



Fair Trading (General) Amendment (Direct Commerce Exemptions) Regulation 2004

under the

Fair Trading Act 1987

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Fair Trading Act 1987*.

REBA PAIGE MEAGHER, M.P.,
Minister for Fair Trading

Explanatory note

The objects of this Regulation are as follows:

- (a) to make it clear that business contracts are excluded entirely from the direct commerce provisions contained in Division 3 of Part 4 of the *Fair Trading Act 1987*,
- (b) to make it clear that the exemption of consumer credit contracts from the cooling-off period requirements of the direct commerce provisions extends to a credit provider in New South Wales who enters into a credit contract with a consumer in another State or Territory.

This Regulation is made under the *Fair Trading Act 1987*, including sections 40B (2) and (2A) and 92 (the general regulation-making power).

2004 No 807

Clause 1 Fair Trading (General) Amendment (Direct Commerce Exemptions)
Regulation 2004

Fair Trading (General) Amendment (Direct Commerce Exemptions) Regulation 2004

under the

Fair Trading Act 1987

1 Name of Regulation

This Regulation is the *Fair Trading (General) Amendment (Direct Commerce Exemptions) Regulation 2004*.

2 Amendment of Fair Trading (General) Regulation 2002

The *Fair Trading (General) Regulation 2002* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 2)

[1] **Clause 88B Exclusion of certain contracts from direct commerce provisions**

Insert after clause 88B (1) (c):

- (c1) a business contract,

[2] **Clause 88B (3)**

Insert after clause 88B (2):

- (3) For the purposes of subclause (1) (c1), *business contract* means a contract for the supply of goods or services other than of a kind ordinarily acquired for personal, domestic or household use or consumption.

[3] **Clause 88C Partial exclusion of certain contracts from direct commerce provisions**

Omit clause 88C (a). Insert instead:

- (a) sections 40C–40H and 40K of the Act do not apply to or in respect of a credit contract, and

[4] **Clause 88C (2)**

Insert at the end of clause 88C:

- (2) In this clause:

Consumer Credit Code means:

- (a) the provisions of the Code by that name set out in the Appendix to the *Queensland Consumer Credit (Queensland) Act 1994*, as applied and in force in any Australian jurisdiction, or
- (b) the provisions of an Act of an Australian jurisdiction that are in the same, or substantially the same, terms as that Code.

credit contract has the same meaning as in the *Consumer Credit Code*, but does not include a consumer lease within the meaning of that Code.