



AUSTRALIAN CAPITAL TERRITORY

Consumer Affairs (Amendment) Act 1990

No. 44 of 1990

TABLE OF PROVISIONS

Section

1. Short title
2. Commencement
3. Principal Act
4. Long title
5. Interpretation
6. Substitution—
 - PART II—CONSUMER AFFAIRS ADVISORY COMMITTEES
 4. Appointment of committees
 5. Function of committees
 6. Expenses
7. Functions of Director
8. Secrecy
9. Substitution—
 - 15FA. Advice concerning consumer product safety orders or standards
 - 15FB. Interim safety orders
 - 15FC. Consumer product safety orders
10. Orders made by Director
11. Offences
12. Penalties for offences

TABLE OF PROVISIONS—continued

Section	
13.	Liability for defamatory statement
14.	Annual reports
15.	Transitional



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Consumer Affairs (Amendment) Act 1990

No. 44 of 1990

An Act to amend the *Consumer Affairs Act 1973*

[Notified in ACT Gazette S75: 8 November 1990]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Consumer Affairs (Amendment) Act 1990*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Principal Act

3. In this Act, “Principal Act” means the *Consumer Affairs Act 1973*.¹

Long title

4. The title of the Principal Act is amended by omitting “to establish the Consumer Affairs Council and” and substituting “to make provision for consumer affairs advisory committees and to establish”.

Interpretation

5. Section 3 of the Principal Act is amended—

- (a) by omitting from subsection (1) the definitions of “member”, “the Chairman” and “the Council”; and
- (b) by inserting in subsection (1) the following definitions:
 - “ ‘advisory committee’ means a consumer affairs advisory committee appointed by the Minister under this Act;
 - ‘Director’ means the Director of Consumer Affairs for the Australian Capital Territory;”.

Substitution

6. Part II of the Principal Act is repealed and the following Part substituted:

“PART II—CONSUMER AFFAIRS ADVISORY COMMITTEES**Appointment of committees**

“4. (1) The Minister may appoint such advisory committees as he or she thinks fit.

“(2) An advisory committee shall consist of the Director and such other members as are considered by the Minister to be qualified by reason of their knowledge or expertise on matters affecting the interests of consumers.

“(3) The procedure at meetings of an advisory committee shall be as determined by that committee.

Function of committees

“5. The function of an advisory committee is to provide advice to the Minister or the Director, as required or of its own motion, in relation to matters affecting the interests of consumers and for that purpose the committee may consult with members of the public and with organisations or corporations, wherever situated, concerned with the interests of consumers.

Expenses

“6. (1) Subject to this section, a member of an advisory committee is not entitled to be paid in respect of duties or functions performed in connection with the work of the committee.

“(2) A member may apply to the Director for reimbursement of any expenses reasonably incurred by the member for the purpose of attending a meeting of a committee.”.

Functions of Director

7. Section 15 of the Principal Act is amended—

(a) by omitting subsection (2) and substituting the following subsection:

“(2) The Director may, with the consent of the Minister, provide administrative assistance to an advisory committee.”;

(b) by omitting from paragraph (3) (b) “or”; and

(c) by adding at the end the following word and paragraph:

“; or (d) an advisory committee.”.

Secrecy

8. Section 15E of the Principal Act is amended—

(a) by omitting the penalty set out at the foot of subsection (2) and substituting the following penalty:

“Penalty: \$5,000 or imprisonment for 2 years, or both.”; and

(b) by omitting the penalty set out at the foot of subsection (3) and substituting the following penalty:

“Penalty: \$5,000 or imprisonment for 2 years, or both.”.

Substitution

9. Sections 15FA, 15FB and 15FC of the Principal Act are repealed and the following sections substituted:

Advice concerning consumer product safety orders or standards

“15FA. (1) The Director—

- (a) shall, at the request of the Minister; or
- (b) may, of his or her own motion;

advise the Minister, after due consideration, whether—

- (c) a consumer product safety order should be made, amended or revoked; or
- (d) a consumer product safety standard should be prescribed or a prescribed product safety standard should be amended or repealed;

in relation to any goods or any class of goods.

“(2) The advice of the Director shall be furnished to the Minister in writing as soon as practicable following consideration of the matter and such advice shall include a recommendation of the action (if any) that should be taken.

“(3) The Director shall not recommend action of a kind referred to in paragraph (1) (c) or (d) in relation to any goods or any class of goods unless the Director considers such action is reasonable and necessary to prevent or reduce the risk of injury to, or impairment of health of, any person arising out of the possession, handling or use of those goods by that person or any other person.

“(4) An advisory committee may of its own motion request the Director to consider advising the Minister to take action of the kind referred to in paragraph (1) (c) or (d) in relation to any goods or any class of goods.

Interim safety orders

“15FB. (1) Where for the purpose of—

- (a) providing advice to the Minister under section 15FA; or
- (b) a request under subsection (2) concerning advice by an advisory committee;

in relation to goods or a class of goods, the Director considers that, before the relevant advice is provided, the supply of the goods or the class of goods should be prohibited or restricted in order to prevent or reduce the risk of injury to, or impairment of health of, any person arising out of the possession, handling or use of those goods by that person or any other person, the Director may, before that advice is provided, recommend that the Minister make an interim safety order in relation to the relevant goods or class of goods.

“(2) Where for the purpose of providing advice in relation to goods or a class of goods in accordance with this Act, an advisory committee considers that, before providing that advice, the supply of the goods or the class of goods should be prohibited or restricted in order to prevent or reduce the risk of injury to, or impairment of health of, any person arising out of the possession, handling or use of those goods by that person or any other person, the committee may request the Director to consider recommending in accordance with subsection (1) that the Minister make an interim safety order.

“(3) Where the Minister is satisfied, on the recommendation of the Director made under subsection (1), that, pending advice from the Director or the advisory committee, as the case may be, it is reasonable and necessary to prohibit or restrict the supply of any goods or any class of goods in order to prevent or reduce the risk of injury to, or impairment of health of, any person arising out of the possession, handling or use of those goods by that person or any other person, the Minister may, by notice in the *Gazette*, make an interim safety order—

- (a) prohibiting the supply of goods or a class of goods specified in the order; or
- (b) imposing conditions or restrictions specified in the order on the supply of the relevant goods or class of goods.

“(4) Subject to this section, an interim safety order—

- (a) takes effect on the day on which it is notified in the *Gazette*; and

- (b) ceases to have effect on the expiration of the period of 28 days after that day or the coming into effect of a consumer product safety order made under section 15FC in relation to the goods or class of goods specified in the interim safety order, whichever occurs first.

“(5) Where an interim safety order is made under this section in relation to goods or a class of goods, the Minister may, on the recommendation of the Director, for the purpose of allowing—

- (a) the Director further time to provide advice under section 15FA; or
- (b) an advisory committee further time to provide advice in accordance with this Act;

by notice in the *Gazette*, extend the period of effect of the order for a further period of 28 days commencing on the expiration of the period of 28 days referred to in paragraph (4) (b) or until the coming into effect of a consumer product safety order made under section 15FC in relation to the goods or the class of goods specified in the interim safety order, whichever occurs first.

“(6) Where the Minister makes an interim safety order under this section in relation to specified goods or a specified class of goods, the Minister shall not make another such order in relation to the same goods or class of goods.

“(7) The Minister may, by notice in the *Gazette*, revoke an interim safety order made under this section.

Consumer product safety orders

“15FC. (1) Where the Minister is satisfied that the making of a consumer product safety order in relation to goods or a class of goods is reasonable and necessary to prevent or reduce the risk of injury to, or impairment of health of, any person arising out of the possession, handling or use of those goods by that person or any other person, the Minister may, by notice in the *Gazette*, make a consumer product safety order—

- (a) prohibiting the supply of goods or a class of goods specified in the order; or
- (b) imposing conditions or restrictions specified in the order on the supply of the relevant goods or class of goods.

“(2) A consumer product safety order made under this section shall take effect on the day on which it is notified in the *Gazette* or on such later date as is specified in the order.

“(3) The Minister may, by notice in the *Gazette*, amend or revoke a consumer product safety order made under this section.”.

Orders made by Director

10. Section 15FD of the Principal Act is amended—

- (a)** by omitting subsection (3) and substituting the following subsection:

“(3) The Director shall not make a consumer product safety order under this section in relation to any goods or any class of goods in respect of which the Minister has made, or has refused to make, an interim safety order or a consumer product safety order.”; and

- (b)** by omitting “, the Council” from subsection (6).

Offences

11. Section 15FE of the Principal Act is amended by omitting paragraphs (2) (a) and (b) and substituting the following paragraphs:

- “(a) in the case of a natural person—by a fine not exceeding \$5,000 or by imprisonment for a term not exceeding 2 years, or both; or
- (b) in the case of a body corporate—by a fine not exceeding \$25,000.”.

Penalties for offences

12. Section 15H of the Principal Act is amended by omitting paragraphs (a), (b) and (c) and substituting the following paragraphs:

- “(a) in the case of a natural person—to a fine not exceeding \$1,000 or imprisonment for a term not exceeding 6 months, or both; or
- (b) in the case of a body corporate—to a fine not exceeding \$5,000.”.

Liability for defamatory statement

13. Section 16 of the Principal Act is amended—

- (a)** by omitting from subsection (1) “the Chairman, another member,” and substituting “a member of an advisory committee,”; and
- (b)** by omitting from subsection (2) “the Chairman” and substituting “an advisory committee”.

Annual reports

14. Section 17 of the Principal Act is amended—

- (a)** by omitting from subsection (1) “Council” and substituting “Bureau”; and
- (b)** by omitting from subsection (1) “and of the operations of the Bureau”.

Transitional

15. (1) An interim safety order or a consumer product safety order made, extended or amended, as the case requires, under the Principal Act before the commencement date and in force immediately before that date shall be taken to have effect on and after that date as if the relevant order had been made, extended or amended, as the case requires, under the Principal Act as amended by this Act on the commencement date.

(2) In this section—

“commencement date” means the date fixed under subsection 2 (2).

NOTE

1. Ordinance No. 17, 1973 as amended by No. 53, 1973; Nos. 49 and 61, 1976; No. 42, 1979; No. 26, 1981; Nos. 38 and 100, 1982; No. 66, 1985; No. 23, 1986 and Nos. 21, 38 and 50, 1989.

[Presentation speech made in Assembly on 18 October 1990.]