>Magistrates Courts Act 1921</i> , a Magistrates Court has jurisdiction. Otherwise, the District Court has jurisdiction, regardless of the maximum amount of the pecuniary penalty payable.

Provision of Australian Consumer Law (Queensland)	Name of provision	Nature of proceeding	Court having jurisdiction
section 232(2)	Injunctions	Application by regulator or other person for grant of injunction	If the injunction is sought in conjunction with, and in the course of, another proceeding under this Act, whether for an offence or otherwise, before the District Court, the District Court has jurisdiction. Otherwise, the Supreme Court has jurisdiction.
section 237(1)	Compensation orders etc. on application by an injured person or the regulator	Application by injured person, or by regulator for injured person, for order for compensation or for prevention or reduction of loss or damage	If the order is sought in conjunction with, and in the course of, another proceeding under this Act, whether for an offence or otherwise, the court hearing the other proceeding has jurisdiction for the proceeding for the order. Otherwise, the District Court has jurisdiction, regardless of any civil jurisdictional limit, including any monetary limit, applying to the District Court.

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Provision of Australian Consumer Law (Queensland)	Name of provision	Nature of proceeding	Court having jurisdiction
section 239(1)	Orders to redress etc. loss or damage suffered by non-party consumers	Application by regulator for order redressing loss or damage or for preventing or reducing loss or damage	If the order is sought in conjunction with, and in the course of, another proceeding under this Act, whether for an offence or otherwise, the court hearing the other proceeding has jurisdiction for the proceeding for the order. Otherwise, the District Court has jurisdiction, regardless of any civil jurisdictional limit, including any monetary limit, applying to the District Court.
section 246(1)	Non-punitive orders	Application by regulator for order under section 246(2) of ACL(Q)	If the order is sought in conjunction with, and in the course of, another proceeding under this Act, whether for an offence or otherwise, the court hearing the other proceeding has jurisdiction for the proceeding for the order. Otherwise, a Magistrates Court has jurisdiction, regardless of any civil jurisdictional limit, including any monetary limit, applying to a Magistrates Court.

Provision of Australian Consumer Law (Queensland)	Name of provision	Nature of proceeding	Court having jurisdiction
section 247(1)	Adverse publicity orders	Application by regulator for adverse publicity order	If the order is sought in conjunction with, and in the course of, another proceeding under this Act, whether for an offence or otherwise, the court hearing the other proceeding has jurisdiction for the proceeding for the order. Otherwise, a Magistrates Court has jurisdiction, regardless of any civil jurisdictional limit, including any monetary limit, applying to a Magistrates Court.
section 248(1)	Order disqualifying a person from managing corporations	Application by regulator for order disqualifying a person from managing corporations for a period	If the order is sought in conjunction with, and in the course of, another proceeding under this Act, whether for an offence or otherwise, before the District Court, the District Court has jurisdiction. Otherwise, the Supreme Court has jurisdiction.
section 250(1)	Declarations relating to consumer contracts	Application by party to consumer contract or by regulator for declaration that a term of a contract is an unfair term	District Court

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‘Division 5	Miscellaneous	1
‘52	Miscellaneous supporting provision for proceedings for recovery of pecuniary penalties	2 3
‘(1)	For a relevant proceeding, if a court is to be satisfied of a matter, the court need only be satisfied of the matter on the balance of probabilities.	4 5 6
‘(2)	If, for a relevant proceeding—	7
	(a) a court orders a corporation to pay a pecuniary penalty; and	8 9
	(b) the corporation does not have the resources to pay the pecuniary penalty;	10 11
	the executive officers of the corporation are jointly and severally liable to pay any amount not paid by the corporation.	12 13
‘(3)	It is a defence to a liability under subsection (2) for an executive officer to prove that—	14 15
	(a) if the officer was in a position to influence the conduct of the corporation in relation to the act or omission the subject of the relevant proceeding—the officer exercised reasonable diligence to ensure the corporation did not do the act or make the omission; or	16 17 18 19 20
	(b) the officer was not in a position to influence the conduct of the corporation in relation to the act or omission the subject of the relevant proceeding.	21 22 23
‘(4)	If 2 or more relevant proceedings are to be dealt with concurrently and, under division 4, the District Court would have jurisdiction for at least 1 but not all of the relevant proceedings, the District Court may exercise jurisdiction for all the proceedings.	24 25 26 27 28
‘(5)	In this section—	29
	<i>relevant proceeding</i> means a proceeding under the Australian Consumer Law (Queensland), chapter 5, part 5-2, division 1, including under that division’s extended application.	30 31 32

‘53	Interpretation of offence provisions	1
‘(1)	To remove any doubt, it is declared that—	2
(a)	chapter 2 of the <i>Criminal Code</i> (Cwlth) does not apply to offences against the Australian Consumer Law (Queensland), chapter 4; and	3 4 5
(b)	accordingly, any statement included in the Australian Consumer Law (Queensland), chapter 4 to the effect that a provision of that law is an offence of strict liability is not relevant for the purposes of that law.	6 7 8 9
	<i>Note—</i>	10
	The Criminal Code (of Queensland) applies for the purposes of offences included in the Australian Consumer Law (Queensland), chapter 4. For example, the Criminal Code, section 23(2) applies to make immaterial the result intended to be caused by an act or omission constituting an offence unless intention to cause the result is expressly declared to be an element of the offence. The application of the Criminal Code is subject to provisions of this Act (including the Australian Consumer Law (Queensland)). For example, the Australian Consumer Law (Queensland), chapter 4, part 4-6 includes defences that are available for prosecutions for contraventions of provisions of chapter 4.	11 12 13 14 15 16 17 18 19 20
‘(2)	Despite section 19, the <i>Acts Interpretation Act 1954</i> sections 41, 41A, 43, 44(4), 45 and 46 apply in relation to offences under the Australian Consumer Law (Queensland) as if that law were an Act to which the <i>Acts Interpretation Act 1954</i> applied.	21 22 23 24 25
‘54	Gazettal of notice under Australian Consumer Law (Queensland) about interim ban, recall notice or safety warning	26 27 28
‘(1)	This section applies if the Minister, as a responsible Minister under the Australian Consumer Law (Queensland), publishes a written notice on the internet under any of the following provisions of the Australian Consumer Law (Queensland)—	29 30 31 32
(a)	section 109, 111 or 113;	33
(b)	section 122;	34
(c)	section 129 or 130.	35

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‘(2)	The Minister must, as soon as practicable after the publication of the written notice, publish a gazette notice containing a copy of the written notice.	1 2 3
‘(3)	A failure to comply with subsection (2) does not affect the validity of the written notice.	4 5
‘55	Limitation on right to itemised bill	6
‘(1)	This section applies if—	7
(a)	apart from this section, under the Australian Consumer Law (Queensland), section 101, a person is entitled, as a consumer, to request the supplier of legal services to give the consumer an itemised bill, complying with that section, relating to the legal services; and	8 9 10 11 12
(b)	under the <i>Legal Profession Act 2007</i> , section 332, the person is entitled to request a law practice to give the person an itemised bill relating to the legal services.	13 14 15
‘(2)	The Australian Consumer Law (Queensland), section 101 ceases to have application to the legal services.	16 17
‘Part 3B	Provisions utilising Australian Consumer Law (Queensland) provisions	18 19 20
‘56	Australian Consumer Law (Queensland) not limited	21
‘(1)	This section applies if a provision of this part (the <i>application provision</i>) applies a provision of the Australian Consumer Law (Queensland) (the <i>applied provision</i>), whether for the purposes of an FTA offence provision or for some other purpose (the <i>extended application</i>).	22 23 24 25 26

‘(2)	The application provision does not limit or otherwise affect the operation of the applied provision as a provision of the Australian Consumer Law (Queensland).	1 2 3
‘57	Defences	4
‘(1)	The defences provided for in the Australian Consumer Law (Queensland), chapter 4, part 4-6 also apply for the purposes of each FTA offence provision as if the FTA offence provision were a provision of the Australian Consumer Law (Queensland), chapter 4.	5 6 7 8 9
‘(2)	For subsection (1), the Australian Consumer Law (Queensland), section 211 may also be read as if the reference to section 195 of that law were a reference to section 84(1).	10 11 12
‘(3)	Subsection (1) applies in relation to an FTA consumer offence provision only to the extent a contravention or alleged contravention of the provision is being dealt with as for a criminal offence.	13 14 15 16
‘58	Prosecutions to be commenced within 3 years	17
	‘The Australian Consumer Law (Queensland), section 212 applies to an offence against an FTA offence provision as if the offence were an offence against a provision of the Australian Consumer Law (Queensland), chapter 4.	18 19 20 21
‘59	Preference must be given to compensation for victims	22
‘(1)	The Australian Consumer Law (Queensland), section 213 applies in relation to a relevant provision as if the reference in section 213(a)(i) of that law to a provision of that law included a reference to the relevant provision.	23 24 25 26
‘(2)	In this section—	27
	<i>relevant provision</i> means an FTA offence provision other than section 92(1)(b), (c), (d) or (e) or 92B.	28 29

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'60	Penalties for contraventions of the same nature for FTA offence provisions	1 2
	'(1) The Australian Consumer Law (Queensland), section 214 applies to 2 or more offences constituted by, or relating to, contraventions of the same FTA offence provision as if the offences were constituted by, or related to, contraventions of the same provision of the Australian Consumer Law (Queensland), chapter 4.	3 4 5 6 7 8
	'(2) The Australian Consumer Law (Queensland), section 215 applies to an offence constituted by, or relating to, a contravention of an FTA offence provision as if the offence were constituted by, or related to, a contravention of a provision of the Australian Consumer Law (Queensland), chapter 4.	9 10 11 12 13 14
'61	General provision about injunctions and other remedies	15 16
	'(1) The Australian Consumer Law (Queensland), section 216 applies to an FTA offence provision as if the reference in section 216 to a provision of the Australian Consumer Law (Queensland), chapter 4 included a reference to the FTA offence provision.	17 18 19 20 21
	'(2) The Australian Consumer Law (Queensland), section 216, to the extent the provision relates to the granting of an injunction, applies to a code of practice as if the reference in section 216 to a provision of the Australian Consumer Law (Queensland), chapter 4 included a reference to the code of practice.	22 23 24 25 26 27
'62	Undertakings for matters arising other than under Australian Consumer Law (Queensland)	28 29
	'(1) The Australian Consumer Law (Queensland), chapter 5, part 5-1, division 1 applies to a relevant matter as if the reference to a matter in the Australian Consumer Law (Queensland), section 218(1) included a reference to the relevant matter.	30 31 32 33
	'(2) In this section—	34

relevant matter means any matter in relation to which the commissioner has a power or function under this Act, other than under the Australian Consumer Law (Queensland), including any contravention of an FTA offence provision.

- ‘63 Public warning notices**
- ‘(1) The Australian Consumer Law (Queensland), chapter 5, part 5-1, division 3 applies to a relevant provision as if the reference in the Australian Consumer Law (Queensland), section 223(1)(a) to a contravention of a provision of chapter 2, 3 or 4 included a reference to a contravention of the relevant provision.
- ‘(2) In this section—
- relevant provision* means—
- (a) an FTA consumer offence provision; or
 - (b) section 45 or 47; or
 - (c) a code of practice.
- ‘64 Pecuniary penalties for FTA consumer offence provisions**
- ‘(1) The Australian Consumer Law (Queensland), chapter 5, part 5-2, division 1 applies to an FTA consumer offence provision as if the provisions of the Australian Consumer Law (Queensland) listed in the Australian Consumer Law (Queensland), section 224(1)(a) included each of the FTA consumer offence provisions.
- ‘(2) For the application of the Australian Consumer Law (Queensland) as provided for in subsection (1)—
- (a) the reference in the Australian Consumer Law (Queensland), section 224(2)(c) to proceedings under the Australian Consumer Law (Queensland), chapter 4 may be taken to include a reference to proceedings under this Act for a criminal offence; and

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- (b) the FTA consumer offence provision that is section 84(1) is taken to be included in the table to the Australian Consumer Law (Queensland), section 224(3) in the same grouping as section 107(1) of that law; and
- (c) the FTA consumer offence provision that is section 86 is taken to be included in the table to the Australian Consumer Law (Queensland), section 224(3) in the same grouping as section 119(1) of that law.

‘65 Injunctions 9

- ‘(1) The Australian Consumer Law (Queensland), chapter 5, part 5-2, division 2 applies to a relevant provision as if the reference in the Australian Consumer Law (Queensland), section 232(1)(a) to a contravention of a provision of chapter 2, 3 or 4 of that law included a reference to a contravention of the relevant provision.
- ‘(2) In this section—
relevant provision means—
 - (a) an FTA offence provision other than section 92(1)(b), (c), (d) or (e) or 92B; or
 - (b) a code of practice.

‘66 Actions for damages 21

- ‘(1) The Australian Consumer Law (Queensland), chapter 5, part 5-2, division 3 applies to a contravention of a relevant provision as if the reference in the Australian Consumer Law (Queensland), section 236(1)(b) to contravention of a provision of the Australian Consumer Law (Queensland), chapter 2 or 3 included a reference to contravention of the relevant provision.
- ‘(2) In this section—
relevant provision means—
 - (a) an FTA consumer offence provision; or

(b)	section 45 or 47; or	1
(c)	a code of practice.	2
'67	Orders for compensation or redress	3
(1)	The Australian Consumer Law (Queensland), chapter 5, part 5-2, division 4 applies to a relevant provision—	4 5
(a)	as if the references in sections 237(1)(a)(i) and 238(1)(a) of that law to a provision of chapter 2, 3 or 4 of that law included a reference to the relevant provision; and	6 7 8 9
(b)	as if the reference in section 239(1)(a)(i) of that law to a provision of chapter 2, chapter 3, part 3-1 or part 3-2, division 2, 3 or 4 or chapter 4 of that law included a reference to the relevant provision.	10 11 12 13
(2)	In this section—	14
	<i>relevant provision</i> means an FTA offence provision other than section 92(1)(b), (c), (d) or (e) or 92B.	15 16
'68	Non-punitive orders	17
	'The Australian Consumer Law (Queensland), section 246 applies to an FTA offence provision as if the reference in the section to a provision of chapter 2, 3 or 4 of that law included a reference to the FTA offence provision.	18 19 20 21
'69	Adverse publicity orders	22
	'The Australian Consumer Law (Queensland), section 247 applies to an FTA offence provision as if the reference in section 247(1)(b) of that law to a person who has committed an offence against chapter 4 of that law included a reference to a person who has committed an offence against the FTA offence provision.	23 24 25 26 27 28

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‘70	Orders disqualifying a person from managing a corporation	1 2
‘(1)	The Australian Consumer Law (Queensland), section 248 applies in relation to a relevant provision as if the provisions of the Australian Consumer Law (Queensland) mentioned in section 248(1)(a) of that law included the relevant provision.	3 4 5 6
‘(2)	In this section—	7
	<i>relevant provision</i> means—	8
	(a) an FTA consumer offence provision; or	9
	(b) section 45 or 47.	10
‘71	Privilege against exposure to penalty or forfeiture—disqualification from managing a corporation	11 12 13
‘(1)	The Australian Consumer Law (Queensland), section 249 applies to a civil or criminal proceeding in relation to a relevant provision as if the proceeding were a civil or criminal proceeding mentioned in section 249(1) of that law.	14 15 16 17
‘(2)	In this section—	18
	<i>relevant provision</i> means—	19
	(a) an FTA consumer offence provision; or	20
	(b) section 45 or 47.	21
‘72	Publication of advertisement in the ordinary course of business	22 23
‘(1)	The Australian Consumer Law (Queensland), section 251 applies in relation to a relevant provision as if the reference in section 251(1) of that law to a contravention of chapter 3 of the law included a reference to a contravention of the relevant provision.	24 25 26 27 28
‘(2)	In this section—	29
	<i>relevant provision</i> means—	30

-
- (a) an FTA consumer offence provision; or 1
(b) section 45 or 47. 2

'73 Supplying services for the purpose of resupply 3

- '(1) Without limiting the Australian Consumer Law (Queensland), 4
section 253, section 253(2) of that law also applies to a 5
proceeding under chapter 5, part 5-2 of that law in relation to 6
a contravention of section 84(1) committed by the supplying 7
of services (the *relevant services*) that did not comply with a 8
safety standard for the services prescribed under section 83. 9
- '(2) For applying subsection (1), the references in the Australian 10
Consumer Law (Queensland), section 253(2) and (3) to 11
product related services may be taken to be references to the 12
relevant services.' 13

**Clause 19 Amendment of pt 4 hdg (Information, safety and codes of 14
practice) 15**

- Part 4, heading, 'Information, safety'— 16
omit, insert— 17
'Safety'. 18

Clause 20 Omission of pt 4, div 1 (Information provisions) 19

- Part 4, division 1— 20
omit. 21

Clause 21 Amendment of s 83 (Safety standards) 22

- (1) Section 83(1) and (4)(b) and (c), 'goods or'— 23
omit. 24
- (2) Section 83(2) and (4)(d)— 25
omit. 26

[s 22]

- (3) Section 83(4)(e)— 1
renumber as section 83(4)(d). 2

Clause 22 Amendment of s 84 (Compliance with safety standard) 3

- (1) Section 84(1), after ‘supply’— 4
insert— 5
‘or offer for supply’. 6
- (2) Section 84(1) and (2), ‘goods or’— 7
omit. 8
- (3) Section 84(1), penalty— 9
omit, insert— 10
‘Maximum penalty— 11
(a) if the person is a body corporate—\$1100000; or 12
(b) if the person is not a body corporate—\$220000. 13
Note— 14
A pecuniary penalty may be imposed for a contravention of this 15
section—see section 64 (Pecuniary penalties for FTA consumer offence 16
provisions).’ 17
- (4) Section 84(3) and (3A)— 18
omit. 19

Clause 23 Amendment of s 84A (Definition for div 3) 20

- Section 84A, definition *regulating instrument*, paragraph (b), 21
‘goods or’— 22
omit. 23

Clause 24	Amendment of s 85 (Minister may make orders prohibiting or restricting supply of dangerous or undesirable goods or services)	1 2 3
	Section 85, heading, and section 85(1), ‘goods or’— <i>omit.</i>	4 5
Clause 25	Amendment of s 85A (Interim orders)	6
	(1) Section 85A(3) to (6)— <i>omit, insert—</i>	7 8
	‘(3) To give effect to an interim order, the Minister must publish the interim order in the gazette.	9 10
	‘(4) An interim order is in force during the period (the <i>ban period</i>) that—	11 12
	(a) starts on the day (the <i>start day</i>) that is the day stated in the interim order, or the day the interim order is gazetted, whichever is the later; and	13 14 15
	(b) ends at the end of 60 days after the start day.	16
	‘(5) Before the ban period for the interim order ends, the Minister may, by gazette notice, extend the ban period for the interim order by a period of up to 30 days.’.	17 18 19
	(2) Section 85A(7), ‘only be renewed’— <i>omit, insert—</i> ‘be extended only’.	20 21 22
Clause 26	Amendment of s 86 (Offence)	23
	(1) Section 86, after ‘not supply’— <i>insert—</i> ‘or offer for supply’.	24 25 26
	(2) Section 86, ‘goods or’— <i>omit.</i>	27 28

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- (3) Section 86, penalty— 1
omit, insert— 2
‘Maximum penalty— 3
(a) if the person is a body corporate—\$1100000; or 4
(b) if the person is not a body corporate—\$220000. 5
Note— 6
A pecuniary penalty may be imposed for a contravention of this 7
section—see section 64 (Pecuniary penalties for FTA consumer offence 8
provisions).’ 9

Clause 27 Amendment of s 87 (Seizure etc. of goods in certain cases) 10
11

- (1) Section 87(1), from ‘supplied’— 12
omit, insert— 13
‘supplied— 14
(a) in contravention of a relevant pecuniary penalty 15
provision; or 16
(b) in circumstances that constitute the commission of an 17
offence against section 45.’ 18
(2) Section 87(2), ‘section 86’— 19
omit, insert— 20
‘a relevant offence provision’. 21
(3) Section 87(2), ‘a regulating instrument’— 22
omit, insert— 23
‘a relevant regulating instrument’. 24
(4) Section 87(4)(a), ‘a regulating instrument’— 25
omit, insert— 26
‘the relevant regulating instrument’. 27
(5) Section 87— 28
insert— 29

-
- (8) In this section— 1
- relevant offence provision* means— 2
- (a) section 45; or 3
- (b) section 86; or 4
- (c) any of the following provisions of the Australian 5
Consumer Law (Queensland)— 6
- (i) section 194; 7
- (ii) section 195; 8
- (iii) section 197; 9
- (iv) section 198; 10
- (v) section 199. 11
- relevant pecuniary penalty provision* means— 12
- (a) section 86; or 13
- (b) any of the following provisions of the Australian 14
Consumer Law (Queensland)— 15
- (i) section 106(1); 16
- (ii) section 107(1); 17
- (iii) section 118(1); 18
- (iv) section 119(1); 19
- (v) section 127(2). 20
- relevant regulating instrument* means a regulating instrument 21
that is directly relevant to the offence with which the person is 22
charged.’. 23

- Clause 28 Replacement of s 88B (Commissioner’s power to ask for 24
substantiation of claims about the supply of goods or 25
services) 26**
- Section 88B— 27
- omit, insert— 28*

[s 29]

‘88B	Definitions for div 1	1
	‘In this division—	2
	<i>services</i> includes product related services.’.	3
Clause 29	Amendment of s 89 (Powers of inspectors)	4
	Section 89(1), ‘office of any of its functions’—	5
	<i>omit, insert—</i>	6
	‘commissioner of any of the commissioner’s functions’.	7
Clause 30	Amendment of s 90 (Power to obtain information)	8
	(1) Section 90(3)(a), ‘an officer of the office specified’—	9
	<i>omit, insert—</i>	10
	‘a stated officer of the department’.	11
	(2) Section 90(8), ‘officer of the office’—	12
	<i>omit, insert—</i>	13
	‘an officer of the department’.	14
Clause 31	Amendment of s 91A (General power to seize goods)	15
	Section 91A(1), ‘other than section 86.’ and footnote—	16
	<i>omit, insert—</i>	17
	‘other than a relevant offence provision under section 87.’.	18
Clause 32	Amendment of s 91B (Returning the seized goods)	19
	(1) Section 91B(1)(b)—	20
	<i>omit, insert—</i>	21
	‘(b) if a prosecution for an offence, or a relevant pecuniary	22
	penalty proceeding, involving the seized goods is started	23
	within the 9 months—the prosecution for the offence, or	24
	the relevant pecuniary penalty proceeding, and any	25

	appeal from the prosecution or relevant pecuniary penalty proceeding.’.	1
		2
(2)	Section 91B—	3
	<i>insert</i> —	4
‘(3)	In this section—	5
	<i>relevant pecuniary penalty proceeding</i> means a proceeding under the Australian Consumer Law (Queensland), chapter 5, part 5-2, division 1 in relation to an act or omission to which section 224 of that law applies.’.	6
		7
		8
		9
Clause 33	Amendment of s 91D (Hearing procedures)	10
(1)	Section 91D(1), ‘ <i>Magistrates Courts Act 1921</i> ’—	11
	<i>omit, insert</i> —	12
	‘ <i>Supreme Court of Queensland Act 1991</i> ’.	13
(2)	Section 91D(2)(a), ‘rules made under the <i>Magistrates Courts Act 1921</i> ’—	14
	<i>omit, insert</i> —	15
	‘ <i>Uniform Civil Procedure Rules 1999</i> ’.	16
		17
Clause 34	Replacement of pt 5, div 1B hdg (Commissioner’s power to accept undertakings)	18
	Part 5, division 1B, heading—	19
	<i>omit, insert</i> —	20
	‘Division 1B Register of undertakings’.	21
		22
Clause 35	Omission of ss 91H–91K	23
	Sections 91H to 91K—	24
	<i>omit.</i>	25

[s 36]

Clause 36	Amendment of s 91L (Register of undertakings)	1
	Section 91L(1), ‘under this division’—	2
	<i>omit, insert</i> —	3
	‘under the Australian Consumer Law (Queensland), chapter 5, part 5-1, division 1, including under that division’s extended application.’.	4 5 6
Clause 37	Amendment of s 92 (Offences)	7
	Section 92(1)—	8
	<i>insert</i> —	9
	‘ <i>Note</i> —	10
	A provision of this Act for which a penalty is provided would include any provision of the Australian Consumer Law (Queensland), chapter 4 that provides for an offence.’.	11 12 13
Clause 38	Omission of s 92A (Aggregate penalties limited)	14
	Section 92A—	15
	<i>omit.</i>	16
Clause 39	Amendment of s 92B (Attempts to commit offences)	17
	Section 92B(2), after ‘provisions—’—	18
	<i>omit, insert</i> —	19
	‘(a) a provision of the Australian Consumer Law (Queensland), chapter 4;	20 21
	(b) an FTA consumer offence provision;	22
	(c) section 45.’.	23
Clause 40	Amendment of s 94 (Proceedings for offences)	24
	(1) Section 94(1), ‘100 penalty units or less’—	25
	<i>omit, insert</i> —	26

-
- ‘less than the higher level penalty amount’. 1
- (2) Section 94(2), ‘the Act’— 2
omit, insert— 3
‘this Act’. 4
- (3) Section 94(2), ‘greater than 100 penalty units’— 5
omit, insert— 6
‘the higher level penalty amount or more’. 7
- (4) Section 94(3)(a), ‘270 penalty units’— 8
omit, insert— 9
‘half of the maximum penalty stated for the offence’. 10
- (5) Section 94(3)(a)— 11
insert— 12
‘*Example*— 13
The maximum penalty for an offence against the Australian 14
Consumer Law (Queensland), section 151(1) (False or 15
misleading representations about goods or services) is \$1100000 16
for a body corporate or \$220000 for a person who is not a body 17
corporate. If the offence is prosecuted in a summary way, the 18
maximum penalty that could be imposed for the offence would 19
be \$550000 for a body corporate or \$110000 for a person who is 20
not a body corporate.’. 21
- (6) Section 94(6)— 22
omit, insert— 23
- ‘(6) A proceeding for an offence against this Act may be 24
commenced only by— 25
- (a) an inspector; or 26
- (b) another person, with the commissioner’s approval. 27
- ‘(7) In this section— 28
higher level penalty amount, in relation to a maximum 29
penalty for an offence, means an amount of maximum penalty 30
that is, or that is calculated to be— 31

[s 41]

(a) if the person committing the offence is a body corporate—\$1100000; or 1
2

(b) if the person committing the offence is not a body corporate—\$220000. 3
4

Example of offence for which the maximum penalty is the higher level penalty amount— 5
6

The Australian Consumer Law (Queensland), section 194(1) (Supplying etc. consumer goods that do not comply with safety standards) provides for a penalty of \$1100000 for a body corporate or \$220000 for a person who is not a body corporate. 7
8
9
10

Example of offence for which the maximum penalty is calculated to be less than the higher level penalty amount— 11
12

Section 45(1) (Compliance with embargo notice) provides for a maximum penalty of 200 penalty units for a body corporate or 40 penalty units for a person who is not a body corporate. If the value of a penalty unit for that section is \$110 (see section 45(6)), the maximum penalty for the offence is calculated to be \$22000 for a body corporate or \$4400 for a person who is not a body corporate.’. 13
14
15
16
17
18

Clause 41 Amendment of s 95 (Conduct by directors, servants or agents—TPA s 84) 19
20

Section 95, heading, ‘—TPA s 84’— 21

omit. 22

Clause 42 Amendment of s 96 (Vicarious liability) 23

(1) Section 96(1), ‘subject to section 97’— 24

omit, insert— 25

‘subject to the operation of the Australian Consumer Law (Queensland), chapter 4, part 4-6’. 26
27

(2) Section 96(2), ‘section 88B or 90’— 28

omit, insert— 29

‘the Australian Consumer Law (Queensland), chapter 5, part 5-1, division 2 or under section 90’. 30
31

Clause 43	Amendment of s 97 (Defences in proceedings for an offence against this Act—TPA s 85)	1
		2
	(1) Section 97, heading, ‘Defences in proceedings’—	3
	<i>omit, insert—</i>	4
	‘ Proceedings ’.	5
	(2) Section 97, heading, ‘—TPA s 85’—	6
	<i>omit.</i>	7
	(3) Section 97(1) to (4) and (6)—	8
	<i>omit.</i>	9
Clause 44	Omission of ss 98–100	10
	Sections 98 to 100—	11
	<i>omit.</i>	12
Clause 45	Amendment of s 101 (Mode of enforcement of compensation)	13
		14
	(1) Section 101, ‘section 100’, first mention—	15
	<i>omit, insert—</i>	16
	‘the Australian Consumer Law (Queensland), chapter 5, part 5-2, division 4 (the <i>ACL(Q) provision</i>)’.	17
		18
	(2) Section 101(a) and (b), ‘section 100’—	19
	<i>omit, insert—</i>	20
	‘the ACL(Q) provision’.	21
Clause 46	Omission of ss 102 and 103	22
	Sections 102 and 103—	23
	<i>omit.</i>	24

[s 47]

Clause 47	Amendment of s 103A (Examination costs)	1
	(1) Section 103A(1)—	2
	<i>insert</i> —	3
	‘ <i>services</i> includes product related services.’.	4
	(2) Section 103A(2)(a), ‘an information or safety standard’—	5
	<i>omit, insert</i> —	6
	‘a safety standard under section 83, or an information standard or safety standard under the Australian Consumer Law (Queensland),’.	7
		8
		9
	(3) Section 103A(2)(b), after ‘section 85’—	10
	<i>insert</i> —	11
	‘, or under the Australian Consumer Law (Queensland), section 109 or 114,’.	12
		13
Clause 48	Amendment of s 104 (Impersonation)	14
	Section 104, ‘of the office’—	15
	<i>omit, insert</i> —	16
	‘of the department’.	17
Clause 49	Amendment of s 105 (Reference to consumer authorities and other matters restricted)	18
	Section 105(a)—	19
	<i>omit, insert</i> —	20
	‘(a) without the Minister’s prior written agreement—	21
		22
	(i) refer to an inspector, the commissioner or an officer of the department; or	23
		24
	(ii) use an expression that is, or that resembles, the expression ‘Office of Fair Trading’; or	25
		26
	(iii) use, in relation to a matter falling within the functions of the commissioner, an expression that	27
		28

	is, or that resembles, the current or a previous name of the department; or’.	1 2
Clause 50	Omission of s 108 (Severability)	3
	Section 108—	4
	<i>omit.</i>	5
Clause 51	Amendment of s 109 (Limitation of action)	6
(1)	Section 109(1)(a)—	7
	<i>omit, insert—</i>	8
	‘(a) because of any disclosure made to the commissioner, any officer of the department or any inspector; or’.	9 10
(2)	Section 109(2), ‘of the office’—	11
	<i>omit, insert—</i>	12
	‘of the department’.	13
Clause 52	Omission of s 109A (Insurance contracts—limitation on effect of information disclosure)	14 15
	Section 109A—	16
	<i>omit.</i>	17
Clause 53	Amendment of s 110 (Preservation of secrecy)	18
(1)	Section 110(1), ‘a member of the council, or the committee, or’—	19 20
	<i>omit.</i>	21
(2)	Section 110(1) and (2)(a), ‘of the office’—	22
	<i>omit, insert—</i>	23
	‘of the department’.	24
(3)	Section 110—	25

[s 54]

insert—

‘(6) Subsection (1) is taken also to refer to a person who was at any time—

(a) a member of the former Consumer Safety Committee or former Consumer Affairs Council; or

(b) an officer of the former Office of Fair Trading.’.

Clause 54 Omission of s 111 (Service of documents etc.)

Section 111—

omit.

Clause 55 Amendment of s 112 (Evidence)

(1) Section 112(1)(b), ‘section 40’—

omit, insert—

‘the Australian Consumer Law (Queensland), section 29 or 151’.

(2) Section 112(2), ‘section 99’—

omit, insert—

‘the Australian Consumer Law (Queensland), section 236, in a proceeding in which the court may make an order under the Australian Consumer Law (Queensland), section 238’.

(3) Section 112(2), ‘section 100(2)’—

omit, insert—

‘the Australian Consumer Law (Queensland), section 237 or 239’.

(4) Section 112(2), ‘section 98’—

omit, insert—

‘the Australian Consumer Law (Queensland), chapter 5, part 5-2, division 2’.

(5) Section 112—

	<i>insert—</i>	1
	‘(4) In subsection (1)(f)(i)—	2
	<i>regulations</i> includes regulations under section 139G of the Competition and Consumer Act.’	3 4
Clause 56	Omission of s 116 (Transitional provision for references to Office of Consumer Affairs)	5 6
	Section 116—	7
	<i>omit.</i>	8
Clause 57	Insertion of new pt 10	9
	After section 118—	10
	<i>insert—</i>	11
‘Part 10	Transitional provisions for Fair Trading (Australian Consumer Law) Amendment Act 2010	12 13 14
‘119	Definitions for this part	15
	‘In this part—	16
	<i>amending Act</i> means the <i>Fair Trading (Australian Consumer Law) Amendment Act 2010</i> .	17 18
	<i>commencement</i> means the day this definition commences.	19
‘120	Transitional provision for references to Office of Consumer Affairs or Office of Fair Trading	20 21
	‘A reference in any Act or document to the Office of Consumer Affairs or the Office of Fair Trading may, if the context permits, be taken to be a reference to whichever of the following is appropriate in the circumstances—	22 23 24 25

[s 57]

(a)	the commissioner;	1
(b)	the department in which this Act is administered.	2
'121	Transitional provision relating to undertakings and the register of undertakings	3 4
'(1)	The register of undertakings kept under section 91L before the commencement continues after the commencement to be the register kept for that section as amended by the amending Act.	5 6 7
'(2)	An undertaking (an <i>old undertaking</i>) that, immediately before the commencement, was still in force and was included in the register continues to have effect after the commencement, to the greatest practicable extent, as if it were an undertaking (a <i>new undertaking</i>) given under the Australian Consumer Law (Queensland), chapter 5, part 5-1, division 1.	8 9 10 11 12 13 14
'(3)	Without limiting subsection (2), a breach of the old undertaking that happens after the commencement must be dealt with as if it were a breach of a new undertaking.	15 16 17
'(4)	For subsection (3), a reference in an old undertaking to a provision of this Act that is repealed on the commencement must be taken, to the greatest practicable extent, to be a reference to a provision of the Australian Consumer Law (Queensland) that corresponds to the repealed provision.	18 19 20 21 22
'122	Proceedings	23
'(1)	A proceeding started under this Act before the commencement must be completed under this Act as if the amending Act had not been enacted.	24 25 26
'(2)	After the commencement, a relevant proceeding may be started, and may be completed, under this Act as if the amending Act had not been enacted.	27 28 29
'(3)	Subsection (2) applies only if, at the time the proceeding is started, it could have been started under this Act if the amending Act had not been enacted.	30 31 32

-
- ‘(4) In this section— 1
relevant proceeding means a proceeding in relation to— 2
(a) a contravention of this Act happening before the 3
commencement; or 4
(b) another matter or thing arising under this Act before the 5
commencement.’. 6

- Clause 58 Amendment of schedule (Subject matters for regulations) 7**
- (1) Schedule, section 3, heading, ‘goods and’— 8
omit. 9
- (2) Schedule, sections 3 and 6, ‘goods or’— 10
omit. 11
- (3) Schedule, sections 4, 5 and 9— 12
omit. 13
- (4) Schedule, sections 6 to 8— 14
renumber as schedule, sections 4 to 6. 15

Part 3 Amendment of Security Providers Act 1993 16

17

- Clause 59 Act amended 18**
This part amends the *Security Providers Act 1993*. 19

- Clause 60 Insertion of new s 7A 20**
After section 7— 21
insert— 22

[s 61]

‘7A	Who is a relevant person	1
	‘A <i>relevant person</i> , for an application for a licence or application for renewal of an unrestricted licence, is—	2 3
	(a) if the application is made by an individual—the individual; or	4 5
	(b) if the application is made by a corporation—an officer of the corporation; or	6 7
	(c) if the application is made by a partnership—a partner of the partnership.’.	8 9
Clause 61	Amendment of s 10 (Application)	10
	Section 10—	11
	<i>insert—</i>	12
	‘(8) An application for a licence may be considered by the chief executive only if each relevant person for the application is agreeable to having his or her fingerprints taken by the Commissioner under section 27, unless the Commissioner already holds the relevant person’s fingerprints taken under section 27.	13 14 15 16 17 18
	‘(9) If a regulation prescribes a fee for taking a relevant person’s fingerprints under section 27, the application must be accompanied by the fee for each relevant person for the application.	19 20 21 22
	‘(10) However, subsection (9) does not apply if the Commissioner already holds the relevant person’s fingerprints taken under section 27.	23 24 25
	‘(11) If a relevant person’s fingerprints are not taken under section 27 for the application, the chief executive must refund to the applicant any fee paid under subsection (9) for the relevant person for the application.’.	26 27 28 29
Clause 62	Amendment of s 14 (Decision on application)	30
	Section 14—	31

insert—

1

‘(6) This section is subject to section 28(1).’.

2

Clause 63 Amendment of s 20 (Renewal of unrestricted licence)

3

(1) Section 20(2), after ‘section 22’—

4

insert—

5

‘or 28(2).’

6

(2) Section 20—

7

insert—

8

‘(7) An application for renewal of an unrestricted licence may be considered by the chief executive only if each relevant person for the application is agreeable to having his or her fingerprints taken by the Commissioner under section 27, unless the Commissioner already holds the relevant person’s fingerprints taken under section 27.

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‘(8) If a regulation prescribes a fee for taking a relevant person’s fingerprints under section 27, the application must be accompanied by the fee for each relevant person for the application.

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‘(9) However, subsection (8) does not apply if the Commissioner already holds the relevant person’s fingerprints taken under section 27.

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‘(10) If a relevant person’s fingerprints are not taken under section 27 for the application, the chief executive must refund to the applicant any fee paid under subsection (8) for the relevant person for the application.’.

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25

Clause 64 Insertion of new pt 2, div 7

26

After section 26—

27

insert—

28

[s 64]

‘Division 7	Fingerprint procedures	1
‘27	Fingerprints to be taken	2
‘(1)	This section applies if a person is agreeable under section 10(8) or 20(7) to having his or her fingerprints taken by the Commissioner.	3 4 5
‘(2)	For the following purposes, the chief executive must ask the Commissioner to take the person’s fingerprints—	6 7
	(a) to assist the chief executive in deciding whether the person is, or continues to be, an appropriate person to hold a licence;	8 9 10
	(b) to assist the chief executive in identifying the person for the purpose mentioned in paragraph (a).	11 12
‘(3)	The Commissioner must comply with a request made under subsection (2).	13 14
‘28	Chief executive must refuse to grant, or renew, licence if fingerprints have not been taken	15 16
‘(1)	The chief executive must refuse to grant a licence if the fingerprints of each relevant person for the application for the licence have not been taken by the Commissioner under section 27.	17 18 19 20
‘(2)	The chief executive must refuse to renew an unrestricted licence if the fingerprints of each relevant person for the application for the renewal have not been taken by the Commissioner under section 27.	21 22 23 24
‘29	Commissioner to give chief executive information about a person’s identity derived from fingerprints	25 26
‘(1)	The Commissioner must give the chief executive information about a person’s identity derived from fingerprints of the person taken under section 27.	27 28 29

-
- ‘(2) However, the Commissioner must not give information under subsection (1) about a particular person if the Commissioner is reasonably satisfied that giving the information—
- (a) may prejudice or otherwise hinder an investigation to which the information may be relevant; or
 - (b) may affect the safety of a police officer, complainant, informant or other person.
- ‘30 Use of fingerprints by Commissioner**
- ‘The Commissioner may use the fingerprints of a person taken under section 27 only—
- (a) to comply with section 29; or
 - (b) for performing a function of the Queensland Police Service.
- ‘31 Destruction of fingerprints**
- ‘(1) This section applies if—
- (a) an application is made for a licence or renewal of an unrestricted licence; and
 - (b) a relevant person’s fingerprints have been taken under section 27 for the application; and
 - (c) either—
 - (i) the applicant withdraws the application; or
 - (ii) the chief executive refuses to grant or renew the licence, and the applicant’s review rights under section 26 for the application have been exhausted.
- ‘(2) This section also applies if—
- (a) either—
 - (i) a licence is cancelled under section 22, and the licensee’s review rights under section 26 for the cancellation have been exhausted; or

[s 65]

	(ii) a licensee does not apply, under section 20, for the renewal of the licence before the licence ends; and	1 2
	(b) a relevant person’s fingerprints have been taken under section 27 for an application for the licence or renewal of the licence.	3 4 5
	‘(3) The chief executive must request the Commissioner to destroy the fingerprints.	6 7
	‘(4) The Commissioner must comply with the request within a reasonable time.	8 9
	‘(5) In complying with the request, the Commissioner must destroy the fingerprints in the presence of a justice.’	10 11
Clause 65	Insertion of new pt 7	12
	After section 64—	13
	<i>insert—</i>	14
‘Part 7	Transitional provisions for Fair Trading (Australian Consumer Law) Amendment Act 2010	15 16 17
‘65	When provisions relating to application for licence, or renewal of unrestricted licence, do not apply	18 19
	‘(1) Section 10(8) to (11) and part 2, division 7 do not apply to an application for a licence that is undecided immediately before the commencement of this section.	20 21 22
	‘(2) Section 20(7) to (10) and part 2, division 7 do not apply to an application for renewal of an unrestricted licence that is undecided immediately before the commencement of this section.	23 24 25 26

‘66	Deferral of application of provisions relating to application for renewal of unrestricted licence	1 2
	‘Section 20(7) to (10) and part 2, division 7 only apply to an application for renewal of an unrestricted licence made on or after the day that is 3 months after the commencement of this section.’.	3 4 5 6
Clause 66	Amendment of sch 2 (Dictionary)	7
	(1) Schedule 2—	8
	<i>insert—</i>	9
	‘ <i>fingerprint</i> means an image or impression of friction ridge detail from the palmar surface of a person’s hand and includes a digital image of the friction ridge detail from the palmar surface of the person’s hand.	10 11 12 13
	<i>relevant person</i> see section 7A.’.	14
	(2) Schedule 2, definition <i>disqualifying offence</i> , paragraph (a)—	15
	<i>insert—</i>	16
	‘(v) against a provision of the Criminal Code of the Commonwealth, part 5.3, or a law of a State, or an overseas country, that relates to terrorism; and’.	17 18 19
Part 4	Amendment of other Acts	20
Clause 67	Acts amended	21
	The schedule amends the Acts it mentions.	22

Schedule	Amendments	1
	section 67	2
Chicken Meat Industry Committee Act 1976		3
1	Section 2, definition <i>competition legislation</i>, ‘the <i>Trade Practices Act 1974 (Cwlth)</i>’—	4
	<i>omit, insert—</i>	5
	‘the <i>Competition and Consumer Act 2010 (Cwlth)</i> ’.	6
		7
Civil Liability Act 2003		8
1	Section 28(1)(b), ‘section 38 of that Act’—	9
	<i>omit, insert—</i>	10
	‘the Australian Consumer Law (Queensland), section 18’.	11
2	Section 32F, ‘the <i>Fair Trading Act 1989</i>, section 38’—	12
	<i>omit, insert—</i>	13
	‘the Australian Consumer Law (Queensland), section 18’.	14
Competition Policy Reform (Queensland) Act 1996		15
1	Section 3(1), definition <i>Trade Practices Act</i>—	16
	<i>omit.</i>	17

2	Section 3(1)—	1
	<i>insert—</i>	2
	<i>‘Competition and Consumer Act means the Competition and Consumer Act 2010 (Cwlth).’.</i>	3 4
3	Section 3(1), definitions <i>Commission, Council, officer and Tribunal</i>, ‘Trade Practices Act’—	5 6
	<i>omit, insert—</i>	7
	<i>‘Competition and Consumer Act’.</i>	8
4	Section 3(1), definition <i>Schedule version of Part IV, ‘the Schedule to the Trade Practices Act’—</i>	9 10
	<i>omit, insert—</i>	11
	<i>‘Schedule 1 of the Competition and Consumer Act’.</i>	12
5	Sections 4(1)(b) and (c), 8(6), definition <i>Commonwealth Minister</i>, 27(1), (2) and (4), 34, 35 and 39, ‘Trade Practices Act’—	13 14 15
	<i>omit, insert—</i>	16
	<i>‘Competition and Consumer Act’.</i>	17
Criminal Proceeds Confiscation Act 2002		18
1	Schedule 2, part 2, item 5—	19
	<i>omit, insert—</i>	20
	<i>‘5 Australian Consumer Law (Queensland), chapter 4, part 4-1 (other than division 3)’.</i>	21 22

	Dental Technicians Registration Act 2001	1
1	Section 45(2)(c)(i)—	2
	<i>insert—</i>	3
	<i>Note—</i>	4
	An offence against the <i>Fair Trading Act 1989</i> includes an	5
	offence against the Australian Consumer Law	6
	(Queensland) which forms part of that Act’.	7
	Electricity Act 1994	8
1	Section 120ZL, ‘section 120ZN’—	9
	<i>omit, insert—</i>	10
	‘section 120ZM’.	11
2	Section 120ZL, ‘the <i>Fair Trading Act 1989</i>’—	12
	<i>omit, insert—</i>	13
	‘the <i>Fair Trading Act 1989</i> , including the Australian	14
	Consumer Law (Queensland) forming part of that Act’.	15
3	Section 120ZM, heading, ‘Fair Trading Act 1989, s 61 for	16
	door-to-door contracts’—	17
	<i>omit, insert—</i>	18
	‘Australian Consumer Law (Queensland) for unsolicited	19
	consumer agreements’.	20
4	Section 120ZM(1)(b), ‘a prescribed contract under the	21
	<i>Fair Trading Act 1989 (FTA)</i>, part 3, division 4’—	22
	<i>omit, insert—</i>	23

	‘an unsolicited consumer agreement under the Australian Consumer Law (Queensland)’.	1 2
5	Section 120ZM(2) to (4)—	3
	<i>omit, insert—</i>	4
	‘(2) The contract is taken to comply with any requirement applying under section 79(b) (<i>paragraph (b)</i>) of the Australian Consumer Law (Queensland) (<i>ACL(Q)</i>) for informing the customer of the termination period applying to the contract under ACL(Q) if a statement included in the contract, as otherwise required under paragraph (b), states the cooling-off period that the industry code requires for the contract instead of the termination period applying under ACL(Q).	5 6 7 8 9 10 11 12 13
	‘(3) The requirements under section 79 of ACL(Q) for the notices mentioned in section 79(b) and (c) of ACL(Q) are taken to have been complied with if—	14 15 16
	(a) the customer is given a notice (a <i>substitute notice</i>) by or for the retail entity in relation to the entering into of the contract, as required under the industry code; and	17 18 19
	(b) the substitute notice complies with—	20
	(i) all requirements under the industry code about explaining the customer’s right to rescind the contract; and	21 22 23
	(ii) the requirements for a notice or notices stated in section 79(b)(ii) and (iii) and (c)(ii); and	24 25
	(c) the substitute notice gives all information that is relevant to the goods or services to be provided under the contract.	26 27 28
	‘(4) However, the substitute notice need not comply with any requirement otherwise applying under ACL(Q) for the substitute notice to be separate from, and not attached to, any other document.’.	29 30 31 32

Schedule

6	Section 135BU(2)(c), ‘Trade Practices Act 1974 (Cwlth)’—	1
	<i>omit, insert—</i>	2
	‘ <i>Competition and Consumer Act 2010 (Cwlth)</i> ’.	3
Gas Supply Act 2003		4
1	Section 270ZJA, ‘the Fair Trading Act 1989’—	5
	<i>omit, insert—</i>	6
	‘the <i>Fair Trading Act 1989</i> , including the Australian Consumer Law (Queensland) forming part of that Act’.	7
		8
2	Section 270ZJB, heading, ‘Fair Trading Act 1989, s 61 for door-to-door contracts’—	9
	<i>omit, insert—</i>	10
	‘ Australian Consumer Law (Queensland) for unsolicited consumer agreements ’.	11
		12
		13
3	Section 270ZJB(1)(b), ‘a prescribed contract under the Fair Trading Act 1989 (FTA), part 3, division 4’—	14
	<i>omit, insert—</i>	15
	‘an unsolicited consumer agreement under the Australian Consumer Law (Queensland)’.	16
		17
		18
4	Section 270ZJB(2) to (4)—	19
	<i>omit, insert—</i>	20
	‘(2) The contract is taken to comply with any requirement applying under section 79(b) (<i>paragraph (b)</i>) of the Australian Consumer Law (Queensland) (<i>ACL(Q)</i>) for informing the customer of the termination period applying to the contract under <i>ACL(Q)</i> if a statement included in the contract, as otherwise required under <i>paragraph (b)</i> , states the	21
		22
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		26

	cooling-off period that the industry code requires for the contract instead of the termination period applying under ACL(Q).	1 2 3
‘(3)	The requirements under section 79 of ACL(Q) for the notices mentioned in section 79(b) and (c) of ACL(Q) are taken to have been complied with if—	4 5 6
	(a) the customer is given a notice (a <i>substitute notice</i>) by or for the retail entity in relation to the entering into of the contract, as required under the industry code; and	7 8 9
	(b) the substitute notice complies with—	10
	(i) all requirements under the industry code about explaining the customer’s right to rescind the contract; and	11 12 13
	(ii) the requirements for a notice or notices stated in section 79(b)(ii) and (iii) and (c)(ii); and	14 15
	(c) the substitute notice gives all information that is relevant to the goods or services to be provided under the contract.	16 17 18
‘(4)	However, the substitute notice need not comply with any requirement otherwise applying under ACL(Q) for the substitute notice to be separate from, and not attached to, any other document.’.	19 20 21 22
 Gladstone Power Station Agreement Act 1993		 23
1	Section 30, ‘Trade Practices Act 1974 (Cwlth)’—	24
	<i>omit, insert—</i>	25
	<i>‘Competition and Consumer Act 2010 (Cwlth)’.</i>	26

Health Practitioners (Professional Standards) Act 1999	1 2
1 Section 124(1)(g)(iii)—	3
<i>insert—</i>	4
<i>Note—</i>	5
An offence against the <i>Fair Trading Act 1989</i> includes an offence against the Australian Consumer Law (Queensland) which forms part of that Act.’.	6 7 8
Introduction Agents Act 2001	9
1 Section 4(2)—	10
<i>omit.</i>	11
2 Section 20(2), from ‘of the applicant—’—	12
<i>omit, insert—</i>	13
‘of the applicant has within the last 5 years—	14
(a) been convicted of an offence against this Act, the <i>Fair Trading Act 1989</i> , including the Australian Consumer Law (Queensland) forming part of that Act, or a corresponding law; or	15 16 17 18
(b) breached an undertaking given under this Act to the chief executive; or	19 20
(c) breached an undertaking given under the <i>Fair Trading Act 1989</i> to the commissioner for fair trading appointed under that Act, including an undertaking given under the Australian Consumer Law (Queensland) to that commissioner as a regulator under that law.’.	21 22 23 24 25

3	Section 26(d) and (e)—	1
	<i>omit, insert—</i>	2
	‘(d) the licensee or an associated person of the licensee has—	3
		4
	(i) breached an undertaking given under this Act to the chief executive; or	5
		6
	(ii) breached an undertaking given under the <i>Fair Trading Act 1989</i> to the commissioner for fair trading appointed under that Act, including an undertaking given under the Australian Consumer Law (Queensland) to that commissioner as a regulator under that law;	7
		8
		9
		10
		11
		12
	(e) the licensee or an associated person of the licensee has within the last 5 years been convicted of an offence against this Act, the <i>Fair Trading Act 1989</i> , including the Australian Consumer Law (Queensland) forming part of that Act, or a corresponding law;’.	13
		14
		15
		16
		17
4	Schedule 2, definition <i>corresponding law</i>—	18
	<i>insert—</i>	19
	‘ <i>Note—</i>	20
	The Australian Consumer Law (Queensland) forms part of the <i>Fair Trading Act 1989</i> .’.	21
		22
	Jurisdiction of Courts (Cross-vesting) Act 1987	23
1	Section 10, heading, ‘under Part V, Division 1 or 1A of the Trade Practices Act’—	24
		25
	<i>omit, insert—</i>	26
	‘under particular provisions of the Australian Consumer Law applying as a law of the Commonwealth’.	27
		28

Schedule

2	Section 10(b)—	1
	<i>omit, insert—</i>	2
	‘(b) a matter for determination in the proceeding is a matter arising under any of the following provisions of the <i>Competition and Consumer Act 2010</i> (Cwlth), schedule 2, applying as a law of the Commonwealth—	3 4 5 6
	• chapter 3, part 3-1, divisions 1, 2, 4 or 5	7
	• chapter 3, part 3-3	8
	• chapter 3, part 3-4; and’.	9
	Medical Radiation Technologists Registration Act 2001	10 11
1	Section 45(2)(c)(i)—	12
	<i>insert—</i>	13
	‘ <i>Note—</i>	14
	An offence against the <i>Fair Trading Act 1989</i> includes an offence against the Australian Consumer Law (Queensland) which forms part of that Act.’.	15 16 17
	Occupational Therapists Registration Act 2001	18
1	Section 45(2)(c)(i)—	19
	<i>insert—</i>	20
	‘ <i>Note—</i>	21
	An offence against the <i>Fair Trading Act 1989</i> includes an offence against the Australian Consumer Law (Queensland) which forms part of that Act.’.	22 23 24

Property Agents and Motor Dealers Act 2000		1
1	Section 373I(1)(b) and editor's note to section 373I(1)—	2
	<i>omit, insert—</i>	3
	'(b) the Australian Consumer Law (Queensland), section 18, 20, 29, 30, 151 or 152.'	4
		5
2	Section 573C(7), editor's note—	6
	<i>omit, insert—</i>	7
	'Example—	8
	Australian Consumer Law (Queensland), section 30 (False or misleading representations about sale etc. of land)'	9
		10
3	Section 574(7), editor's note—	11
	<i>omit, insert—</i>	12
	'Example—	13
	Australian Consumer Law (Queensland), section 30 (False or misleading representations about sale etc. of land)'	14
		15
Queensland Building Services Authority Act 1991		16
1	Section 89(h)—	17
	<i>insert—</i>	18
	'Note—	19
	A contravention of the <i>Fair Trading Act 1989</i> includes a contravention of the Australian Consumer Law (Queensland) which forms part of that Act.'	20
		21
		22
2	Section 90(1)(c)—	23
	<i>insert—</i>	24

Schedule

	<i>Note—</i>	1
	A contravention of the <i>Fair Trading Act 1989</i> includes a contravention of the Australian Consumer Law (Queensland) which forms part of that Act.’	2 3 4
	Queensland Competition Authority Act 1997	5
1	Section 72(2)(c)(i), ‘Trade Practices Act 1974 (Cwlth)’—	6
	<i>omit, insert—</i>	7
	‘ <i>Competition and Consumer Act 2010 (Cwlth)</i> ’.	8
	Racing Act 2002	9
1	Section 113G(2), ‘Trade Practices Act 1974 (Cwlth)’—	10
	<i>omit, insert—</i>	11
	‘ <i>Competition and Consumer Act 2010 (Cwlth)</i> ’.	12
2	Section 113G(3), definition <i>competition legislation</i>, ‘Trade Practices Act 1974 (Cwlth)’—	13 14
	<i>omit, insert—</i>	15
	‘ <i>Competition and Consumer Act 2010 (Cwlth)</i> ’.	16
	Retail Shop Leases Act 1994	17
1	Part 6, division 8A, editor’s note that appears immediately after the division heading—	18 19
	<i>omit.</i>	20

2	Section 46B(5), definitions <i>applicable industry code</i> and <i>industry code</i>, ‘<i>Trade Practices Act 1974 (Cwlth)</i>’—	1
	<i>omit, insert—</i>	2
	<i>‘Competition and Consumer Act 2010 (Cwlth)’.</i>	3
		4
Retirement Villages Act 1999		5
1	Section 25, after ‘the <i>Fair Trading Act 1989</i>’—	6
	<i>insert—</i>	7
	‘, including the Australian Consumer Law (Queensland) forming part of that Act.’.	8
		9
Speech Pathologists Registration Act 2001		10
1	Section 45(2)(c)(i)—	11
	<i>insert—</i>	12
	<i>‘Note—</i>	13
	An offence against the <i>Fair Trading Act 1989</i> includes an offence against the Australian Consumer Law (Queensland) which forms part of that Act.’.	14
		15
		16

	State Buildings Protective Security Act 1983	1
1	Section 4(6), definition <i>non-commercial authority of the State</i>, ‘<i>Trade Practices Act 1974 (Cwlth)</i>, section 2C.’ and footnote—	2 3 4
	<i>omit, insert—</i>	5
	<i>‘Competition and Consumer Act 2010 (Cwlth), section 2C.’.</i>	6
	Subcontractors’ Charges Act 1974	7
1	Section 5(6)(b)(iii), ‘<i>Trade Practices Act 1974 (Cwlth)</i>’—	8
	<i>omit, insert—</i>	9
	<i>‘Competition and Consumer Act 2010 (Cwlth)’.</i>	10
	Sugar Industry Act 1999	11
1	Section 236, definition <i>competition legislation</i>, ‘<i>Trade Practices Act 1974 (Cwlth)</i>’—	12 13
	<i>omit, insert—</i>	14
	<i>‘Competition and Consumer Act 2010 (Cwlth)’.</i>	15
	Tourism Services Act 2003	16
1	Section 13(3)(c), ‘<i>Trade Practices Act 1974 (Cwlth)</i>’—	17
	<i>omit, insert—</i>	18
	<i>‘Competition and Consumer Act 2010 (Cwlth)’.</i>	19

2	Section 13(3)(c)—	1
	<i>insert—</i>	2
	<i>Note for subsection (3)(c)—</i>	3
	An offence against the <i>Fair Trading Act 1989</i> includes an offence	4
	against the Australian Consumer Law (Queensland) which forms part of	5
	that Act.’.	6
3	Section 14(d), ‘or the <i>Fair Trading Act 1989</i>, part 5, division 1B,’—	7
	<i>omit, insert—</i>	8
	‘or the Australian Consumer Law (Queensland), chapter 5,	9
	part 5-1, division 1.’.	10
		11
4	Section 29(1)(a), ‘the <i>Trade Practices Act 1974 (Cwlth)</i>’—	12
	<i>omit, insert—</i>	13
	‘the <i>Competition and Consumer Act 2010 (Cwlth)</i> ’.	14
5	Section 29(1)(a)—	15
	<i>insert—</i>	16
	<i>Note—</i>	17
	A contravention of the <i>Fair Trading Act 1989</i> includes a	18
	contravention of the Australian Consumer Law (Queensland)	19
	which forms part of that Act.’.	20
6	Section 32(3)—	21
	<i>omit, insert—</i>	22
	‘(3) In this section—	23
	<i>serious offence</i> means an offence under—	24
	(a) any of the following provisions of the Australian	25
	Consumer Law (Queensland), chapter 4—	26
	(i) part 4-1, other than section 165;	27
	(ii) part 4-2, other than division 3;	28

Schedule

	(iii) part 4-3, other than sections 196, 200, 201 and division 4;	1 2
	(iv) part 4-4; or	3
	(b) a law of another State or another country that provides for the same, or substantially the same, matter as a provision of the Australian Consumer Law (Queensland) mentioned in paragraph (a) and for which the maximum penalty is—	4 5 6 7 8
	(i) at least 100 penalty units; or	9
	(ii) an amount at least equal to the value of 100 penalty units; or	10 11
	(iii) imprisonment.’.	12
7	Section 96(1)(a)—	13
	<i>omit, insert—</i>	14
	‘(a) of the department in which the <i>Fair Trading Act 1989</i> is administered; or’.	15 16
8	After part 14—	17
	<i>insert—</i>	18
‘Part 15	Transitional provision for Fair Trading (Australian Consumer Law) Amendment Act 2010	19 20 21
‘102	Reference to Australian Consumer Law (Queensland) provision	22 23
	‘For section 14, the reference to the Australian Consumer Law (Queensland), chapter 5, part 5-1, division 1 is taken to include a reference to the repealed part 5, division 1B of the <i>Fair Trading Act 1989</i> .’.	24 25 26 27

9	Schedule 2, definition <i>corresponding law</i>, ‘the Trade Practices Act 1974 (Cwlth)’—	1
	<i>omit, insert—</i>	2
	<i>‘the Competition and Consumer Act 2010 (Cwlth)’.</i>	3
		4
	 Transport Operations (Passenger Transport) Act 1994	 5
1	Section 154B, definition <i>TPA</i>—	6
	<i>omit.</i>	7
2	Section 154B—	8
	<i>insert—</i>	9
	<i>‘CCA means the Competition and Consumer Act 2010 (Cwlth).’.</i>	10
		11
3	Section 154B, definition <i>competition legislation</i>, ‘TPA’—	12
	<i>omit, insert—</i>	13
	<i>‘CCA’.</i>	14
4	Section 154L(1)(b) and (c)(i) and (2), ‘TPA’	15
	<i>omit, insert—</i>	16
	<i>‘CCA’.</i>	17
5	Schedule 3, definition <i>TPA</i>—	18
	<i>omit.</i>	19

Schedule

6	Schedule 3—	1
	<i>insert—</i>	2
	‘CCA, for chapter 12, part 2, see section 154B.’	3
	Travel Agents Act 1988	4
1	Section 6, definition <i>commissioner</i> or <i>commissioner for consumer affairs</i>—	5
	<i>omit.</i>	6
		7
2	Section 6—	8
	<i>insert—</i>	9
	‘ <i>commissioner</i> means the commissioner for fair trading appointed under the <i>Fair Trading Act 1989</i> .’	10
		11
	<i>commissioner for consumer affairs</i> means the commissioner.	12
	<i>Note—</i>	13
	See sections 16, 24, 46 and 47 for use of this expression.’	14