

AUSTRALIAN CAPITAL TERRITORY
CONSUMER AFFAIRS (AMENDMENT) ORDINANCE 1982
ORDINANCE NO. 100 OF 1982

EXPLANATORY STATEMENT

The Consumer Affairs Ordinance 1973 (the existing Ordinance) establishes a Consumer Affairs Council of the A.C.T. and a Consumer Affairs Bureau with the power to conduct investigations into matters affecting the interests of consumers in the Territory. The Consumer Affairs (Amendment) Ordinance 1982 empowers the Minister to make consumer product safety orders prohibiting or restricting the supply of specified goods on the advice of the Consumer Affairs Council and to prescribe consumer product safety standards consisting of requirements as to the performance, composition, content, design, construction, finish or packaging of goods and the form and content of markings, warnings or instructions to accompany the goods. Details of the Ordinance are set out below:

Sections 1, 2 and 3 are interpretation provisions.

Section 4 amends section 11 of the existing Ordinance to provide that the powers conferred on the Council by that section are in addition to, and do not derogate from, the powers and functions conferred on the Council under the new Part IIIA.

Section 5 adds a new section 11A to the existing Ordinance to provide for the disclosure of direct or indirect pecuniary interests by members of the Consumer Affairs Council.

Section 6 adds a new Part IIIA to the existing Ordinance, comprising new sections 15FA - 15FK.

Section 15FA empowers the Consumer Affairs Council to carry out investigations either of its own motion or on the request of the Minister, for the purpose of determining whether a consumer product safety order should be made, amended or revoked or whether a consumer product safety standard should be prescribed, amended or repealed.

Section 15FB empowers the Minister to make an interim safety order prohibiting the supply of goods while those goods are under investigation by the Council. Such an order lasts for 28 days but may be extended for a further period of 28 days to enable the Council to complete its investigation.

Section 15FC empowers the Minister to make a consumer product safety order banning the supply of goods or imposing conditions on the supply of goods where the Council has recommended that the supply of such goods should be prohibited or permitted subject to specified conditions and the Minister is satisfied that the making of a consumer product safety order 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 another person.

Section 15FD empowers the Director of Consumer Affairs to make a consumer product safety order in respect of specified goods where a Minister of a State or another Territory responsible for consumer affairs in that State or Territory or a person or authority established or appointed under a law of the Commonwealth or of a State or Territory with powers and functions substantially the same as those conferred on the Minister by the new Part IIIA has, by order or other instrument, prohibited or restricted the supply of those goods. Sub-sections (3) and (4) restrict the power conferred upon the Director by the section by limiting the circumstances in which his power may be exercised.

Section 15FE makes it an offence for a person to supply goods in contravention of a consumer product safety order or in non-compliance with a consumer product safety standard and provides for penalties not exceeding \$1000 or 6 months imprisonment in the case of an individual, or \$5,000 for a corporation. Section 15FF enables a person who suffers loss or damage by the supplying of such goods to recover the amount of that loss or damage from the person who supplied the goods.

Section 15FG enables a person to whom goods have been supplied in contravention of a consumer product safety order or in non-compliance with a product safety standard to recover the amount paid for the goods and, if the person has returned the goods, any reasonable expenses incurred in so returning them. Section 15FH provides that, in an action under section 15FF or 15FG, a finding of fact in proceedings for an offence against section 15FE is evidence of that fact. Section 15FI renders void any agreement waiving or modifying the rights conferred by section 15FF and 15FG.

Section 15FJ provides for the publication of decisions by the Minister and the Director under the new Part IIIA and section 15FK provides for the review of such decisions by the Administrative Appeals Tribunal.

Section 7 of the Ordinance amends section 18 of the existing Ordinance to empower the Minister to make regulations prescribing consumer product safety standards in respect of any goods or goods included in any class of goods.

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