

No. 17 of 1973

AN ORDINANCE

To establish the Consumer Affairs Council and the Consumer Affairs Bureau.

I THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1972*.

Dated this twenty-first day of May, 1973.

PAUL HASLUCK
Governor-General.

By His Excellency's Command,

KEP ENDERBY
Minister of State for the Capital Territory.

CONSUMER AFFAIRS ORDINANCE 1973

PART I—PRELIMINARY

1. This Ordinance may be cited as the *Consumer Affairs Ordinance* 1973.* Short title.
2. This Ordinance is divided into Parts, as follows:— Parts.
 - Part I—Preliminary (Sections 1-3).
 - Part II—The Consumer Affairs Council of the Australian Capital Territory (Sections 4-11).
 - Part III—The Consumer Affairs Bureau of the Australian Capital Territory (Sections 12-15).
 - Part IV—Miscellaneous (Sections 16-18).
3. (1) In this Ordinance, unless the contrary intention appears— Interpretation.
 - “goods” includes anything that is the subject of trade, manufacture or merchandise;
 - “member” means a member of the Council, and includes a person appointed under section 9 to act as a member;
 - “the Bureau” means the Consumer Affairs Bureau constituted by sub-section 12 (1);

* Notified in the *Commonwealth Gazette* on 31 May 1973.

“the Chairman” means the Chairman of the Council and includes a person appointed under section 9 to act as Chairman;

“the Council” means the Consumer Affairs Council of the Australian Capital Territory constituted by sub-section 4 (1);

“the Director” means the Director of Consumer Affairs for the Australian Capital Territory appointed under sub-section 12 (3) and includes a person appointed under section 13 to act as the Director.

(2) In this Ordinance, a reference to a consumer shall, subject to sub-section (3), be read as a reference to—

- (a) a buyer of goods;
- (b) a person who hires from another person goods either with or without an option to purchase the goods; and
- (c) a person for whom services are rendered for fee or reward.

(3) A person who carries on a business, trade, profession or calling shall not be deemed to be, for the purposes of this Ordinance, a consumer in respect of—

- (a) goods bought or hired by him for a purpose connected with the carrying on of the business, trade, profession or calling; or
- (b) a service rendered for him for fee or reward for a purpose connected with the carrying on of the business, trade, profession or calling.

PART II—THE CONSUMER AFFAIRS COUNCIL OF THE AUSTRALIAN CAPITAL TERRITORY

Consumer
Affairs
Council.

4. (1) There shall be a Council to be known as the Consumer Affairs Council of the Australian Capital Territory.

(2) The Council shall consist of seven members, who shall be appointed by the Minister.

Members.

5. (1) Four of the members shall be representatives of consumers and, of those four members, one shall be an elected member of the Advisory Council nominated by it.

(2) Two of the remaining members shall be persons experienced in manufacturing, wholesaling, retailing, distributing or advertising goods or otherwise engaged in trade or commerce.

(3) The remaining member shall be a person who is an officer of the Department of the Capital Territory.

(4) Each member shall, subject to this Ordinance, hold office for a period of three years.

(5) In the event of an office of a member becoming vacant before the expiration of his term of office, the Minister may, subject to sub-sections (1) and (2), appoint a person to hold that office for the unexpired part of that term.

(6) A member is eligible for re-appointment.

6. The Minister shall appoint one of the members referred to in sub-section 5 (1) to be the Chairman of the Council. Chairman.

7. A member shall be paid such fees and allowances, if any, as are prescribed. Fees and allowances.

8. (1) A member may resign his office by writing under his hand addressed to the Minister. Removal of member from office.

(2) The Minister may remove a member from office for misbehaviour or incapacity.

(3) If a member—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) becomes of unsound mind;
- (c) is convicted in Australia of an offence punishable by imprisonment for one year or longer; or
- (d) is absent, except on leave granted by the Minister, from three consecutive meetings of the Council,

the Minister shall remove the member from office.

(4) If the member who is an elected member of the Advisory Council ceases to be a member of the Advisory Council, the Minister shall remove him from office.

9. In the event of—

- (a) the illness or absence from the Territory of the Chairman or a member;
- (b) the temporary inability of the Chairman or a member to perform the duties of his office; or
- (c) the office of a member becoming vacant before the expiration of his term of office,

Acting appointment.

the Minister may appoint a person to act as Chairman or as a member, as the case requires, during that illness, absence or temporary inability, or until the appointment of a new member, as the case requires.

10. (1) The Council shall meet as and when necessary but so that not more than six months elapse between any two consecutive meetings of the Council. Meetings of Council.

(2) A meeting of the Council shall be convened by the Chairman by notice in writing to the other members of the Council, and shall be held at the time and place specified in the notice.

(3) The Chairman shall convene a meeting of the Council as soon as practicable upon receiving a notice in writing signed by two members requesting him to do so.

(4) The Chairman shall preside at all meetings of the Council at which he is present.

(5) At a meeting at which the Chairman is not present, the members present shall elect one of their number to preside at the meeting.

(6) At a meeting of the Council, the Chairman and three other members or, if the Chairman is not present, four members constitute a quorum.

(7) A question arising at a meeting of the Council shall be determined by a majority of votes of the members present and voting.

(8) The Chairman or members presiding at a meeting of the Council has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(9) The Council shall keep a record of its proceedings.

(10) Subject to this section, the procedure at meetings of the Council shall be as the Council determines.

Functions of Council.

11. (1) The Council may, of its own motion carry out such investigations as it thinks necessary or desirable in relation to matters concerning the manufacturing, wholesaling, retailing, distribution and advertising of goods and in relation to matters concerning the provision of services in so far as those matters affect the interests of consumers.

(2) The Council shall, at the request of the Minister, carry out investigations in relation to a matter specified by the Minister, being a matter referred to in sub-section (1).

(3) As soon as practicable after the conclusion of its investigations into a particular matter carried out under this section, the Council shall furnish to the Minister a report on its investigations and the action that it recommends should be taken.

(4) The Council may consult, and receive submissions from, manufacturers, wholesalers, retailers, distributors and advertisers of goods and members of the public or organizations representing all or any of those persons on any matters affecting the interests of consumers.

(5) The Council shall, by means of lectures and such other means as it considers appropriate, disseminate to the public information relating to matters affecting the interests of consumers.

PART III—CONSUMER AFFAIRS BUREAU OF THE AUSTRALIAN CAPITAL TERRITORY

Consumer Affairs Bureau.

12. (1) There shall be a Bureau to be known as the Consumer Affairs Bureau of the Australian Capital Territory.

(2) There shall be a Director of Consumer Affairs for the Australian Capital Territory.

(3) The Minister shall appoint an officer of the Department of the Capital Territory to be the Director.

13. In the event of the illness or absence from the Territory of the Director or of the temporary inability of the Director to perform the duties of his office, the Minister may appoint an officer of the Department of the Capital Territory to act as the Director during that illness, absence or temporary inability. Acting appointment.

14. The functions of the Bureau are— Functions of Bureau.

- (a) to receive complaints from consumers with respect to fraudulent or unfair commercial practices;
- (b) to investigate those complaints and take such action as is justified;
- (c) to conduct research in relation to matters affecting the interests of consumers;
- (d) to make available to the public information in relation to matters affecting the interests of consumers; and
- (e) to make available for the guidance of consumers statements drawing attention to the provisions of laws in force in the Territory affecting the interests of consumers.

15. (1) The Director has the administration and control of the Bureau. Functions of Director.

(2) The Director shall—

- (a) give such assistance to the Council in carrying out its functions as the Council requires;
- (b) make available to the Council and to its members any information that comes into the possession of the Bureau on matters affecting the interests of consumers; and
- (c) attend a meeting of the Council when requested by the Chairman of the Council so to do.

PART IV—MISCELLANEOUS

16. (1) An action or proceeding, civil or criminal, does not lie against the Chairman, a member, the Director or any person acting under the direction or control of the Director for or in respect of any act or thing done in good faith by him in his capacity as Chairman, member, Director or person acting under the direction or control of the Director. Protection of members of Council and Director and his staff.

(2) An act or thing shall be deemed to have been done in good faith if the person by whom the act or thing was done was not actuated by ill-will to the person affected or by any other improper motive.

17. (1) The Council shall, as soon as practicable after each thirtieth day of June, prepare and furnish to the Minister a report of its operations and of the operations of the Bureau during the period of twelve months ending on that day. Annual reports.

(2) The Minister shall cause a report under the last preceding subsection to be laid before each House of the Parliament as soon as practicable after its receipt by the Minister.

Regulations.

18. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters that are required or permitted by this Ordinance to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.