



Australian Capital Territory

# **Door-to-Door Trading Act 1991 (repealed)**

**A1991-7**

**Republication No 10**

**Effective: 1 January 2011**

Republication date: 1 January 2011

As repealed by A2010-54 s 4 (1)

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Door-to-Door Trading Act 1991* (repealed) (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)). It also includes any commencement, amendment, repeal or expiry affecting the republished law to 1 January 2011.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Door-to-Door Trading Act 1991 (repealed)

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Australian Capital Territory

# Door-to-Door Trading Act 1991 (repealed)

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An Act to make provision with respect to door-to-door trading

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Door-to-Door Trading Act 1991*.

### 2 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition '*prescribed contract*—see section 6.' means that the term 'prescribed contract' is defined in that section.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

### 2A Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

### 3 Meaning of *consumer* and *supplier*

In this Act:

*consumer*—

- (a) means a person (other than a body corporate) to whom goods or services are, or are to be, supplied under a contract or proposed contract to which the person is, or is to be, a party; and

- (b) for a consumer under a contract for the supply of goods or services—includes anyone to whom the rights of the original consumer under the contract are assigned or transferred, or pass by operation of law.

*supplier—*

- (a) in relation to a contract or proposed contract for the supply of goods or services—means the person by whom the goods or services are, or are to be, supplied under the contract or proposed contract; and
- (b) for a supplier under a contract for the supply of goods or services—includes anyone to whom the rights of the original supplier under the contract are assigned or transferred, or pass by operation of law.

**3A Contract for supply of goods or services to party to contract**

For this Act, a contract is a contract for the supply of goods or services to a person who is a party to the contract if it provides for the supply of goods or services either to the person or to someone else but on the order of the person.

## **Part 2** Contracts to which Act applies

### **Division 2.1** Contracts generally

#### **4** Contracts to which Act applies

- (1) Subject to this section, this Act applies to a contract for the supply of goods or services to a consumer (whether or not the law of the ACT is the proper law of the contract) if—
  - (a) negotiations leading to the making of the contract (whether or not they are the only negotiations that precede the making of the contract) take place between the consumer and a dealer—
    - (i) in each other's presence in the ACT at a place other than trade premises of the supplier; or
    - (ii) in a telephone call made, or received, by the consumer in the ACT; and
  - (b) the dealer attends at the place or takes part in the telephone call—
    - (i) in the course of door-to-door trading; and
    - (ii) otherwise than at the unsolicited invitation of the consumer.
- (2) Subject to subsection (3), for subsection (1) (b) in determining whether an invitation is solicited or unsolicited, any solicitation by way of—
  - (a) printed or written material delivered but not addressed personally to the consumer; or
  - (b) advertisement addressed to the public or a substantial section of the public;



shall be disregarded, but if an invitation arises from a communication initiated by the supplier or dealer, or a person acting on behalf of the supplier or dealer, the invitation shall not be regarded as unsolicited.

- (3) If an invitation referred to in subsection (1) (b) arises from a communication initiated by the supplier or dealer, or a person acting on behalf of the supplier or dealer, the invitation shall not be regarded as unsolicited.
- (4) This Act does not apply to—
- (a) a contract made by a consumer in the course of, or in connection with, a business carried on by the consumer; or
  - (b) a contract, or part of a contract, exempted (with or without conditions) from the operation of this Act by regulation.

*Note 1* A reference to an Act includes a reference to a provision of an Act (see Legislation Act, s 7 (3)).

*Note 2* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

*Note 3* Power to make a statutory instrument includes power to make different provision for different categories (see Legislation Act, s 48).

- (5) In proceedings in which it is alleged that a contract for the supply of goods or services is a contract to which this Act applies, the contract shall be presumed to be such a contract in the absence of proof to the contrary.

## **5 Certain contractual terms prohibited**

- (1) A contract to which this Act applies shall not contain—
- (a) a provision purporting to provide that the contract, or any proceeding arising from the contract, is governed by the law of a place other than the ACT; or

- (b) a provision purporting to provide that legal proceedings arising out of, or in relation to, the contract are justiciable only by the courts of a place other than the ACT; or
  - (c) a provision purporting to exclude, restrict or modify any right given to on a consumer by this Act; or
  - (d) a provision of a kind prohibited by the regulations.
- (2) If a contract to which this Act applies contains a provision in contravention of subsection (1), the provision is void and the supplier and the dealer each commit an offence.

Maximum penalty:

- (a) for an individual—\$5 000; or
  - (b) for a body corporate—\$25 000.
- (3) In this section:
- contract to which this Act applies* includes a related contract or instrument.

## **Division 2.2 Prescribed contracts**

### **6 Prescribed contracts**

- (1) A contract to which this Act applies is a prescribed contract if the total consideration payable by the consumer under, or in respect of, the contract—
- (a) is not ascertainable at the time of the making of the contract; or
  - (b) is ascertainable at the time of the making of the contract and exceeds \$50 or, if another amount is prescribed, that amount.
- (2) If—
- (a) 2 or more contracts relate substantially to the same transaction; and

(b) the transaction could have been effected by a single contract that would in that case, have constituted a prescribed contract;

then each of the contracts that would not, if it stood alone, constitute a prescribed contract becomes a prescribed contract and, for the purpose of ascertaining the cooling-off period in relation to such a contract, it shall be deemed to have been made when the last of the contracts was made.

(3) The following are not prescribed contracts:

(a) a contract of insurance;

(b) a contract solely for the provision of credit;

(c) a contract for the supply of goods or services by a charitable organisation;

(d) a contract of a kind declared by the regulations not to be a prescribed contract.

(4) In proceedings in which it is alleged that a contract for the supply of goods or services is a prescribed contract, the contract shall be presumed to be a prescribed contract in the absence of proof to the contrary.

(5) In subsection (3):

*charitable organisation* means an organisation, corporate or unincorporate, found or carried on for a benevolent or charitable purpose, other than one found or carried on for the purposes of securing pecuniary benefit for its members.

## **7 Requirements in relation to prescribed contracts**

(1) The following requirements must be complied with in relation to a prescribed contract:

(a) the contract must set out in full all the contractual terms, including—

- (i) the total consideration to be paid or provided by the consumer or, if the total consideration is not ascertainable at the time the contract is made, how it is to be calculated; and
  - (ii) if the contract provides for the carrying out of work of a prescribed nature—detailed particulars of the work (including any particulars of the work required by the regulations);
- (b) the contractual terms must be printed or typewritten (apart from any insertions or amendments to the printed or typewritten form, which may be handwritten);
- (c) the making of the contract must be completed—
- (i) for a contract that is not made over the telephone—by the consumer signing the contract after it has been executed by or on behalf of the supplier; and
  - (ii) for a contract that is made over the telephone—by the recording of the consent of the consumer to be bound by the contract, by the supplier or a person acting on behalf of the supplier, either in writing or, with the consent of the consumer, using a recording device;
- (d) if the contract is negotiated in the presence of the consumer and the dealer—the consumer must be given a copy of the contract immediately after the making of the contract;
- (e) if the dealer is not the supplier—the contract must set out the full name and address of the dealer and identify that person as the dealer;
- (f) for a contract that is not made over the telephone—the contract must contain the statement ‘THIS CONTRACT IS SUBJECT TO A COOLING-OFF PERIOD OF 10 DAYS’ printed in upper case in type not smaller than 18 point directly above the place provided for the signature of the consumer;

- (g) for a contract that is made over the telephone—the dealer must give the consumer the following as soon as practicable after the contract has been made:
  - (i) a copy of the contract;
  - (ii) a cooling-off statement which states that the consumer may rescind the contract before the end of the cooling-off period if the consumer gives the dealer notice of the rescission within the period;
- (h) for a contract that is not made over the telephone—subject to subsection (2), the dealer must give the consumer the following immediately before the making of the contract:
  - (i) a notice explaining the right of the consumer to rescind the contract; and
  - (ii) a notice that may be used by the consumer to rescind the contract;
- (i) for a contract that is made over the telephone—subject to subsection (3), the dealer must give the consumer the following as soon as practicable after the contract has been made:
  - (i) a notice explaining the right of the consumer to rescind the contract; and
  - (ii) a notice that may be used by the consumer to rescind the contract;
- (j) the notices referred to in paragraph (h) must—
  - (i) be printed or typewritten (apart from any insertion, which may be handwritten); and
  - (ii) set out the full name and address of the supplier and identify that person as the supplier; and
  - (iii) be separate from and not attached to, any other document;

- (k) the printing or typewriting of the contract, the statement referred to in paragraph (f) and the notices referred to in paragraph (h), must be readily legible;
- (l) any handwriting (apart from a signature or initial) in the contract or a notice referred to in paragraph (h) must be readily legible.

*Note* If a form is approved under s 20 (Approved forms) for a notice under par (h) (i) or (ii), the form must be used.

- (2) For a contract that is not made over the telephone—before giving the notice referred to in subsection (1) (h) (i) to a consumer, the dealer shall read the notice aloud to the consumer.

Maximum penalty: \$2 000.

- (3) For a contract that is made over the telephone—before the consumer consents to be bound by the contract, the dealer must read the notice mentioned in subsection (1) (i) (i) aloud to the consumer.

Maximum penalty: \$2 000.

- (4) If any of the requirements of subsection (1) is, without reasonable excuse, not complied with, the supplier and the dealer each commit an offence.

Maximum penalty:

- (a) for an individual—\$5 000; or
- (b) for a body corporate—\$25 000.

- (5) If a consumer acknowledges, in writing, receipt of a document required to be given under subsection (1), the acknowledgment is, in the absence of proof to the contrary, evidence that the document was given to the consumer in accordance with that subsection.

**8 Cooling-off period—acceptance of consideration, supply of services**

- (1) If a supplier or dealer accepts any money or other consideration from a consumer under a prescribed contract or a related contract or instrument before the end of the cooling-off period, the supplier and the dealer each commit an offence.
- (2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence.

Maximum penalty: \$5 000.

## Part 3 Regulation of door-to-door trading practices

### 9 Hours of trading

Except by prior appointment, a dealer shall not call on a person—

- (a) at any time on Good Friday, Easter Sunday or Christmas Day; or
- (b) on a Saturday, Sunday (other than Easter Sunday) or public holiday (other than Good Friday or Christmas Day) between midnight and 9am or between 5pm and midnight; or
- (c) on any other day, between midnight and 9am or between 8pm and midnight;

for the purpose of negotiating a contract to which this Act applies or for an incidental or related purpose.

Maximum penalty: \$2 000.

### 10 Duties of dealers

- (1) A dealer who calls at premises for the purpose of negotiating a contract to which this Act applies or for an incidental or related purpose shall not, without reasonable excuse, fail to leave the premises when requested to do so by the occupier of the premises or any person acting with the actual or implied authority of the occupier.

Maximum penalty: \$2 000.

- (2) A dealer who calls on a person for the purpose of negotiating a contract to which this Act applies or for an incidental or related purpose shall, as soon as it is practicable to do so—

- (a) make known to that person the purpose of the call; and



- (b) produce to that person a card setting out—
  - (i) the dealer's full name and address; and
  - (ii) if the dealer is not the supplier—the supplier's full name and address.
- (3) A dealer who telephones a person for the purpose of negotiating a contract to which this Act applies or for an incidental or related purpose must, as soon as practicable during the telephone call, tell the person the following:
  - (a) the purpose of the telephone call;
  - (b) the dealer's full name and address;
  - (c) if the dealer is not the supplier—the supplier's full name and address.
- (4) A dealer who, without reasonable excuse, contravenes subsection (2) or (3) commits an offence.

Maximum penalty: \$2 000.

## **11 Harassment or coercion**

- (1) A dealer or other person shall not, for the purpose of, or in the course of, negotiating a contract to which this Act applies, harass or coerce a consumer.
- (2) A dealer or other person shall not harass or coerce a consumer for the purpose of dissuading or preventing the consumer from exercising a right conferred on the consumer by this Act.

Maximum penalty: \$5 000.

## **Part 4 Rescission of contracts to which Act applies**

### **12 Rescission—right of consumer**

- (1) A consumer may rescind a contract to which this Act applies (whether or not the contract is a prescribed contract) within 6 months of the date of the contract—
  - (a) if the contract or a related contract or instrument contains a provision contrary to section 5; or
  - (b) if the supplier or a dealer commits an offence against part 3 in the course of, or in relation to, the negotiations leading to the making of the contracts.
- (2) A consumer may rescind a prescribed contract—
  - (a) at any time before the end of the cooling-off period; or
  - (b) if there has been a failure to comply with any of the requirements of section 7 (1) in relation to the contract—within 6 months of the date of the contract.
- (3) A right of rescission given by this section may be exercised—
  - (a) notwithstanding affirmation of the contract by the consumer; and
  - (b) notwithstanding that the contract has been fully executed.
- (4) The rights given by this section are in addition to and do not derogate from any other rights that the consumer may have at law or in equity.

### **13 Exercise of right of rescission**

- (1) A consumer exercises a right of rescission given by this part by giving notice of rescission to the supplier.

- (2) A notice of rescission shall—
- (a) be in a form approved under section 20 (Approved forms) for this paragraph, or in a form that clearly indicates an intention on the part of the consumer to rescind the contract; and
  - (b) except for a notice given in respect of a prescribed contract during the cooling-off period—state the ground of rescission; and
  - (c) be given to the supplier—
    - (i) by delivering it personally to the supplier; or
    - (ii) by delivering it, or sending it by post, in an envelope addressed to the supplier, to the supplier's address.
- (3) In this section, a reference to the supplier's address is a reference to—
- (a) a place where the supplier resides or carries on business; or
  - (b) the supplier's address as shown on a notice given to the consumer under this Act.

## **14 Restitution**

- (1) If a contract to which this Act applies is rescinded under this part, restitution shall be made by the parties to the contract as follows:
- (a) the supplier shall return or refund to the consumer any consideration or the value of any consideration given by the consumer under the contract or a related contract or instrument;
  - (b) the consumer shall—
    - (i) return or refund to the supplier any goods or the value (as at the date of supply) of any goods received from the supplier under the contract; and

- (ii) pay to the supplier the value of any services supplied under the contract up to the time of rescission (but not including the value of any such services supplied under a prescribed contract before the end of the cooling-off period).
- (2) If the consumer makes goods available for collection by the supplier at the place where they were received from the supplier for the period of 28 days from the date of rescission of the contract, and the supplier fails to collect the goods before the end of that period, the consumer shall be deemed to have made restitution in respect of those goods as required by subsection (1), and the goods shall become the property of the consumer free of any other right or interest.
- (3) If the consumer returns goods to the supplier under this section but has failed to take reasonable care of the goods, the consumer is liable to pay compensation to the supplier for the damage to or depreciation in the value of the goods, but the consumer is not liable for any damage or depreciation attributable to normal use of the goods or circumstances beyond the control of the consumer.
- (4) If restitution of goods is not possible (whether because the goods have been consumed or affixed to land, because a third party has acquired an interest in the goods, or for any other reason), the impossibility of restitution of the goods is not a bar to rescission under this part but, in that event, the consumer is liable to pay to the supplier the value of the goods as at the date of supply.
- (5) The obligations imposed by this section may be enforced by action in any court of competent jurisdiction.
- (6) A court convicting a supplier of an offence against this Act is competent to make orders, on the application of the prosecutor, for the enforcement of obligations imposed by this section.

- (7) A person who, without reasonable excuse, contravenes an order under subsection (6) commits an offence.

Maximum penalty:

- (a) for an individual—\$5 000; or  
(b) for a body corporate—\$25 000.

## **15 Related contracts or instruments**

- (1) If a contract to which this Act applies is rescinded under this part, any related contract or instrument is void.
- (2) This section does not affect the operation of the National Credit Code in its application to a contract that is a tied loan contract within the meaning of that code.

## **16 Waiver of rights**

The consumer under a contract to which this Act applies is not competent to waive any right given by this part.

## **17 Prohibition of certain actions**

- (1) If a contract to which this Act applies has been rescinded, or is capable of being rescinded, under this part, a person shall not, for the purpose of recovering an amount alleged to be payable by the consumer under the contract or a related contract or instrument—
- (a) bring, or assert an intention to bring, legal proceedings against the consumer;
- (b) place the name of the consumer, or cause the name of the consumer to be placed, on any list of defaulters or debtors, or assert an intention of placing the name of the consumer, or causing the name of the consumer to be placed, on any list of defaulters or debtors; or
- (c) take any other action against the consumer.

- (2) Subsection (1) (a) does not prohibit—
- (a) the bringing of, or the asserting of an intention to bring, legal proceedings to determine whether or not a contract to which this part applies has been or is capable of being, rescinded under this part; or
  - (b) the continuation of such proceedings (for the purpose of recovering an amount alleged to be payable by the consumer under the contract or a related contract or instrument) if it is determined that the contract has not been, or is not capable of being, rescinded.
- (3) It is a defence to a charge for an offence against subsection (1) to prove that, at the time of the alleged offence, the defendant did not know, and could not reasonably have been expected to have known, that the contract had been rescinded or was capable of being rescinded.
- (4) If a person is convicted of an offence against subsection (1) (b), the court may order the person responsible for keeping any list on which the name of the consumer has been wrongfully placed to remove the name from that list.
- (5) A person who, without reasonable excuse, contravenes subsection (1), or an order under subsection (4), commits an offence.

Maximum penalty:

- (a) for an individual—\$5 000; or
- (b) for a body corporate—\$25 000.

## Part 5                      Miscellaneous

### 18            Acts and omissions of representatives

- (1) In this section:

*person* means an individual.

*Note*        See the Criminal Code, pt 2.5 for provisions about corporate criminal responsibility.

*representative*, of a person, means an employee or agent of the person.

*state of mind*, of a person, includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
  - (b) the person's reasons for the intention, opinion, belief or purpose.
- (2) This section applies to a prosecution for any offence against this Act.
- (3) If it is relevant to prove a person's state of mind about an act or omission, it is enough to show—
- (a) the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the state of mind.
- (4) An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is also taken to have been done or omitted to be done by the person.

- (5) However, subsection (4) does not apply if the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.
- (6) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (3) or (4).

**18A Criminal liability of executive officers**

- (1) An executive officer of a corporation commits an offence if—
  - (a) the corporation contravenes a provision of this Act; and
  - (b) the contravention is an offence against this Act (the *relevant offence*); and
  - (c) the officer was reckless about whether the contravention would happen; and
  - (d) the officer was in a position to influence the conduct of the corporation in relation to the contravention; and
  - (e) the officer failed to take all reasonable steps to prevent the contravention.

Maximum penalty: The maximum penalty that may be imposed for the commission of the relevant offence by an individual.

- (2) This section applies whether or not the corporation is prosecuted for, or convicted of, the relevant offence.
- (3) In deciding whether the executive officer took (or failed to take) reasonable steps to prevent the contravention, a court must have regard to the following:
  - (a) any action the officer took directed towards ensuring the following (to the extent that the action is relevant to the act or omission):



- (i) that the corporation arranges regular professional assessments of the corporation's compliance with the contravened provision;
  - (ii) that the corporation implements any appropriate recommendation arising from such an assessment;
  - (iii) that the corporation's employees, agents and contractors have a reasonable knowledge and understanding of the requirement to comply with the contravened provision;
- (b) any action the officer took when the officer became aware that the contravention was, or might be, about to happen.
- (4) Subsection (3) does not limit the matters to which the court may have regard.
- (5) This section does not apply if the corporation would have a defence to a prosecution for the relevant offence.

### **18B Criminal liability of people deriving financial benefit**

- (1) A person commits an offence against this Act if—
- (a) a supplier or dealer in relation to a contract to which this Act applies contravenes a provision of this Act; and
  - (b) the contravention is an offence against this Act (the *relevant offence*); and
  - (c) the person has derived a direct or indirect financial benefit from the contract; and
  - (d) the person was reckless about whether the contravention would happen; and
  - (e) the person was in a position to influence the conduct of the supplier or dealer in relation to the contravention; and

(f) the person failed to take all reasonable steps to prevent the contravention.

Maximum penalty: The maximum penalty that may be imposed for the commission of the relevant offence by an individual.

- (2) This section applies whether or not the supplier or dealer is prosecuted for, or convicted of, the relevant offence.
- (3) In deciding whether the person took (or failed to take) reasonable steps to prevent the contravention, a court must have regard to—
  - (a) any action the person took directed towards ensuring compliance with the contravened provision; and
  - (b) any action the person took when the person became aware that the contravention was, or might be, about to happen.
- (4) Subsection (3) does not limit the matters to which the court may have regard.
- (5) This section does not apply if the supplier or dealer would have a defence to a prosecution for the relevant offence.

## 19 Evidentiary provision

In proceedings for an offence against this Act, an allegation in the complaint that the defendant was, in relation to conduct to which the charge relates, acting as a dealer shall, in the absence of proof to the contrary, be evidence that the defendant was acting in that capacity.

## 20 Approved forms

- (1) The Minister may, in writing, approve forms for this Act.
- (2) If the Minister approves a form for a particular purpose, the approved form must be used for that purpose.

*Note* For other provisions about forms, see the Legislation Act, s 255.

- (3) An approved form is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

## **21 Regulation-making power**

The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

## Dictionary

(see s 2)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- Minister (see s 162)
- National Credit Code
- person.

***business*** includes a trade or profession.

***consumer***—see section 3.

***contract to which this Act applies*** means a contract to which this Act applies under section 4.

***cooling-off period***, in relation to a prescribed contract, means—

- (a) if the contract is negotiated by telephone—the period of 10 days beginning on the day the copy of the contract is received by the consumer; or
- (b) in any other case—the period of 10 days beginning on the day the contract is made.

*Note* The *Evidence Act 1995* (Cwlth), s 160 provides a rebuttable presumption that a postal article sent by prepaid post addressed to a person at an address in Australia or an external territory was received on the 4th working day after posting.

***credit*** includes any form of financial accommodation.

***dealer*** means a person who, in the course of door-to-door trading—

- (a) enters into negotiations with another person with a view to the making of a contract for the supply of goods or services to that person; or
- (b) calls on another person for the purpose of entering into such negotiations;

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whether or not that person is or is to be the supplier of the goods or services.

***door-to-door trading*** means the trading practice under which—

- (a) a person—
  - (i) goes from place to place; or
  - (ii) makes telephone calls;  
seeking out persons who may be prepared to enter, as consumers, into contracts for the supply of goods or services;  
and
- (b) that person or some other person then or subsequently enters into negotiations with those prospective consumers with a view to the making of the contracts.

***goods*** includes anything grown on, or attached to, land that is severable from the land.

***negotiation***—

- (a) includes any discussion or dealing directed towards the making of a contract (whether or not the terms of the contract are open to negotiation); and
- (b) of a contract to which this Act applies, includes a negotiation of a contract that would, on its making, be a contract to which this Act applies.

***prescribed contract***—see section 6.

***public holiday*** does not include a bank holiday.

***related contract or instrument***, in relation to a contract to which this Act applies, means—

- (a) a contract of guarantee or indemnity that is related to the contract; or

- (b) an instrument related to the contract that creates a mortgage or charge in favour of the supplier or dealer, or a person nominated by the supplier or dealer; or
- (c) any other contract or instrument (other than an instrument of the kind referred to in paragraph (b)) that is collateral or related to the contract.

**rescission**, in relation to a contract, means avoidance of the contract as from its beginning.

**services** includes rights or benefits of any kind except the supply of goods.

**supplier**—see section 3.

**supply**—

- (a) in relation to goods—includes the giving of a right to goods or a right to the possession or use of goods; and
- (b) in relation to services—includes the giving of a right to services; and
- (c) of goods or services—includes the supply of both goods and services.

**trade premises**, in relation to a supplier, means premises that constitute an established place of business of the supplier, or an agent of the supplier.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Door-to-Door Trading Act 1991 No 7**

notified 5 March 1991 (Gaz 1991 No S9)

s 1, s 2 commenced 5 March 1991 (s 2 (1))

remainder commenced 1 July 1991 (s 2 (2) and Gaz 1991 No S59)

as amended by

#### **Consumer Credit (Consequential Provisions) Act 1995 No 19 s 4**

notified 5 September 1995 (Gaz 1995 No S212)

s 1, s 2 commenced 5 September 1995 (s 2 (1))

s 4 commenced 1 November 1996 (s 2 (2) and see Gaz 1996 No S273)

#### **Legislation (Consequential Amendments) Act 2001 No 44 pt 110**

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 110 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

#### **Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 1 pt 1.9**

notified LR 26 March 2004

s 1, s 2 commenced 26 March 2004 (LA s 75 (1))

sch 1 pt 1.9 commenced 9 April 2004 (s 2 (1))

#### **Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.31**

notified LR 22 March 2007

s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))

sch 3 pt 3.31 commenced 12 April 2007 (s 2 (1))

#### **Regulatory Services Legislation Amendment Act 2008 A2008-5 pt 5 (as am by A2008-29 amdt 1.33, A2009-19 pt 13)**

notified LR 15 April 2008

s 1, s 2 commenced 15 April 2008 (LA s 75 (1))

pt 5 commenced 15 October 2009 (s 2 as am by A2008-29 amdt 1.33)



**Justice and Community Safety Legislation Amendment Act 2008  
(No 3) A2008-29 amdt 1.33**

notified LR 13 August 2008

s 1, s 2 commenced 13 August 2008 (LA s 75 (1))

amdt 1.33 commenced 27 August 2008 (s 2)

*Note* This Act only amends the Regulatory Services Legislation Amendment Act 2008 A2008-5.

**Justice and Community Safety Legislation Amendment  
Act 2009 (No 2) A2009-19 pt 6, pt 13**

notified LR 1 September 2009

s 1, s 2 commenced 1 September 2009 (LA s 75 (1))

pt 6 commenced 29 September 2009 (s 2)

pt 13 commenced 15 October 2009 (LA s 79A and see A2008-5)

*Note* This Act also amends the Regulatory Services Legislation Amendment Act 2008 A2008-5.

**Justice and Community Safety Legislation Amendment Act 2009  
(No 3) A2009-44 sch 1 pt 1.8**

notified LR 24 November 2009

s 1, s 2 commenced 24 November 2009 (LA s 75 (1))

sch 1 pt 1.8 commenced 22 December 2009 (s 2 (3))

**Justice and Community Safety Legislation Amendment Act 2010  
(No 3) A2010-40 sch 1 pt 1.3**

notified LR 5 October 2010

s 1, s 2 commenced 5 October 2010 (LA s 75 (1))

s 3, sch 1 pt 1.3 commenced 6 October 2010 (s 2 (1))

as repealed by

**Fair Trading (Australian Consumer Law) Amendment Act 2010  
A2010-54 s 4**

notified LR 16 December 2010

s 1, s 2 commenced 16 December 2010 (LA s 75 (1))

s 4 commenced 1 January 2011 (s 2 (1))

## Endnotes

4 Amendment history

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### 4 Amendment history

#### **Name of Act**

s 1 sub A2007-3 amdt 3.163

#### **Dictionary**

s 2 om 2001 No 44 amdt 1.1176  
ins A2007-3 amdt 3.169

#### **Notes**

s 2A ins A2007-3 amdt 3.169

#### **Meaning of *consumer* and *supplier***

s 3 defs reloc to dict A2007-3 amdt 3.168  
sub A2007-3 amdt 3.169  
def **negotiation** om A2007-3 amdt 3.165  
def **supply** om A2007-3 amdt 3.167

#### **Contract for supply of goods or services to party to contract**

s 3A ins A2007-3 amdt 3.169

#### **Contracts generally**

div 2.1 hdg (prev pt 2 div 1 hdg) renum R2 LA

#### **Contracts to which Act applies**

s 4 am A2009-19 s 14; A2008-5 s 26 (as am by A2009-19 s 62);  
A2008-5 s 27

#### **Prescribed contracts**

div 2.2 hdg (prev pt 2 div 2 hdg) renum R2 LA

#### **Requirements in relation to prescribed contracts**

s 7 am 2001 No 44 amdts 1.1177-1.1179; pars renum R2 LA;  
A2009-19 ss 15-18; ss and pars renum R6 LA; A2008-5 s 28;  
A2009-44 amdt 1.22

#### **Cooling-off period—acceptance of consideration, supply of services**

s 8 am A2009-19 s 19, s 20; ss renum R6 LA

#### **Duties of dealers**

s 10 am A2009-19 s 21, s 22; ss renum R6 LA

#### **Rescission—right of consumer**

s 12 am A2008-5 s 29

#### **Exercise of right of rescission**

s 13 am 2001 No 44 amdt 1.1180

#### **Restitution**

s 14 am A2009-19 s 23

#### **Related contracts or instruments**

s 15 am 1995 No 19 s 4; A2010-40 amdt 1.3

**Acts and omissions of representatives**

s 18 sub A2004-15 amdt 1.10

**Criminal liability of executive officers**

s 18A ins A2004-15 amdt 1.10

**Criminal liability of people deriving financial benefit**

s 18B ins A2004-15 amdt 1.10

**Approved forms**s 20 sub 2001 No 44 amdt 1.1181  
(4)-(7) exp 12 September 2002 (s 20 (7))  
am A2007-3 amdt 3.170**Regulation-making power**

s 21 sub 2001 No 44 amdt 1.1181

**Dictionary**dict ins A2007-3 amdt 3.171  
am A2010-40 amdt 1.4  
def **business** reloc from s 3 A2007-3 amdt 3.168  
def **consumer** sub A2007-3 amdt 3.164  
reloc from s 3 A2007-3 amdt 3.168  
def **contract to which this Act applies** reloc from s 3  
A2007-3 amdt 3.168  
def **cooling-off period** reloc from s 3 A2007-3 amdt 3.168  
sub A2008-5 s 30  
def **credit** reloc from s 3 A2007-3 amdt 3.168  
def **dealer** reloc from s 3 A2007-3 amdt 3.168  
def **door-to-door trading** reloc from s 3 A2007-3 amdt 3.168  
def **goods** reloc from s 3 A2007-3 amdt 3.168  
def **negotiation** am A2008-5 s 31  
def **prescribed contract** reloc from s 3 A2007-3 amdt 3.168  
def **public holiday** reloc from s 3 A2007-3 amdt 3.168  
def **related contract or instrument** reloc from s 3 A2007-3  
amdt 3.168  
def **rescission** reloc from s 3 A2007-3 amdt 3.168  
def **services** reloc from s 3 A2007-3 amdt 3.168  
def **supplier** sub A2007-3 amdt 3.166  
reloc from s 3 A2007-3 amdt 3.168  
def **trade premises** reloc from s 3 A2007-3 amdt 3.168

## Endnotes

5 Earlier republications

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### 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1995 No 19	1 March 1999
2	Act 2001 No 44	11 April 2002
3	A2001-44	13 September 2001
4	A2004-15	9 April 2004
5	A2007-3	12 April 2007
6	<u>A2009-19</u>	29 September 2009
7	A2009-19	15 October 2009
8	A2009-44	22 December 2009
9	A2010-40	6 October 2010

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