



Trade Practices Amendment (Access Declarations) Act 2008

No. 7, 2008

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

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

Contents

1	Short title	1
2	Commencement	2
3	Schedule(s)	2
Schedule 1—Amendments		3
	<i>Trade Practices Act 1974</i>	3



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No. 7, 2008

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

[Assented to 20 March 2008]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Trade Practices Amendment (Access
Declarations) Act 2008*.

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Trade Practices Act 1974

1 At the end of section 152AL

Add:

Declaration is not a legislative instrument

- (9) A declaration under this section is not, and is taken never to have been, a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (10) A variation of a declaration made under this section is not, and is taken never to have been, a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (11) A revocation of a declaration made under this section is not, and is taken never to have been, a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (12) If:
 - (a) a declaration was made under this section before the commencement of this subsection; and
 - (b) the declaration ceased to be in force before the commencement of this subsection;then:
 - (c) the declaration is taken never to have been a legislative instrument for the purposes of the *Legislative Instruments Act 2003*; and
 - (d) if the declaration was varied or revoked before the commencement of this subsection—the variation or revocation is taken never to have been a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (13) For the purposes of paragraph (12)(b), assume that the *Legislative Instruments Act 2003* had never been enacted.
- (14) Subsections (9) to (12) are enacted for the avoidance of doubt.

2 At the end of section 152ALA

Add:

Extension notice is not a legislative instrument

- (10) A notice under subsection (4) is not, and is taken never to have been, a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (11) If:
 - (a) a declaration was made under section 152AL before the commencement of this subsection; and
 - (b) a notice relating to the declaration was published under subsection (4) of this section before the commencement of this subsection; and
 - (c) the declaration ceased to be in force before the commencement of this subsection;the notice is taken never to have been a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (12) For the purposes of paragraph (11)(c), assume that the *Legislative Instruments Act 2003* had never been enacted.
- (13) Subsections (10) and (11) are enacted for the avoidance of doubt.

3 At the end of Division 2 of Part XIC

Add:

152AQC Compensation for acquisition of property

- (1) If the operation of any or all of the following provisions:
 - (a) subsection 152AL(9), (10), (11), (12), (13) or (14);
 - (b) subsection 152ALA(10), (11), (12) or (13);would result in an acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

(3) In this section:

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

*[Minister's second reading speech made in—
House of Representatives on 13 February 2008
Senate on 12 March 2008]*

(3/08)
