

IMPORTANT NOTICE

This publication is under review following the introduction of the Australian Consumer Law on 1 January 2011. The ACL replaces previous Commonwealth, state and territory consumer protection legislation in fair trading acts. It is contained in a schedule to the *Trade Practices Act 1974*, which has been renamed the *Competition and Consumer Act 2010* (CCA).

Amending legislation

On 1 January 2011, the *Trade Practices Act 1974* (TPA) was renamed the **Competition and Consumer Act 2010**. This name change is part of a suite of changes brought about by the *Trade Practices Amendment (Australian Consumer Law) Act (No 1) 2010* and *Trade Practices Amendment (Australian Consumer Law) Act (No 2) Act 2010*.

The new law

The new ACL is a single, national law that has been introduced by the Commonwealth to protect consumers and ensure fair trading in Australia.

The ACL forms part of the *Competition and Consumer Act 2010*, and is designed to be mirrored in state and territory legislation so it applies nationally. The ACL replaces a wide range of existing national and state and territory consumer laws and will clarify understanding of the law for both Australian consumers and businesses.

Key changes introduced by the ACL include new consumer protections, a range of new enforcement powers for the Australian Competition and Consumer Commission (ACCC) and other regulators of the ACL and the introduction of a national product safety system.

New consumer protections

Many of the consumer protections which existed in the TPA have been altered by the introduction of the ACL. The ACL also introduces new protections for consumers. These include:

- the replacement of the implied warranties and conditions regime in the TPA with a comprehensive set of statutory consumer guarantees and trader obligations for consumer goods and services
- the introduction of an unfair contract terms regime
- laws regulating unfair sales practices including unsolicited selling, multiple pricing, misleading testimonials and lay-by agreements.

Expanded enforcement options

The ACL introduces new enforcement powers, penalties and remedies such as:

- infringement notices
- substantiation notices
- public warning notices
- civil pecuniary penalties
- disqualification orders
- non-party consumer redress.

Breaches of some provisions of the ACL may result in a pecuniary penalty of up to \$1.1 million for corporations and \$220 000 for individuals.

Product safety

The ACL establishes a national product safety system for Australia. It is based on the existing TPA, with changes to implement reforms agreed to by the Council of Australian Governments. As part of this new framework the Commonwealth alone will have the power to make product safety standards and permanent safety bans (though states and territories will be able to implement short-term interim bans).

Suppliers will also be required by law to advise the ACCC within two days when they become aware that a good or product related service they have supplied has caused, or may have caused death or serious injury or illness to any person.

More information

More information about these changes is available on the ACCC website (www.accc.gov.au) or from the ACCC Infocentre (1300 302 502). For product safety matters go to www.productsafety.gov.au. Further information is also available on the Australian Government website www.consumerlaw.gov.au.