



# **Trade Practices Amendment (Liability for Recreational Services) Act 2002**

**No. 146, 2002**

**An Act to amend the *Trade Practices Act 1974*, and  
for other purposes**

Note: An electronic version of this Act is available in SCALEplus  
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)



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# **An Act to amend the *Trade Practices Act 1974*, and for other purposes**

[Assented to 19 December 2002]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Trade Practices Amendment (Liability for Recreational Services) Act 2002*.

## **2 Commencement**

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

## **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendment of the Trade Practices Act 1974**

### **1 After section 68A**

Insert:

#### **68B Limitation of liability in relation to supply of recreational services**

- (1) A term of a contract for the supply by a corporation of recreational services is not void under section 68 by reason only that the term excludes, restricts or modifies, or has the effect of excluding, restricting or modifying:

- (a) the application of section 74 to the supply of the recreational services under the contract; or
- (b) the exercise of a right conferred by section 74 in relation to the supply of the recreational services under the contract; or
- (c) any liability of the corporation for a breach of a warranty implied by section 74 in relation to the supply of the recreational services under the contract;

so long as:

- (d) the exclusion, restriction or modification is limited to liability for death or personal injury; and
  - (e) the contract was entered into after the commencement of this section.
- (2) In this section:

***disease*** includes any physical or mental ailment, disorder, defect or morbid condition, whether of sudden onset or gradual development and whether of genetic or other origin.

***injury*** means any physical or mental injury.

***personal injury*** means:

- (a) an injury of an individual (including the aggravation, acceleration or recurrence of an injury of the individual); or

- (b) the contraction, aggravation, acceleration, or recurrence of a disease of an individual; or
- (c) the coming into existence, the aggravation, acceleration or recurrence of any other condition, circumstance, occurrence, activity, form of behaviour, course of conduct or state of affairs in relation to an individual that is or may be harmful or disadvantageous to, or result in harm or disadvantage to:
  - (i) the individual; or
  - (ii) the community.

***recreational services*** means services that consist of participation in:

- (a) a sporting activity or a similar leisure-time pursuit; or
  - (b) any other activity that:
    - (i) involves a significant degree of physical exertion or physical risk; and
    - (ii) is undertaken for the purposes of recreation, enjoyment or leisure.
- (3) The definition of ***injury*** in subsection (2) does not, by implication, affect the meaning of the expression ***injury*** when used in a provision of this Act other than this section.

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[Minister's second reading speech made in—  
House of Representatives on 27 June 2002  
Senate on 28 August 2002]