



New South Wales

# Competition Policy Reform (New South Wales) Savings and Transitional Regulation 1996

under the

Competition Policy Reform (New South Wales) Act 1995

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Competition Policy Reform (New South Wales) Act 1995*.

Bob Carr  
Premier

## Explanatory note

### Overview of Regulation

The object of this Regulation is to make a transitional provision, consequent on the enactment of the *Competition Policy Reform (New South Wales) Act 1995*, in connection with the commencement of the *Competition Code* in New South Wales in July 1996.

The Regulation will in effect treat an authorisation granted or notice given under the provisions of the *Trade Practices Act 1974* of the Commonwealth (the Commonwealth Act) as an authorisation or notice under the corresponding provisions of the *Competition Code*. This will avoid the need for duplicate authorisations and notices to be granted or given.

The *Competition Code* consists principally of provisions that are in virtually the same terms as Part IV of the Commonwealth Act, except that the Code applies to individuals as well as corporations. Part IV deals with restrictive trade practices.

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### Outline of provisions

**Clause 1** specifies the name of the Regulation.

**Clause 2** contains definitions of *commencement date* (which is the date on which the substantive provisions of the *Competition Policy Reform (New South Wales) Act 1995* commence), *Commonwealth Act* and *State Act*.

**Clause 3** provides in effect that an authorisation in force under the Commonwealth Act at the commencement date is taken to be also a separate authorisation under the *Competition Code*. Such authorisations are granted by the Australian Competition and Consumer Commission (formerly the Trade Practices Commission), and provide exemptions from the provisions of Part IV of the Commonwealth Act. The Regulation will ensure that existing authorisations will also provide exemptions from the corresponding provisions of Part IV of the *Competition Code*.

**Clause 4** provides in effect that a notice in force under section 93 of the Commonwealth Act at the commencement date is taken to be also a separate notice under section 93 of the *Competition Code*. Such notices provide exemptions from section 47 of the Commonwealth Act, which deals with exclusive dealing. The Regulation will ensure that existing notices will also provide exemptions from section 47 of the *Competition Code*.

The Regulation is made under sections 38 (the general regulation-making power) and 45 of the Competition Policy Reform (New South Wales) Act 1995. The Regulation comprises matter of a savings or transitional nature consequent on the enactment of that Act.

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## Competition Policy Reform (New South Wales) Savings and Transitional Regulation 1996

### 1 Name of Regulation

This Regulation is the *Competition Policy Reform (New South Wales) Savings and Transitional Regulation 1996*.

### 2 Definitions

In this Regulation:

***commencement date*** means the date of commencement of Parts 2–6 of the State Act.

***Commonwealth Act*** means the *Trade Practices Act 1974* of the Commonwealth.

***State Act*** means the *Competition Policy Reform (New South Wales) Act 1995*.

### 3 Existing authorisations

- (1) If an authorisation granted under the Commonwealth Act is in force immediately before the commencement date, a corresponding authorisation is taken to have been also granted under the *Competition Code*.
- (2) Such a corresponding authorisation has the same effect for the purposes of the *Competition Code* as the firstmentioned authorisation has for the purposes of the Commonwealth Act, and may be amended, revoked or otherwise dealt with under the *Competition Code*.
- (3) This clause does not apply in relation to an authorisation granted under the Commonwealth Act if an authorisation in the same or substantially the same terms has already been granted as referred to in section 44 of the State Act.

### 4 Existing notifications

- (1) If a notice given under section 93 of the Commonwealth Act is in force immediately before the commencement date, a corresponding notice is taken to have been also given under section 93 of the *Competition Code*.

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- (2) Such a corresponding notice has the same effect for the purposes of the *Competition Code* as the firstmentioned notice has for the purposes of the Commonwealth Act, and may be withdrawn or otherwise dealt with under the *Competition Code*.
- (3) This clause does not apply in relation to a notice given under section 93 of the Commonwealth Act if a notice in the same or substantially the same terms has already been given as referred to in section 44 of the State Act.
- (4) This clause applies to a notice given under section 93 (3) of the Commonwealth Act, as well as to a notice given under section 93 (1) of that Act.