

NORTHERN TERRITORY OF AUSTRALIA

COMPETITION POLICY REFORM (NORTHERN TERRITORY) ACT

As in force at 1 January 2011

Table of provisions

Part 1	Preliminary	
1	Short title	1
2	Commencement	1
3	Interpretation	1
Part 2	Competition Code	
4	Competition Code text	4
5	Application of Competition Code	4
6	Future modifications of Competition Code text	4
7	Interpretation of Competition Code	5
8	Application of Competition Code	6
9	Special provisions	6
Part 3	Citing the Competition Codes	
10	Citation of Competition Code of this jurisdiction	7
11	References to Competition Code	7
12	References to Competition Codes of other jurisdictions	7
Part 4	Application of Competition Codes to Crown	
13	Application law of this jurisdiction	7
14	Application law of other jurisdictions	8
15	Activities that are not business	8
16	Crown not liable to pecuniary penalty or prosecution	9
17	This Part overrides the prerogative	9
Part 5	National administration and enforcement of Competition Codes	
Division 1	Preliminary	
18	Object	10
Division 2	Conferral of functions	
19	Conferral of functions and powers on certain bodies	10

20	Conferral of other functions and powers for purposes of law in this jurisdiction	10
----	--	----

Division 3 Jurisdiction of Courts

21	Jurisdiction of Federal Court.....	10
22	Jurisdiction of courts of this jurisdiction	10
23	Exercise of jurisdiction under cross-vesting provisions.....	11

Division 4 Offences

24	Object	11
25	Application of Commonwealth laws to offences against Competition Code of this jurisdiction	12
26	Application of Commonwealth laws to offences against Competition Codes of other jurisdictions	12
27	Functions and powers conferred on Commonwealth officers and authorities	13
28	Restriction of functions and powers of officers and authorities of this jurisdiction	13

Division 5 Administrative law

29	Definition.....	13
30	Application of Commonwealth administrative laws to Competition Code of this jurisdiction	14
31	Application of Commonwealth administrative laws to Competition Codes of other jurisdictions	14
32	Functions and powers conferred on Commonwealth officers and authorities	15
33	Restriction of functions and powers of officers and authorities of this jurisdiction	15

Part 6 Miscellaneous

34	No doubling-up of liabilities.....	15
35	Things done for multiple purposes.....	16
36	Reference in Commonwealth law to a provision of another law	16
37	Fees and other money.....	16
38	Regulations.....	16
39	Regulations for exceptions under section 51 of Competition and Consumer Act or Code	17

Part 7 Transitional rules

40	Definitions.....	17
41	Existing contracts	17
42	Section 51 exceptions	18
43	Temporary exemption from pecuniary penalties.....	18

44	Advance authorisations	18
45	Regulations relating to savings and transitional matters.....	18

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

This reprint shows the Act as in force at 1 January 2011. Any amendments that commence after that date are not included.

COMPETITION POLICY REFORM (NORTHERN TERRITORY) ACT

An Act to apply certain laws of the Commonwealth relating to competition policy as laws of the Territory, and for other purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Competition Policy Reform (Northern Territory) Act*.

2 Commencement

- (1) Parts 1 and 7 shall come into operation on the day on which the Administrator's assent to this Act is declared.
- (2) The remaining provisions of this Act shall come into operation on the first day after the end of the period of 12 months after the day on which the *Competition Policy Reform Act 1995* of the Commonwealth received the Royal Assent, but, if the commencement of those provisions is postponed under subsection (3), they shall come into operation on the day to which their commencement has been postponed (or the later or latest of those days).
- (3) The commencement of the provisions referred to in subsection (2) may be postponed from time to time by the Minister, by notice in the *Gazette*, but any such postponement cannot be effected after the provisions have commenced.

3 Interpretation

- (1) In this Act, unless the contrary intention appears:

application law means:

- (a) a law of a participating jurisdiction that applies the Competition Code, either with or without modifications, as a law of the participating jurisdiction;

- (b) any regulations or other legislative instrument made under a law described in paragraph (a); or
- (c) the Competition Code, applying as a law of the participating jurisdiction, either with or without modifications.

Commission means the Australian Competition and Consumer Commission established by section 6A of the Competition and Consumer Act, and includes a member of the Commission or a Division of the Commission performing functions of the Commission.

Competition and Consumer Act means the *Competition and Consumer Act 2010* (Cth).

Competition Code means (according to the context):

- (a) the Competition Code text; or
- (b) the Competition Code text, applying as a law of a participating jurisdiction, either with or without modifications.

Competition Code text means the text described in section 4.

Conduct Code Agreement means the Conduct Code Agreement made on 11 April 1995 between the Commonwealth, the State of New South Wales, the State of Victoria, the State of Queensland, the State of Western Australia, the State of South Australia, the State of Tasmania, the Australian Capital Territory and the Northern Territory of Australia, as in force for the time being.

Council means the National Competition Council established by section 29A of the Competition and Consumer Act.

instrument means any document whatever, including:

- (a) an Act or an instrument made under an Act;
- (b) a law of this jurisdiction or an instrument made under such a law;
- (c) an award or other industrial determination or order, or an industrial agreement;
- (d) any other order (whether executive, judicial or otherwise);
- (e) a notice, certificate or licence;
- (f) an agreement;

- (g) an application made, information or complaint laid, affidavit sworn, or warrant issued, for any purpose;
- (h) an indictment, presentment, summons or writ; or
- (j) any other pleading in, or process issued in connection with, a legal or other proceeding.

jurisdiction means a State.

law, in relation to a Territory, means a law of, or in force in, that Territory.

modifications includes additions, omissions and substitutions.

month means a period commencing at the beginning of a day of one of the 12 months of the year and ending immediately before the beginning of the corresponding day of the next month or, if there is no such corresponding day, ending at the expiration of the next month.

officer, in relation to the Commonwealth, has the meaning given in Part XIA of the Competition and Consumer Act.

participating jurisdiction means a jurisdiction that is a party to the Conduct Code Agreement and applies the Competition Code as a law of the jurisdiction, either with or without modifications.

Schedule version of Part IV means the text set out in Schedule 1, Part 1 of the Competition and Consumer Act.

State includes a Territory.

Territory means the Territory or the Australian Capital Territory.

this jurisdiction means the Territory.

Tribunal means the Australian Competition Tribunal referred to in the Competition and Consumer Act, and includes a member of the Tribunal or a Division of the Tribunal performing functions of the Tribunal.

- (2) If an expression is defined in the Competition and Consumer Act and is also used in this Act, the expression as used in this Act has, unless the contrary intention appears, the same meaning as in that Act.

- (3) In this Act, a reference to a Commonwealth Act includes a reference to:
- (a) that Commonwealth Act as amended and in force for the time being; and
 - (b) an Act enacted in substitution for that Act.

Part 2 Competition Code

4 Competition Code text

- (1) The Competition Code text consists of:
- (a) the Schedule version of Part IV;
 - (b) the remaining provisions of the Competition and Consumer Act (except sections 2A, 5, 6 and 172), so far as they would relate to the Schedule version if the Schedule version were substituted for Part IV of that Act; and
 - (c) the regulations under the Competition and Consumer Act, so far as they relate to any provisions covered by paragraph (a) or (b).
- (2) For the purpose of forming part of the Competition Code text:
- (a) the provisions referred to in subsection (1) (b) and (c) are to be modified as necessary to fit in with the Schedule version of Part IV; and
 - (b) in particular, references to corporations are to include references to persons who are not corporations.

5 Application of Competition Code

- (1) The Competition Code text, as in force for the time being, applies as a law of the Territory.
- (2) This section has effect subject to section 6.

6 Future modifications of Competition Code text

- (1) A modification made by a Commonwealth law to the Competition Code text after the commencement of this section:
- (a) does not apply under section 5 until at least the end of the period of 2 months after the date of the modification, unless the Minister, by notice in the *Gazette*, appoints an earlier date; and

- (b) does not apply under that section at all, if the modification is declared by the notice to be excluded from the operation of that section.
- (2) A notice under subsection (1)(a):
 - (a) cannot appoint a day that is earlier than the date of publication of the notice or that is earlier than the date on which the modification of the text takes effect; and
 - (b) is taken in such a case to appoint the date of publication of the notice or the date on which the modification of the text takes effect, whichever is the later.
 - (3) A notice under subsection (1)(b) has effect only if published or notified before the end of 2 months after the date of the modification.
 - (4) Subsection (1)(b) ceases to apply to the modification if a further notice by the Minister in the *Gazette* so provides.
 - (5) For the purposes of this section, the date of the modification is the date on which the Commonwealth Act effecting the modification receives the Royal Assent or the regulation effecting the modification is notified in the *Commonwealth of Australia Gazette*.

7 Interpretation of Competition Code

- (1) The *Acts Interpretation Act 1901* of the Commonwealth applies as a law of this jurisdiction to:
 - (a) the Competition Code of this jurisdiction; and
 - (b) any instrument under that Code.
- (2) For the purposes of subsection (1), the Commonwealth Act mentioned in that subsection applies as if:
 - (a) the statutory provisions in the Competition Code of this jurisdiction were a Commonwealth Act; and
 - (b) the regulations in the Competition Code of this jurisdiction or instruments mentioned in that subsection were regulations or instruments under a Commonwealth Act.
- (3) The *Interpretation Act* does not apply to:
 - (a) the Competition Code of the Territory; or
 - (b) any instrument under that Code.

8 Application of Competition Code

- (1) The Competition Code of this jurisdiction applies to and in relation to:
 - (a) persons carrying on business within this jurisdiction;
 - (b) bodies corporate taken to be registered in the Territory by virtue of section 119A of the Corporations Act 2001;
 - (c) persons ordinarily resident in this jurisdiction; or
 - (d) persons otherwise connected with this jurisdiction.
- (2) Subject to subsection (1), the Competition Code of this jurisdiction extends to conduct, and other acts, matters and things, occurring or existing outside or partly outside this jurisdiction (whether within or outside Australia).
- (3) Where a claim under section 82 of the Competition Code of this jurisdiction is made in a proceeding, a person is not entitled to rely at a hearing in respect of that proceeding on conduct to which a provision of the Code extends occurring outside Australia except with the consent in writing of the Commonwealth Minister.
- (4) A person other than the Commonwealth Minister or the Commission is not entitled to make an application to the Court for an order under section 87(1) or (1A) of the Competition Code of this jurisdiction in a proceeding in respect of conduct to which a provision of the Code extends occurring outside Australia except with the consent in writing of the Commonwealth Minister.
- (5) The Commonwealth Minister is required to give a consent under subsection (3) or (4) in respect of a proceeding unless, in the opinion of the Commonwealth Minister:
 - (a) the law of the country in which the conduct concerned was engaged in required or specifically authorised the engaging in of the conduct; and
 - (b) it is not in the national interest that the consent be given.
- (6) In this section, **Commonwealth Minister** means a Minister of State for the Commonwealth administering Part IV of the Competition and Consumer Act.

9 Special provisions

The references in sections 45 and 45B of the Competition Code of this or another participating jurisdiction to ***the commencement of***

this section are taken to be references to the commencement of the provision of the law of that jurisdiction that provides that the Competition Code text as in force for the time being applies as a law of that jurisdiction.

Part 3 Citing the Competition Codes

10 Citation of Competition Code of this jurisdiction

The Competition Code text applying as a law of this jurisdiction may be cited as the Competition Code of the Territory.

11 References to Competition Code

- (1) The object of this section is to help ensure that the Competition Code of this jurisdiction can operate, in appropriate circumstances, as if that Code, together with the Competition Code of each other participating jurisdiction, constituted a single national Competition Code applying throughout the participating jurisdictions.
- (2) A reference in an instrument to the Competition Code is a reference to the Competition Codes of any or all of the participating jurisdictions.
- (3) Subsection (2) has effect except so far as the contrary intention appears in the instrument or the context of the reference otherwise requires.

12 References to Competition Codes of other jurisdictions

- (1) This section has effect for the purposes of an Act, a law of this jurisdiction or an instrument under an Act or such a law.
- (2) If a law of a participating jurisdiction other than this jurisdiction provides that the Competition Code text as in force for the time being applies as a law of that jurisdiction, the Competition Code of that jurisdiction is the Competition Code text, applying as a law of that jurisdiction.

Part 4 Application of Competition Codes to Crown

13 Application law of this jurisdiction

The application law of this jurisdiction binds (so far as the legislative power of the Legislative Assembly permits) the Crown in right of this jurisdiction and of each other jurisdiction, so far as the Crown carries on a business, either directly or by an authority of the jurisdiction concerned.

14 Application law of other jurisdictions

The application law of each participating jurisdiction other than this jurisdiction binds the Crown in right of this jurisdiction, so far as the Crown carries on a business, either directly or by an authority of this jurisdiction.

15 Activities that are not business

- (1) For the purposes of sections 13 and 14, the following do not amount to carrying on a business:
- (a) imposing or collecting:
 - (i) taxes;
 - (ii) levies; or
 - (iii) fees for licences;
 - (b) granting, refusing to grant, revoking, suspending or varying licences (whether or not they are subject to conditions);
 - (c) a transaction involving:
 - (i) only persons who are all acting for the Crown in the same right (and none of whom is an authority of a State);
 - (ii) only persons who are all acting for the same authority of a State;
 - (iii) only the Crown in right of a State and one or more non-commercial authorities of that State; or
 - (iv) only non-commercial authorities of the same State;
 - (d) the acquisition of primary products by a government body under legislation, unless the acquisition occurs because:
 - (i) the body chooses to acquire the products; or
 - (ii) the body has not exercised a discretion that it has under the legislation that would allow it not to acquire the products.
- (2) Subsection (1) does not limit the things that do not amount to carrying on a business for the purposes of sections 13 and 14.

(3) In this section:

acquisition of primary products by a government body under legislation includes vesting of ownership of primary products in a government body by legislation.

government body means a State or an authority of a State.

licence means a licence that allows the licensee to supply goods or services.

primary products means:

- (a) agricultural or horticultural produce;
- (b) crops, whether on or attached to the land or not;
- (c) animals (whether dead or alive); or
- (d) the bodily produce (including natural increase) of animals.

(4) For the purposes of this section, an authority of a State is **non-commercial** if:

- (a) it is constituted by only one person; and
- (b) it is neither a trading corporation nor a financial corporation.

16 Crown not liable to pecuniary penalty or prosecution

- (1) Nothing in the application law of this jurisdiction makes the Crown in any capacity liable to a pecuniary penalty or to be prosecuted for an offence.
- (2) Without limiting subsection (1), nothing in the application law of a participating jurisdiction makes the Crown in right of this jurisdiction liable to a pecuniary penalty or to be prosecuted for an offence.
- (3) The protection in subsection (1) or (2) does not apply to an authority of any jurisdiction.

17 This Part overrides the prerogative

If, because of this Part, a provision of the law of another participating jurisdiction binds the Crown in right of this jurisdiction, the Crown in that right is subject to that provision despite any prerogative right or privilege.

Part 5 National administration and enforcement of Competition Codes

Division 1 Preliminary

18 Object

The object of this Part is to help ensure that the Competition Codes of the participating jurisdictions are administered on a uniform basis, in the same way as if those Codes constituted a single law of the Commonwealth.

Division 2 Conferral of functions

19 Conferral of functions and powers on certain bodies

- (1) The authorities and officers of the Commonwealth referred to in the Competition Code of this jurisdiction, including (but not limited to) the Commission, the Tribunal and the Council, have the functions and powers conferred or expressed to be conferred on them respectively under the Competition Code of this jurisdiction.
- (2) In addition to the powers mentioned in subsection (1), the authorities and officers referred to in that subsection have power to do all things necessary or convenient to be done in connection with the performance of the functions and exercise of the powers referred to in that subsection.

20 Conferral of other functions and powers for purposes of law in this jurisdiction

The Commission and the Tribunal have power to do acts in this jurisdiction in the performance or exercise of any function or power expressed to be conferred on them respectively by the Competition Code of another participating jurisdiction.

Division 3 Jurisdiction of Courts

21 Jurisdiction of Federal Court

Jurisdiction is conferred on the Federal Court of Australia with respect to all civil and criminal matters arising under the Competition Code of this jurisdiction.

22 Jurisdiction of courts of this jurisdiction

Subject to section 23, the courts of this jurisdiction do not have jurisdiction with respect to the matters referred to in section 21.

23 Exercise of jurisdiction under cross-vesting provisions

This Part does not affect the operation of any law of this jurisdiction relating to cross-vesting of jurisdiction.

Division 4 Offences

24 Object

- (1) The object of this Division is to further the object of this Part by providing:
 - (a) for an offence against the Competition Code of this jurisdiction to be treated as if it were an offence against a law of the Commonwealth; and
 - (b) for an offence against the Competition Code of another participating jurisdiction to be treated in this jurisdiction as if it were an offence against a law of the Commonwealth.
- (2) The purposes for which an offence is to be treated as mentioned in subsection (1) include, for example (but without limitation):
 - (a) the investigation and prosecution of offences;
 - (b) the arrest, custody, bail, trial and conviction of offenders or persons charged with offences;
 - (c) proceedings relating to a matter referred to in paragraph (a) or (b);
 - (d) appeals and review relating to criminal proceedings and to proceedings of the kind referred to in paragraph (c);
 - (e) the sentencing, punishment and release of persons convicted of offences;
 - (f) fines, penalties and forfeitures;
 - (g) liability to make reparation in connection with offences;
 - (h) proceeds of crime; and
 - (j) spent convictions.

25 Application of Commonwealth laws to offences against Competition Code of this jurisdiction

- (1) The Commonwealth laws apply as laws of this jurisdiction in relation to an offence against the Competition Code of this jurisdiction as if that Code were a law of the Commonwealth and not a law of this jurisdiction.
- (2) For the purposes of a law of this jurisdiction, an offence against the Competition Code of this jurisdiction:
 - (a) is taken to be an offence against the laws of the Commonwealth, in the same way as if that Code were a law of the Commonwealth; and
 - (b) is taken not to be an offence against the laws of this jurisdiction.
- (3) Subsection (2) has effect for the purposes of a law of this jurisdiction except as prescribed by regulations under this Act.

26 Application of Commonwealth laws to offences against Competition Codes of other jurisdictions

- (1) The Commonwealth laws apply as laws of this jurisdiction in relation to an offence against the Competition Code of another participating jurisdiction as if that Code were a law of the Commonwealth and not a law of that other jurisdiction.
- (2) For the purposes of a law of this jurisdiction, an offence against the Competition Code of another participating jurisdiction:
 - (a) is taken to be an offence against the laws of the Commonwealth, in the same way as if that Code were a law of the Commonwealth; and
 - (b) is taken not to be an offence against the laws of that jurisdiction.
- (3) Subsection (2) has effect for the purposes of a law of this jurisdiction except as prescribed by regulations under this Act.
- (4) This section does not require, prohibit, empower, authorise or otherwise provide for, the doing of an act outside this jurisdiction.

27 Functions and powers conferred on Commonwealth officers and authorities

- (1) A Commonwealth law applying because of section 25 that confers on a Commonwealth officer or authority a function or power in relation to an offence against the Competition and Consumer Act also confers on the officer or authority the same function or power in relation to an offence against the corresponding provision of the Competition Code of this jurisdiction.
- (2) A Commonwealth law applying because of section 26 that confers on a Commonwealth officer or authority a function or power in relation to an offence against the Competition and Consumer Act also confers on the officer or authority the same function or power in relation to an offence against the corresponding provision of the Competition Code of another participating jurisdiction.
- (3) The function or power referred to in subsection (2) may only be performed or exercised in this jurisdiction.
- (4) In performing a function or exercising a power conferred by subsection (1) or (2), the Commonwealth officer or authority must act as nearly as practicable as the officer or authority would act in performing or exercising the same function or power in relation to an offence against the corresponding provision of the Competition and Consumer Act.

28 Restriction of functions and powers of officers and authorities of this jurisdiction

Where, by reason of this Division, a function or power is conferred on a Commonwealth officer or authority, that function or power may not be performed or exercised by an officer or authority of this jurisdiction.

Division 5 Administrative law

29 Definition

In this Division ***Commonwealth administrative laws*** means:

- (a) the following Acts of the Commonwealth:
 - (i) the *Administrative Appeals Tribunal Act 1975*;
 - (ii) the *Administrative Decisions (Judicial Review) Act 1977*;
 - (iii) the *Freedom of Information Act 1982*;
 - (iv) the *Ombudsman Act 1976*;

- (v) the *Privacy Act 1988*; and
- (b) the regulations in force under those Acts.

30 Application of Commonwealth administrative laws to Competition Code of this jurisdiction

- (1) The Commonwealth administrative laws apply as laws of this jurisdiction to any matter arising in relation to the Competition Code of this jurisdiction as if that Code were a law of the Commonwealth and not a law of this jurisdiction.
- (2) For the purposes of a law of this jurisdiction, a matter arising in relation to the Competition Code of this jurisdiction:
 - (a) is taken to be a matter arising in relation to laws of the Commonwealth in the same way as if that Code were a law of the Commonwealth; and
 - (b) is taken not to be a matter arising in relation to laws of this jurisdiction.
- (3) Subsection (2) has effect for the purposes of a law of this jurisdiction except as prescribed by regulations under this Act.

31 Application of Commonwealth administrative laws to Competition Codes of other jurisdictions

- (1) The Commonwealth administrative laws apply as laws of this jurisdiction to any matter arising in relation to the Competition Code of another participating jurisdiction as if that Code were a law of the Commonwealth and not a law of that jurisdiction.
- (2) For the purposes of a law of this jurisdiction, a matter arising in relation to the Competition Code of another participating jurisdiction:
 - (a) is taken to be a matter arising in relation to laws of the Commonwealth in the same way as if that Code were a law of the Commonwealth; and
 - (b) is taken not to be a matter arising in relation to laws of that jurisdiction.
- (3) Subsection (2) has effect for the purposes of a law of this jurisdiction except as prescribed by regulations under this Act.
- (4) This section does not require, prohibit, empower, authorise or otherwise provide for, the doing of an act outside this jurisdiction.

32 Functions and powers conferred on Commonwealth officers and authorities

- (1) A Commonwealth administrative law applying because of section 30 that confers on a Commonwealth officer or authority a function or power also confers on the officer or authority the same function or power in relation to a matter arising in relation to the Competition Code of this jurisdiction.
- (2) A Commonwealth administrative law applying because of section 31 that confers on a Commonwealth officer or authority a function or power also confers on the officer or authority the same function or power in relation to a matter arising in relation to the Competition Code of another participating jurisdiction.
- (3) The function or power referred to in subsection (2) may only be performed or exercised in this jurisdiction.
- (4) In performing a function or exercising a power conferred by subsection (1) or (2), the Commonwealth officer or authority must act as nearly as practicable as the officer or authority would act in performing or exercising the same function or power under the Commonwealth administrative law.

33 Restriction of functions and powers of officers and authorities of this jurisdiction

Where, by reason of this Division, a function or power is conferred on a Commonwealth officer or authority, that function or power may not be performed or exercised by an officer or authority of this jurisdiction.

Part 6 Miscellaneous**34 No doubling-up of liabilities**

- (1) If:
 - (a) an act or omission is an offence against the Competition Code of this jurisdiction and is also an offence against the Competition and Consumer Act or an application law of another participating jurisdiction; and
 - (b) the offender has been punished for the offence under the Competition and Consumer Act or the application law of the other jurisdiction,

the offender is not liable to be punished for the offence against the Competition Code of this jurisdiction.

-
- (2) If a person has been ordered to pay a pecuniary penalty under the Competition and Consumer Act or the application law of another participating jurisdiction, the person is not liable to a pecuniary penalty under the Competition Code of this jurisdiction in respect of the same conduct.

35 Things done for multiple purposes

The validity of an authorisation, notification or any other thing given or done for the purposes of the Competition Code of this jurisdiction is not affected only because it was given or done also for the purposes of the Competition and Consumer Act or the Competition Code of one or more other jurisdictions.

36 Reference in Commonwealth law to a provision of another law

For the purposes of section 25, 26, 30 or 31, a reference in a Commonwealth law to a provision of that or another Commonwealth law is taken to be a reference to that provision as applying because of that section.

37 Fees and other money

- (1) All fees, taxes, penalties (including pecuniary penalties referred to in section 76 of the Competition Code), fines and other money that, under the application law of this jurisdiction, are authorised or directed to be payable by or imposed on any person must be paid to the Commonwealth.
- (2) Subsection (1) does not apply to amounts recovered for loss or damage as referred to in section 82 or 87 of the Competition Code and other amounts prescribed by the regulations under this Act.
- (3) This subsection imposes the fees (including fees that are taxes) that the regulations in the Competition Code of this jurisdiction prescribe.

38 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

39 Regulations for exceptions under section 51 of Competition and Consumer Act or Code

Without limiting any other power to make regulations under any other Act, regulations may be made under this Act specifically authorising a specified thing to be done in this jurisdiction and referring expressly to the Competition and Consumer Act or the Competition Code.

Part 7 Transitional rules**40 Definitions**

In this Part:

Code means the Competition Code of this jurisdiction.

cut-off date means 19 August 1994.

existing contract means a contract that was made before the operative date.

operative date means the date of commencement of Parts 2 to 6 of this Act.

41 Existing contracts

- (1) For the purposes of deciding whether a person has contravened Part IV of the Code at any time after the operative date:
 - (a) existing contracts made before the cut-off date, and things done to give effect to those contracts, are to be disregarded;
 - (b) if an existing contract made before the cut-off date is varied on or after the cut-off date, things done to give effect to the varied contract are not to be disregarded under paragraph (a) unless they would have been disregarded under the contract as in force immediately before the cut-off date; and
 - (c) regard can be had to existing contracts made on or after the cut-off date and to things done to give effect to those contracts.
- (2) Part IV of the Code does not make unenforceable a provision of an existing contract made before the cut-off date, unless it was unenforceable immediately before the operative date.
- (3) Part IV of the Code can make unenforceable a provision of an existing contract made on or after the cut-off date.

42 Section 51 exceptions

- (1) This section applies (in addition to section 51(1) of the Code) to conduct taking place before the end of 3 years after the date on which the *Competition Policy Reform Act 1995* of the Commonwealth received the Royal Assent.
- (2) In deciding whether a person has contravened Part IV of the Code, a particular thing is to be disregarded if (and to the same extent) it is to be disregarded for the purposes of the Competition and Consumer Act because of section 33 of the *Competition Policy Reform Act 1995* of the Commonwealth.

43 Temporary exemption from pecuniary penalties

- (1) A person is not liable to a pecuniary penalty under the Code for conduct that happens within 2 years after the day on which the *Competition Policy Reform Act 1995* of the Commonwealth received the Royal Assent.
- (2) If the commencement of provisions of this Act is postponed under section 2, the period of 2 years mentioned in this section is extended by the same number of days.

44 Advance authorisations

From the commencement of this section:

- (a) an authorisation may be applied for and granted under the Code; and
- (b) a notice may be given under section 93 of the Code,

as if the whole of this Act commenced at the same time as this section.

45 Regulations relating to savings and transitional matters

- (1) The regulations under this Act may contain provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) Any such savings or transitional provision may, if the regulations so provide, take effect retrospectively.

- (3) To the extent to which any such savings or transitional provision takes effect from a date that is earlier than the date of its publication or notification in the *Gazette*, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the Territory or a Territory authority), the rights of that person existing before the date of its publication or notification; or
 - (b) to impose liabilities on any person (other than the Territory or a Territory authority) in respect of anything done or omitted to be done before the date of its publication or notification.

ENDNOTES
1**KEY**

Key to abbreviations

amd = amended
 app = appendix
 bl = by-law
 ch = Chapter
 cl = clause
 div = Division
 exp = expires/expired
 f = forms
 Gaz = Gazette
 hdg = heading
 ins = inserted
 lt = long title
 nc = not commenced

od = order
 om = omitted
 pt = Part
 r = regulation/rule
 rem = remainder
 renum = renumbered
 rep = repealed
 s = section
 sch = Schedule
 sdiv = Subdivision
 SL = Subordinate Legislation
 sub = substituted

2**LIST OF LEGISLATION*****Competition Policy Reform (Northern Territory) Act 1996 (Act No. 28, 1996)***

Assent date 28 June 1996
 Commenced ss 1 – 3, 40 – 45: 28 June 1996; rem: 21 July 1996 (s 2)

Competition Policy Reform (Northern Territory) Amendment Act 1999 (Act No. 47, 1999)

Assent date 10 November 1999
 Commenced 10 December 1999 (s 2, s 2 *New Tax System Price Exploitation Code (NT) Act 1999* (Act No. 42, 1999) and *Gaz G48*, 8 December 1999, p 2)

Corporation Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)

Assent date 29 June 2001
 Commenced 15 July 2001 (s 2, s 2 *Corporations Act 2001* (Cth Act No. 50, 2001) and *Cth Gaz S285*, 13 July 2001)

Consumer Affairs and Fair Trading Amendment (National Uniform Legislation) Act 2010 (Act No. 41, 2010)

Assent date 8 December 2010
 Commenced 1 January 2011 (*Gaz S71*, 20 December 2010)

3**LIST OF AMENDMENTS**

s 3 amd No. 47, 1999 s 3; No. 41, 2010, s 30
 s 4 amd No. 41, 2010, s 30
 s 8 amd No. 17, 2001, s 21; No. 41, 2010, s 30
 s 27 amd No. 41, 2010, s 30
 ss 34 – 35 amd No. 41, 2010, s 30
 s 39 amd No. 41, 2010, s 30
 s 42 amd No. 41, 2010, s 30