

Statutory Rules 1995 No. 330¹

Trade Practices Regulations² (Amendment)

I, THE ADMINISTRATOR of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Trade Practices Act 1974*.

Dated 30 October 1995.

P. R. SINCLAIR
Administrator

By His Excellency's Command,

GEORGE GEAR
Assistant Treasurer

1. Commencement

1.1 These Regulations commence on the date of commencement of Part 3 of the *Competition Policy Reform Act 1995*.

2. Amendment

2.1 The Trade Practices Regulations are amended as set out in these Regulations.

3. Regulation 4 (Directions in Forms)

3.1 Delete "the Schedule", substitute "Schedule 1 or Schedule 3".

4. Regulation 5 (Seal of the Commission)

4.1 Subregulation 5 (1):

Delete "Chairman", substitute "Chairperson".

4.2 Paragraph 5 (1) (b):

Omit "Trade Practices Commission", substitute "Australian Competition and Consumer Commission".

4.3 Subregulation 5 (2):

Omit the subregulation.

5. New regulations 6A and 6B

5.1 After regulation 6, insert:

Application to Council for declaration recommendation

"6A. An application to the Council under subsection 44F (1) of the Act for a declaration recommendation in respect of a particular service must include the following information:

- (a) the applicant's name and, if the applicant is the designated Minister or an organisation, the name and contact details of a contact officer for the Minister or organisation;
- (b) the applicant's address for the delivery of documents, including the notification of any decision of the designated Minister or the Council, relating to the application or the declaration recommendation;
- (c) a description of the service and of the facility used to provide the service;

- (d) the name of the provider, or of each provider, of the service and, if a provider does not own the facility, the name of the owner, or of each owner, of the facility, as the case requires;
- (e) the reason for seeking access (or increased access) to the service;
- (f) a brief description:
 - (i) of how access (or increased access) would promote competition in at least one market (whether or not in Australia), other than the market for the service; and
 - (ii) of the market, or of each of the markets, in which competition would be so promoted;
- (g) the reason why the applicant believes that it would be uneconomical for anyone to develop another facility to provide the service;
- (h) the reason why the facility is of national significance, having regard to the matters set out in paragraph 44G (2) (c) of the Act;
- (j) a description of one or more methods by which access to the service can be provided and details of any risk to human health or safety caused by that method or those methods;
- (k) if the service is already the subject of a regime for access to the service (including an access undertaking):
 - (i) particulars of the regime including details, if any, about when the regime is to end; and
 - (ii) reasons why the regime is not an effective access regime;
- (l) a description of efforts, if any, that have been made to negotiate access to the service.

Application to the Council for a recommendation on the effectiveness of an access regime

“6B. An application to the Council under subsection 44M (2) of the Act for a recommendation on the effectiveness of a regime for access to a service must include the following information:

- (a) the name of the State or Territory on whose behalf the application is made;
- (b) the name and designation of the responsible Minister for the State or Territory;
- (c) the name and contact details of a contact officer for the State or Territory;
- (d) the responsible Minister’s address for the delivery of documents, including the notification of any decision of the Commonwealth Minister or the Council, relating to the application or the recommendation;
- (e) a description of the access regime (including a copy of any relevant legislation);
- (f) a description of the service;
- (g) grounds in support of the application.”.

6. Regulation 15 (Seal of the Tribunal)

- 6.1 Paragraph 15 (1) (b):
Omit “Trade Practices Tribunal”, substitute “Australian Competition Tribunal”.
- 6.2 Subregulation 15 (2):
Omit the subregulation.

7. Regulation 37 (Loyalty agreements: notifications relating to exemptions: prescribed particulars)

- 7.1 Paragraph 37 (g):
After “notification” (second occurring), insert “to”.

8. Regulation 38 (Application for provisional registration of conference agreement)

- 8.1 Paragraph 38 (3) (h):
Delete “this”, substitute “that is”.

9. Regulation 46 (Manner of making applications and giving notices)

- 9.1 Paragraph 46 (a):
Omit “of”, substitute “at”.



10. Schedule 1

10.1 Omit “Trade Practices Commission” (wherever occurring), substitute “Australian Competition and Consumer Commission”.

10.2 Omit “Trade Practices Tribunal” (wherever occurring), substitute “Australian Competition Tribunal”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 3 November 1995.
2. Statutory Rules 1974 No. 170 as amended by 1974 Nos. 175 and 247; 1975 No. 13; 1977 No. 100 (void and of no effect); 1978 No. 212; 1979 Nos. 1 and 87; 1980 No. 39; 1982 No. 68; 1989 No. 199; 1992 Nos. 71 and 92; 1993 No. 21, 1995 No. 248.