



New South Wales

Fair Trading Amendment (Ticket Reselling) Bill 2013

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Fair Trading Act 1987* with respect to tickets to sporting or entertainment events held in New South Wales, but only tickets that are subject to **resale restrictions**, being terms or conditions that limit or prohibit the resale of any such ticket or provide for the ticket to be cancelled or rendered invalid following resale.

This Bill:

- (a) requires a person conducting the business or undertaking of a public forum (such as a website, newspaper or magazine) to ensure:
 - (i) that any advertisement in the forum for the sale of such a ticket complies with certain requirements such as including a photograph of the ticket, specifying the ticket number, row number and seat number and setting out the circumstances in which resale of the ticket may result in the ticket being cancelled or rendered invalid, and
 - (ii) that, if the person is notified in writing by any person about an advertisement in the forum that does not comply with those requirements, the advertisement is, insofar as is reasonably practicable, removed or corrected, and
- (b) makes void any resale restriction that provides for a ticket to be cancelled or rendered invalid if it is resold unless the ticket contains a prescribed warning.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Fair Trading Act 1987 No 68

Schedule 1 [1] inserts proposed Division 6 (comprising proposed sections 58–60B) into Part 4 of the *Fair Trading Act 1987* (the *principal Act*).

Proposed section 58 provides that the proposed Division applies to tickets to sporting and entertainment events held in New South Wales that are subject to a resale restriction. A *resale restriction* is a term or condition of a ticket that limits or prohibits resale of the ticket (including any term or condition that provides for the ticket to be cancelled or rendered invalid if it is resold).

Proposed section 59 sets out what advertisements are unauthorised advertisements for the purposes of proposed Division 6. An advertisement that offers a ticket for sale is an *unauthorised advertisement* if the advertisement does not satisfy the requirements of the proposed section. Those requirements are that the advertisement must specify the ticket number, row number and seat number (if the ticket has such numbers) and specify the terms and conditions of the ticket or specify where those terms and conditions can be readily found. The advertisement must also include a notice specifying the circumstances in which resale of the ticket may result in the ticket being cancelled or rendered invalid. Finally, the advertisement must contain a photograph of the ticket that clearly shows any ticket number, row number and seat number. However, the photograph must not show any barcode on the ticket. An advertisement is not an unauthorised advertisement if it is published by or on behalf of the organiser of the event to which the ticket relates or any agent of the organiser or if the advertisement is an advertisement of a class prescribed by the regulations under the principal Act.

Proposed section 60 places obligations on a person who conducts the business or undertaking of a forum (including the owner of the forum). A *forum* is defined to include any forum having advertisements to which members of the public have access (whether or not a member of the public is first required to pay a fee or subscription, register or become a member) such as a website, a newspaper, magazine or other publication or a public notice board. Any such person is required to take reasonable steps to ensure that no advertisement in the forum is an unauthorised advertisement. Failure to do so is an offence with a maximum penalty of \$22,000. Such a person is also required to ensure that an unauthorised advertisement in the forum is removed or corrected within a reasonable time after the person is notified in writing that the advertisement is an unauthorised advertisement, but only if it is reasonably practicable to do so. Failure to do so is an offence with a maximum penalty of \$5,500. The regulations under the principal Act can prescribe circumstances in which the person is taken to have been notified in writing. The offences do not apply to an advertisement offering a ticket for sale in a forum that has been authorised for the purposes of such sale by the organiser of the event to which the ticket relates.

Proposed section 60A provides that a resale restriction that provides for a ticket to be cancelled or rendered invalid if it is resold (or if it is resold in certain circumstances such as resale for a profit) is void unless the ticket contains a warning in the form prescribed by the regulations.

Proposed section 60B requires the Minister to conduct a review of the proposed Division after 3 years and to table a report on the outcome of that review in Parliament.

Schedule 1 [2] permits regulations under the principal Act to contain provisions of a savings or transitional nature consequent on the enactment of the principal Act or any Act that amends the principal Act (including the proposed Act).

Schedule 1 [3] contains savings and transitional provisions that are consequent on the enactment of the proposed Act.

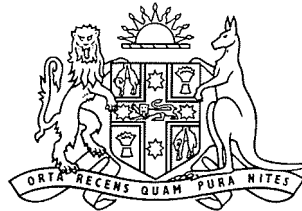


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New South Wales

Fair Trading Amendment (Ticket Reselling) Bill 2013

No. , 2013

A Bill for

An Act to amend the *Fair Trading Act 1987* with respect to the resale of certain tickets to sporting or entertainment events.

The Legislature of New South Wales enacts:

1

1 Name of Act

2

This Act is the *Fair Trading Amendment (Ticket Reselling) Act 2013*.

3

2 Commencement

4

This Act commences on a day or days to be appointed by proclamation.

5

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|-------------------|---|--|---|
| Schedule 1 | Amendment of Fair Trading Act 1987 No 68 | 1 | |
| [1] | Part 4 NSW consumer safety and information requirements | 2 | |
| | Insert after Division 5: | 3 | |
| | Division 6 | Resale of tickets to sporting or entertainment events | 4 |
| 58 | Tickets to which Division applies | 5 | |
| (1) | This Division applies to a ticket to a sporting or entertainment event held in New South Wales if the ticket is subject to a resale restriction. | 6 7 | |
| (2) | A <i>resale restriction</i> means, for the purposes of this Division, a term or condition of a ticket that limits the circumstances in which the ticket may be resold or prohibits resale of the ticket and includes a term or condition that provides for the ticket to be cancelled or rendered invalid if the ticket is resold, or if the ticket is resold in certain circumstances. | 8 9 10 11 12 | |
| (3) | A reference in this Division to the terms and conditions of a ticket includes a reference to the terms and conditions of any contract that governs the use of the ticket (including resale). | 13 14 15 | |
| 59 | Unauthorised advertisement for resale of tickets | 16 | |
| (1) | An advertisement that offers a ticket for sale is, for the purposes of this Division, an <i>unauthorised advertisement</i> unless the advertisement complies with the requirements of this section. | 17 18 19 | |
| (2) | An advertisement must specify the ticket number, row number and seat number of the ticket if the ticket has such numbers. | 20 21 | |
| (3) | An advertisement must specify the terms and conditions of the ticket or specify where those terms and conditions can be readily found. | 22 23 | |
| (4) | An advertisement must include a notice specifying the circumstances in which resale of the ticket may result in the ticket being cancelled or rendered invalid. | 24 25 | |
| (5) | An advertisement must contain a photograph of the ticket that clearly shows any ticket number, row number and seat number. However, the photograph must not show any barcode on the ticket. | 26 27 28 | |
| (6) | This section does not apply to: | 29 | |
| (a) | an advertisement published by or on behalf of the organiser of the event to which the ticket relates or any agent of the organiser, or | 30 31 | |
| (b) | an advertisement of a class prescribed by the regulations. | 32 | |
| 60 | Public forum not to contain unauthorised advertisement | 33 | |
| (1) | In this section: | 34 | |
| | <i>advertisement</i> means any advertisement whether paid or not. | 35 | |
| | <i>forum</i> means any forum having advertisements to which members of the public have access (whether or not a member of the public is first required to pay a fee or subscription, register or become a member) such as a website, a newspaper, magazine or other publication or a public notice board. | 36 37 38 39 | |
| | <i>person conducting a business or undertaking</i> has the same meaning as in the <i>Work Health and Safety Act 2011</i> but also includes any person of a class prescribed by the regulations. | 40 41 42 | |

| | | |
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| (2) | A person conducting the business or undertaking of a forum must take reasonable steps to ensure that no advertisement in the forum is an unauthorised advertisement. | 1 2 3 |
| | Maximum penalty: 200 penalty units. | 4 |
| (3) | A person conducting the business or undertaking of a forum must, within a reasonable time after being notified in writing by any person of an unauthorised advertisement in the forum, ensure that if it is reasonably practicable to do so: | 5 6 7 8 |
| | (a) the advertisement is removed from the forum, or | 9 |
| | (b) the advertisement is changed so that it is not an unauthorised advertisement. | 10 11 |
| | Maximum penalty: 50 penalty units. | 12 |
| (4) | The regulations may prescribe circumstances in which a person conducting the business or undertaking of a forum is taken to have been notified in writing that there is an unauthorised advertisement in the forum. | 13 14 15 |
| (5) | This section does not apply to an advertisement offering a ticket for sale if the advertisement is in a forum that has been authorised for the purposes of such sale by the organiser of the event. | 16 17 18 |
| (6) | A reference in this section to a person conducting a business or undertaking includes a reference to the owner of the business or undertaking. | 19 20 |
| 60A | Resale restriction void unless ticket contains warning | 21 |
| | A resale restriction that provides for a ticket to be cancelled or rendered invalid if it is resold (or if it is resold in certain circumstances) is void unless the ticket contains a warning in the form prescribed by the regulations. | 22 23 24 |
| 60B | Review of Division | 25 |
| (1) | The Minister is to review this Division to determine whether the policy objectives of the Division remain valid and whether the terms of the Division remain appropriate for securing those objectives. | 26 27 28 |
| (2) | The review is to be undertaken as soon as possible after the period of 3 years from the commencement of this Division. | 29 30 |
| (3) | A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 3 years. | 31 32 |
| [2] | Schedule 5 Savings and transitional provisions | 33 |
| | Omit clause 1A (1). Insert instead: | 34 |
| (1) | The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act. | 35 36 |

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| [3] Schedule 5 | 1 |
| Insert at the end of the Schedule with appropriate Part and clause numbers: | 2 |
| Part Provisions consequent on enactment of Fair Trading Amendment (Ticket Reselling) Act 2013 | 3 |
| | 4 |
| Definition | 5 |
| In this Part: | 6 |
| <i>amending Act</i> means the <i>Fair Trading Amendment (Ticket Reselling) Act 2013</i> . | 7 |
| | 8 |
| Unauthorised tickets on forum | 9 |
| Section 60, as inserted by the amending Act, does not apply to an unauthorised advertisement in a forum if the advertisement was in the forum before the commencement of that section. | 10 |
| | 11 |
| | 12 |
| Cancellation of ticket | 13 |
| Section 60A, as inserted by the amending Act, does not apply to a ticket issued before the commencement of that section. | 14 |
| | 15 |