

## Appendices

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## Appendix A: *Trade Practices Act 1974* and state and territory equivalents

Table A1: Unconscionable conduct

Commonwealth Trade Practices Act 1974	NSW Fair Trading Act 1987	VIC Fair Trading Act 1999	QLD Fair Trading Act 1989	SA Fair Trading Act 1987	WA Fair Trading Act 1990	TAS Fair Trading Act 1987	ACT Fair Trading Act 1992	NT Consumer Affairs and Fair Trading Act 1990
Section 51AA	NIL	s 7	NIL	NIL	NIL	NIL	NIL	NIL
Section 51AB	s43	s8	s39	s57	s11	s15	s13	s43
Section 51AC	NIL	NIL	NIL	NIL	NIL	NIL	NIL	NIL

\* The *Australian Securities Commission Act 2001* (Cwth) duplicates the consumer protection provisions of the Act with regard to financial services.  
*ASIC Act* (Cwth) s 12CA is equivalent to s 51AA of the Act.  
*ASIC Act* (Cwth) s 12CB is equivalent to s 51AB of the Act.  
*ASIC Act* (Cwth) s 12CC is equivalent to s 51AC of the Act.

Table A2: Misleading or deceptive conduct

Commonwealth Trade Practices Act 1974	Section 52	Section 53aa	Section 53c	Section 53f	Section 53g	Section 55A
NSW Fair Trading Act 1987	s42	sub-s44 (b)	sub-s44 (e)	sub-s44 (j)	sub-s44 (k)	s50
VIC Fair Trading Act 1999	s9	sub-s12 (b)	sub-s12 (e)	sub-s12 (j)	sub-s12 (k)	s11
QLD Fair Trading Act 1989	s38	sub-s40 (b)	sub-s40 (e)	sub-s40 (j)	sub-s40 (k)	s45
SA Fair Trading Act 1987	s56	sub-s58 (b)	sub-s58 (e)	sub-s58 (j)	sub-s58 (k)	s64
WA Fair Trading Act 1990	s10	para 12 (1) (b)	para 12 (1) (e)	para 12 (1) (k)	para 12 (1) (l)	s18
TAS Fair Trading Act 1987	s14	sub-s16 (b)	sub-s16 (e)	sub-s16 (j)	sub-s16 (k)	s21
ACT Fair Trading Act 1992	s12	sub-s14 (b)	sub-s14 (e)	sub-s14 (j)	sub-s14 (k)	s20
NT Consumer Affairs & Fair Trading Act 1998	s42	sub-s 44 (b)	sub-s44 (e)	sub-s44 (k)	sub-s44 (m)	s48

The *Australian Securities and Investments Commission Act 2001* (Cwth) and the *Corporations Act 2001* (Cwth) duplicate the consumer protection provisions of the Act with regard to financial services.

*ASIC Act* (Cwth) s12DA and the *Corp Act* (Cwth) s1041H are equivalent to s52 of the Act.

*ASIC Act* (Cwth) s12DB and the *Corp Act* (Cwth) s1041E are equivalent to s53 of the Act.

Table A3: Product safety and product information actions against manufacturers and importers of goods.

Commonwealth	NSW	VIC	QLD	SA	WA	TAS	ACT	NT
TPA Section 65C Product safety and unsafe goods	Fair Trading Act 1987 (NSW) s27	Fair Trading Act 1999 (Vic) Pt 3 Div 1 ss 33 and 34	Fair Trading Act 1989 (QLD) Pt 4 Div 2 ss 83 and 84	Trade Standards Act 1979 (SA) Pt 3 Pt 4 ss22, 23 and 26	Fair Trading Act 1987 (WA) Pt 5 ss50 and 51	No generic product safety Act	Consumer Affairs Act 1973 (ACT) ss 15FBA and 15FE	Consumer Affairs and Fair Trading Act 1990 (NT) Pt 4 Div 1 to 3 ss 25 and 26
TPA section 65D Product information standards	Fair Trading Act 1987 (NSW) ss 38 and 39	Fair Trading Act 1999 (Vic) Pt 3 Div 2 ss46, 47 and 48	Fair Trading Act 1989 (QLD) Pt 4 Div 1 ss 81 and 82	Trade Standards Act 1979 (SA) Pt 5 Pt 6 ss32,33 and 44	Fair Trading Act 1987( WA) Pt 6 ss 59 and 60	No generic product safety Act	Consumer Affairs Act 1973 (ACT) ss 15FC and 15FC	Consumer Affairs and Fair Trading Act 1990 (NT) Pt 4 Div 4 ss38 and 39
TPA section 74B Fitness for Particular purpose	Sale of Goods Act 1923 (NSW) s19	Goods Act 1958 (Vic) Pt 1 Div 6 s19	Sale of Goods Act 1896 (Qld) s 17	Sale of Goods Act 1895 (SA) sub-s14(I)	Sale of Goods Act 1895 (WA) s14	Sale of Goods Act 1896 (TAS) s19	Sale of Goods Act 1954 (ACT) Div 5 and 6 s 19	Consumer Affairs and Fair Trading Act 1990 (NT) s 73
TPA section 74C Actions in respect of false descriptions	Sale of Goods Act 1923 (NSW) s18	Goods Act 1958 (Vic) Pt 1 Div 6 s 18	Sale of Goods Act 1896(QLD) s 16	Sale of Goods Act 1895 (SA) s13	Sale of Goods Act 1895 (WA) s13	Sale of Goods Act 1896 (TAS) s18	Sale of Goods Act 1954 (ACT) Div 5 s 18	Consumer Affairs and Fair Trading Act 1990 (NT) s 74
TPA section 74D Actions in respect of goods of unmerchantable quality	Sale of Goods Act 1923 (NSW) s 19	Goods Act 1958 (Vic) Pt 1 Div 6 s19	Sale of Goods Act 1896 (QLD) s 17	Sale of Goods Act 1895 (SA) sub-s14(II)	Sale of Goods Act 1895(WA) s14	Sale of Goods Act 1896 (TAS) s19	Sale of Goods Act 1954 (ACT) Div 5 s19	Consumer Affairs and Fair Trading Act 1990 (NT) s 75

Table A4: Conditions and warranties in consumer transactions

(Cwth) Trade Practices Act 1974	NSW Sale of Goods Act 1923	VIC Goods Act 1958	QLD Sale of Goods Act 1896	SA Consumer Transactions Act 1972	WA Fair Trading Act 1997	Tas Sale of Goods Act 1896	ACT Sale of Goods Act 1954	NT Consumer Affairs & Fair Trading Act 1990
Section 74	Nil	sub-s91(a) implied condition that services will be rendered with due care and skill	Nil	sub-s71(1) implied condition in consumer contracts that services will be rendered with due care and skill	s40 duplicates s74 TPA	Nil	Nil	sub-s66 (l) implied warranty that services supplied to a consumer will be rendered with due care and skill
Section 68	Nil	s113 implied condition or warranty implied by the Goods Act does not negative an express term except in so far as it is inconsistent with the implied condition	Nil	s8 conditions implied into a consumer contract may not be excluded, limited or modified by agreement	s34: Provisions of contracts purporting to modify, exclude or restrict the warranty for the provision of due care and skill in services is void.	Nil	Nil	s68 renders void any contractual terms that supports to exclude, restrict or modify any liability for any condition implied by s66

The *Australian Securities and Investments Commission Act 2001* (Cwth) duplicates the consumer protection provisions of the Act with regard to financial services. Section 12ED is equivalent to s74 of the Act with regard to contracts for financial services. Section 12EB is equivalent to s 68 of the Act with regard to contracts for financial services.

Table A5: Remedies

Trade Practices Act 1974 (Cwth)	NSW Fair Trading Act 1987 (NSW)	VIC Fair Trading Act 1999 (Vic)	QLD Fair Trading Act 1989 (QLD)	SA Fair Trading Act 1987 (SA)	WA Fair Trading Act 1987 (WA)	TAS Fair Trading Act 1990 (Tas)	ACT Fair Trading Act 1992 (ACT)	NT Consumer Affairs and Fair Trading Act 1990 (NT)
Section 80 Injunction	ss65 and 66	ss 149 to 151	s 98	s83	ss74 to 76	ss 34 and 35	s 44	s89
Section 86C Non Punitive Orders	s 72	s 158	s 100	s82	s 77	s41	s 50	s 90
Section 86D Punitive Orders	s 67	s 153	s100	s 82	s 77	s 36	s 45	s90
Section 76 Pecuniary Penalties				s 82			s42	
Section 87A Preservation Orders	s 73	s154	s 102	s82	s 78	s 42	s 51	
Section 87 Other Orders	s 72	s 158	s 100	s 82 and 85	s 77	s 41	s50	s95
Section 87B Undertakings	s73A	ss 146 –148	Pt 5 Div 1B	Div 2			s 36	
Pt V Criminal Proceedings	ss62 to 64	Pt 11 Div 1	ss 92 to 94	Div 3	ss 69 to 73		s 43	s 88

Table A6: Regulatory Authorities

Commonwealth	NSW	Victoria	Queensland	South Australia	Western Australia	Tasmania	Australian Capital Territory	Northern Territory
Australian Competition and Consumer Commission	NSW Office of Fair Trading	Victorian Office of Fair Trading and Business Affairs	Queensland Office of Fair Trading	South Australian Office of Consumer and Business Affairs	Western Australian Department of Consumer and Employment Protection	Tasmanian Consumer Affairs and Fair Trading	ACT Office of Fair Trading	Northern Territory Consumer and Business Affairs

