

Fair Trading (Australian Consumer Law) Amendment Bill 2010

Amendments agreed to during Consideration

1 Clause 18 (Replacement of pt 3 (Trade practices))

Page 55, after line 25—

insert—

‘53A Interpretation of unsolicited consumer agreement permitted hours provisions and termination period provision

- ‘(1) In a permitted hours provision, for applying the definition *unsolicited consumer agreement* as provided for in the Australian Consumer Law (Queensland), section 69, subsection (1) of that section is taken not to include paragraph (d).
- ‘(2) In the termination period provision, for applying the definition *unsolicited consumer agreement* as provided for in the Australian Consumer Law (Queensland), section 69, subsection (1) of that section is taken not to include paragraph (d), but only if the Australian Consumer Law (Queensland), section 73 was contravened in relation to the agreement the subject of termination.
- ‘(3) If an agreement is terminated under the termination period provision because of the operation of subsection (2) of this section, the agreement is taken to be, for any related provision, an unsolicited consumer agreement terminated in accordance with the termination period provision.
- ‘(4) In this section—
permitted hours provision means—
 - (a) the Australian Consumer Law (Queensland), section 73;
or
 - (b) the Australian Consumer Law (Queensland), section 170.

related provision means a section of the Australian Consumer Law (Queensland) that refers to an unsolicited consumer agreement terminated in accordance with section 82 of that law.

termination period provision means the Australian Consumer Law (Queensland), section 82.’.

2 Clause 57 (Insertion of new pt 10)

Page 79, line 6—

omit, insert—

‘commencement.

‘123 Unfair contract terms

- ‘(1) The Australian Consumer Law (Queensland), chapter 2, part 2-3—
- (a) applies to a contract entered into on or after the commencement; and
 - (b) does not apply to a contract entered into before the commencement.
- ‘(2) Despite subsection (1)(b), if a contract entered into before the commencement is renewed on or after the commencement, the Australian Consumer Law (Queensland), chapter 2, part 2-3 applies to the contract as renewed, on and from the day (the *renewal day*) on which the renewal takes effect, in relation to conduct that happens on or after the renewal day.
- ‘(3) Also, if a term of a contract entered into before the commencement is varied on or after the commencement, and subsection (2) has not already applied in relation to the contract, the Australian Consumer Law (Queensland), chapter 2, part 2-3 applies to the term as varied, on and from the day (the *variation day*) on which the variation takes effect, in relation to conduct that happens on or after the variation day.
- ‘(4) If subsection (3) applies to a term of a contract, the Australian Consumer Law (Queensland), sections 23(2) and 27 apply to the contract.’.

