

TASMANIA

CONSUMER AFFAIRS AMENDMENT BILL 2006

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CONSUMER AFFAIRS AMENDMENT BILL 2006

(Brought in by the Minister for Justice and Workplace Relations, the Honourable Steven Kons)

A BILL FOR

An Act to amend the *Consumer Affairs Act 1988*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Consumer Affairs Amendment Act 2006*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

3. Principal Act

In this Act, the *Consumer Affairs Act 1988** is referred to as the Principal Act.

*No. 53 of 1988

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4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by omitting the definition of “Chairman” and substituting the following definitions:

“chairperson” means the chairperson of the Committee;

“Committee” means the Tasmanian Consumer Advisory Committee established under this Act;

- (b) by omitting the definition of “Council”.

5. Part II substituted

Part II of the Principal Act is repealed and the following Part is substituted:

**PART II – TASMANIAN CONSUMER ADVISORY
COMMITTEE**

4. Constitution of Committee

There is constituted by this Act an advisory committee to be known as the Tasmanian Consumer Advisory Committee.

5. Membership of Committee

- (1) The Committee consists of not less than 7, and not more than 15, members who the Minister considers represent the interests of consumers.
- (2) The Minister is to advertise in such publications, and in such manner and form, as the Minister determines for persons to express interest in becoming members of the Committee.
- (3) The Minister is to appoint the members of the Committee from the persons who expressed interest under subsection (2) and who the Minister considers have the expertise and qualifications to enable the Committee to perform its functions.
- (4) The members of the Committee are to elect one member of the Committee to be chairperson of the Committee.
- (5) Schedule 1 has effect with respect to the membership and meetings of the Committee.

6. Functions and powers of Committee

- (1) The functions of the Committee are –
 - (a) to advise, and make recommendations to, the Minister on matters affecting the interests of consumers in Tasmania; and

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- (b) to consult with consumer organisations and other relevant organisations on emerging issues of concern to consumers; and
 - (c) to advance the interests of consumers and promote consumer awareness of consumer protection issues; and
 - (d) to assist the Minister with regard to activities relating to consumer affairs and fair trading; and
 - (e) such other functions as may be prescribed.
- (2) The Committee may make recommendations to the Minister with respect to any matter arising in connection with the performance and exercise of its functions and powers under this Act.

7. Committee to submit reports

- (1) The Committee, not later than 30 September in each financial year, is to submit to the Minister a report on its proceedings during that financial year.
- (2) The Committee may submit a report to the Minister on any matter arising in the performance of its functions and the exercise of its powers under this Act.

- (3) The Minister may lay a copy of the Committee's report under subsection (1) before each House of Parliament before 31 October in each year.
- (4) The Minister may lay a copy of a report, if any, of the Committee under subsection (2) before each House of Parliament.

6. Section 11 amended (Functions of Office of Consumer Affairs and Fair Trading)

Section 11(2) of the Principal Act is amended by omitting "Council" and substituting "Committee".

7. Section 12 amended (Special powers and duties of Director)

Section 12 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) "Council" and substituting "Committee";
- (b) by omitting from subsection (2) "Council" and substituting "Committee";
- (c) by omitting from subsection (3) "Council" twice occurring and substituting "Committee";

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- (d) by omitting from subsection (4) “Council” and substituting “Committee”;
- (e) by omitting from subsection (5) “Council” twice occurring and substituting “Committee”.

8. Section 14 amended (Powers of authorized officers to enter premises, &c.)

Section 14(1) of the Principal Act is amended as follows:

- (a) by omitting “the Council or”;
- (b) by omitting “their” and substituting “its”.

9. Section 19 amended (Name of Committee or Office not to be used in advertisements)

Section 19(1) of the Principal Act is amended as follows:

- (a) by omitting “Chairman” and substituting “chairperson”;
- (b) by omitting from paragraph (a) “Council” and substituting “Committee”;
- (c) by omitting from paragraph (b) “Council” and substituting “Committee”.

10. Section 21 amended (Protection for certain persons in relation to certain publications and acts or things done)

Section 21 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Council” and substituting “Committee”;
- (b) by omitting from subsection (3) “Council” and substituting “Committee”;
- (c) by omitting from subsection (4) “Council” twice occurring and substituting “Committee”;
- (d) by omitting from subsection (5) “Council” and substituting “Committee”.

11. Section 22 amended (Preservation of secrecy)

Section 22 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Council” twice occurring and substituting “Committee”;
- (b) by omitting from subsection (3)(a) “Chairman” and substituting “chairperson”.

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12. Section 23 amended (Evidentiary provision)

Section 23 of the Principal Act is amended by omitting subsection (1).

13. Schedules 1 and 2 amended

Schedules 1 and 2 to the Principal Act are repealed and the following Schedule is substituted:

**SCHEDULE 1 – PROVISIONS WITH RESPECT TO
MEMBERSHIP AND MEETINGS OF COMMITTEE**

Section 5(5)

1. Interpretation

In this Schedule –

“member” means a member of the
Committee.

2. Terms and conditions of office of members

(1) A member –

- (a) is to be appointed for such period, not exceeding 3 years, as the Minister thinks fit and is to hold and vacate office in accordance with the terms of his or her appointment or reappointment; and

- (b) may be removed from office by the Minister by notice in writing addressed and delivered to that member; and
 - (c) may at any time resign his or her office by notice in writing addressed and delivered to the Minister.
- (2) A member is entitled to be paid such allowances as the Minister determines.
 - (3) A member who is a State Service officer or State Service employee is not entitled to allowances under this clause except with the approval of the Minister administering the *State Service Act 2000*.
 - (4) The terms and conditions of office of a member, with respect to matters not provided for in this Schedule, are as determined by the Minister.

3. Appointment of substitute to act during absence of member

If a member is unable for any reason to carry out his or her duties as such a member for any period, the Minister may appoint a person who, in his or her opinion, is suitably qualified to act in place of that member during that period, and that person is, for that period, taken

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to be a member to act in the place of that member during that period.

4. Vacation of office

- (1) A member vacates office if he or she –
 - (a) dies; or
 - (b) resigns by written notice given to the Minister; or
 - (c) is removed from office under subclause (2) or (3).

- (2) The Minister may remove a member from office if the member –
 - (a) is absent from 3 consecutive meetings of the Committee without the permission of the other members of the Committee; or
 - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration or estate for their benefit; or
 - (c) is convicted, in Tasmania or elsewhere, of a crime or an offence punishable by

imprisonment for 12 months or longer or a fine of 300 penalty units or more; or

(d) is convicted of an offence under this Act; or

(e) fails to disclose a pecuniary interest as required under clause 10.

(3) The Minister may remove a member from office if satisfied that the member is unable to perform adequately or competently the duties of office.

5. Filling of vacancies

If the office of a member becomes vacant, the Minister may appoint a person who the Minister considers represents the interests of consumers to the vacant office for the remainder of that member's term of office.

6. Convening of meetings

Meetings of the Committee may be convened by the chairperson of the Committee or by any 2 or more members.

7. Quorum

At a meeting of the Committee, a quorum is constituted by a majority of the total number of members appointed.

8. Presiding at meetings

- (1) The chairperson of the Committee is to preside at all meetings of the Committee at which he or she is present.
- (2) If the chairperson of the Committee is not present at a meeting of the Committee, a member elected by the members present is to preside at that meeting.

9. Decision of meeting

A decision carried by a majority of the votes of the members present at a meeting of the Committee is a decision of the Committee.

10. Disclosure of interests

- (1) If a member has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Committee, the member must, as soon as practicable after the relevant facts come to the member's knowledge,

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disclose the nature of the interest to the Committee.

Penalty: Fine not exceeding 100 penalty units or a term of imprisonment not exceeding 3 months, or both.

- (2) Unless the Committee otherwise determines, a member who has made a disclosure under subclause (1) in relation to a matter must not –
- (a) be present during any deliberation of the Committee in relation to the matter; or
 - (b) take part in any decision of the Committee in relation to the matter.
- (3) For the purpose of making a determination under subclause (2), the member to whom the determination relates must not –
- (a) be present during any deliberation of the Committee for the purpose of making the determination; or
 - (b) take part in making the determination.

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11. Power of Committee to regulate its own procedure

Subject to this section, the Committee may determine the procedure for the calling of meetings of the Committee and for the conduct of business at those meetings.