

Queensland



**NEW TAX SYSTEM PRICE  
EXPLOITATION CODE  
(QUEENSLAND) ACT 1999**

**Act No. 72 of 1999**



Queensland



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EXPLOITATION CODE (QUEENSLAND)  
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Queensland



**New Tax System Price Exploitation Code  
(Queensland) Act 1999**

**Act No. 72 of 1999**

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**An Act to apply certain laws of the Commonwealth relating to the  
New Tax System Price Exploitation Code as laws of Queensland,  
and for other purposes**

*[Assented to 8 December 1999]*

**The Parliament of Queensland enacts—**

## **PART 1—PRELIMINARY**

### **Short title and purpose**

**1.(1)** This Act may be cited as the *New Tax System Price Exploitation Code (Queensland) Act 1999*.

**(2)** The purpose of this Act is to apply the New Tax System Price Exploitation Code of the Commonwealth as a law of Queensland.

### **Commencement**

**2.** This Act commences on a day to be fixed by proclamation.

### **Definitions**

**3.(1)** In this Act—

**“application law”** means—

- (a) a law of a participating jurisdiction that applies the New Tax System Price Exploitation Code, either with or without modifications, as a law of the participating jurisdiction; or
- (b) any regulations or other legislative instrument made under a law described in paragraph (a); or
- (c) the New Tax System Price Exploitation 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 Trade Practices Act, and includes a member of the Commission or a division of the Commission performing functions of the Commission.



**“instrument”** means any document whatever, including—

- (a) an Act or an instrument made under an Act; or
- (b) a law of this jurisdiction or an instrument made under a law of this jurisdiction; or
- (c) an award or other industrial determination or order, or an industrial agreement; or
- (d) any other order (whether executive, judicial or otherwise); or
- (e) a notice, certificate or licence; or
- (f) an agreement; or
- (g) an application made, information or complaint laid, affidavit sworn, or warrant issued, for any purpose; or
- (h) an indictment, presentment, summons or writ; or
- (i) 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 corresponding day of the next month, ending at the expiration of the next month.

**“New Tax System Price Exploitation Code”** means (according to the context)—

- (a) the New Tax System Price Exploitation Code text; or
- (b) the New Tax System Price Exploitation Code text, applying as a law of a participating jurisdiction, either with or without modifications.

**“New Tax System Price Exploitation Code text”** means the text described in section 4.

“**notification**”, for a regulation under this Act, see the *Statutory Instruments Act 1992*, section 47.

“**officer**”, in relation to the Commonwealth, has the meaning given in part XIAA<sup>1</sup> of the Trade Practices Act.

“**participating jurisdiction**” means a jurisdiction that applies the New Tax System Price Exploitation Code as a law of the jurisdiction, either with or without modifications.

“**Schedule version of Part VB**” means the text that is set out in part 2 of the Schedule to the Trade Practices Act.

“**State**” includes a Territory.

“**Territory**” means the Australian Capital Territory or the Northern Territory of Australia.

“**this jurisdiction**” means Queensland.

“**Trade Practices Act**” means the *Trade Practices Act 1974* (Cwlth).

(2) If an expression is defined in the Trade Practices 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.

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<sup>1</sup> *Trade Practices Act 1974* (Cwlth), part XIAA (The New Tax System Price Exploitation Code)

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## **PART 2—NEW TAX SYSTEM PRICE EXPLOITATION CODE**

### **New Tax System Price Exploitation Code text**

**4.(1)** The New Tax System Price Exploitation Code text consists of—

- (a) the Schedule version of Part VB; and
- (b) the remaining provisions of the Trade Practices Act (except sections 2A, 5, 6 and 172),<sup>2</sup> so far as they would relate to the schedule version if the schedule version were substituted for part VB of that Act; and
- (c) the regulations under the Trade Practices Act, so far as they relate to any provisions covered by paragraph (a) or (b); and
- (d) the guidelines under section 75AV<sup>3</sup> of the Trade Practices Act.

**(2)** For the purpose of forming part of the New Tax System Price Exploitation Code text—

- (a) the provisions referred to in subsection (1)(b), (c) and (d) are to be modified as necessary to fit in with the Schedule version of Part VB; and
- (b) in particular, references to corporations are to include references to persons who are not corporations.

### **Application of New Tax System Price Exploitation Code**

**5.(1)** The New Tax System Price Exploitation Code text, as in force for the time being, applies as a law of Queensland.

**(2)** This section has effect subject to section 6.

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<sup>2</sup> *Trade Practices Act 1974* (Cwlth), sections 2A (Application of Act to Commonwealth and Commonwealth authorities), 5 (Extended application of Parts IV, IVA, V and VB), 6 (Extended application of Parts IV, IVA, V and VB) and 172 (Regulations)

<sup>3</sup> *Trade Practices Act 1974* (Cwlth), section 75AV (Price exploitation—guidelines about when prices contravene section 75AU)

### **Future modifications of New Tax System Price Exploitation Code text**

**6.(1)** A modification made by a Commonwealth law to the New Tax System Price Exploitation 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 a regulation under this Act appoints an earlier date; and
- (b) does not apply under that section at all, if the modification is declared by a regulation under this Act to be excluded from the operation of that section.

**(2)** A regulation under subsection (1)(a)—

- (a) cannot appoint any day that is earlier than the date of notification of the regulation or that is earlier than the date on which the modification of the text takes effect; and
- (b) if it purports to appoint a day in contravention of paragraph (a), is taken to appoint the date of notification of the regulation or the date on which the modification of the text takes effect, whichever is the later.

**(3)** A regulation under subsection (1)(b) has effect only if 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 regulation 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.

### **Interpretation of New Tax System Price Exploitation Code**

**7.(1)** The *Acts Interpretation Act 1901* (Cwlth) applies as a law of this jurisdiction to—

- (a) the New Tax System Price Exploitation 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 New Tax System Price Exploitation Code of this jurisdiction were a Commonwealth Act; and

(b) the regulations in the New Tax System Price Exploitation Code of this jurisdiction or instruments mentioned in that subsection were regulations or instruments under a Commonwealth Act.

(3) The *Acts Interpretation Act 1954* does not apply to—

(a) the New Tax System Price Exploitation Code of Queensland; or

(b) any instrument under that code.

### **Application of New Tax System Price Exploitation Code**

8. The New Tax System Price Exploitation Code of this jurisdiction applies to and in relation to—

(a) persons carrying on business within this jurisdiction; or

(b) bodies corporate incorporated or registered under the law of this jurisdiction; or

(c) persons ordinarily resident in this jurisdiction; or

(d) persons otherwise connected with this jurisdiction.

### **Extraterritorial application**

9. Subject to section 8, the New Tax System Price Exploitation 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).

## **PART 3—CITING THE NEW TAX SYSTEM PRICE EXPLOITATION CODES**

### **Citation of New Tax System Price Exploitation Code of this jurisdiction**

**10.** The New Tax System Price Exploitation Code text applying as a law of this jurisdiction may be cited as the New Tax System Price Exploitation Code of Queensland.

### **References to New Tax System Price Exploitation Code**

**11.(1)** The object of this section is to help ensure that the New Tax System Price Exploitation Code of this jurisdiction can operate, in appropriate circumstances, as if that code, together with the New Tax System Price Exploitation Code of each other participating jurisdiction, constituted a single national New Tax System Price Exploitation Code applying throughout the participating jurisdictions.

**(2)** A reference in any instrument to the New Tax System Price Exploitation Code is a reference to the New Tax System Price Exploitation 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.

### **References to New Tax System Price Exploitation Codes of other jurisdictions**

**12.(1)** This section has effect for the purposes of an Act, a law of this jurisdiction or an instrument under an Act or a law of this jurisdiction.

**(2)** If a law of a participating jurisdiction other than this jurisdiction provides that the New Tax System Price Exploitation Code text as in force for the time being applies as a law of that jurisdiction, the New Tax System Price Exploitation Code of that jurisdiction is the New Tax System Price Exploitation Code text, applying as a law of that jurisdiction.

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## **PART 4—APPLICATION OF NEW TAX SYSTEM PRICE EXPLOITATION CODES TO JURISDICTIONS**

### **Application law of this jurisdiction**

**13.** The application law of this jurisdiction binds (so far as the legislative power of Parliament permits) the State of Queensland and each other State, so far as the relevant State carries on a business, either directly or by an authority of that State.

### **Application law of other jurisdictions**

**14.** The application law of each participating jurisdiction other than this jurisdiction binds the State of Queensland, so far as the State carries on a business, either directly or by an authority of the State.

### **Activities that are not business**

**15.(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; or
  - (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 same jurisdiction (and none of whom is an authority of a State); or
  - (ii) only persons who are all acting for the same authority of a State; or
  - (iii) only a State and 1 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; or
- (b) crops, whether on or attached to the land or not; or
- (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 1 person; and
- (b) it is neither a trading corporation nor a financial corporation.

### **States not liable to pecuniary penalty or prosecution**

**16.(1)** Nothing in the application law of this jurisdiction makes a State 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 State of Queensland liable to a pecuniary



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penalty or to be prosecuted for an offence.

(3) The protection in subsection (1) or (2) does not apply to an authority of a State.

### **This part overrides the prerogative**

17. If, because of this part, a provision of the law of another participating jurisdiction binds the State of Queensland, the State is subject to that provision despite any prerogative right or privilege.

## **PART 5—NATIONAL ADMINISTRATION AND ENFORCEMENT OF NEW TAX SYSTEM PRICE EXPLOITATION CODES**

### *Division 1—Preliminary*

#### **Object**

18. The object of this part is to help ensure that the New Tax System Price Exploitation 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*

#### **Conferral of functions and powers on certain bodies**

19.(1) The authorities and officers of the Commonwealth referred to in the New Tax System Price Exploitation Code of this jurisdiction, including (but not limited to) the Commission, have the functions and powers conferred or expressed to be conferred on them respectively under the New Tax System Price Exploitation Code of this jurisdiction.

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(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.

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

20. The Commission has power to do acts in this jurisdiction in the performance or exercise of any function or power expressed to be conferred on it by the New Tax System Price Exploitation Code of another participating jurisdiction.

### *Division 3—Offences*

#### **Object**

21.(1) The object of this division is to further the object of this part by providing—

- (a) for an offence against the New Tax System Price Exploitation 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 New Tax System Price Exploitation 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; and
- (b) the arrest, custody, bail, trial and conviction of offenders or persons charged with offences; and
- (c) proceedings relating to a matter referred to in paragraph (a) or (b); and

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- (d) appeals and review relating to criminal proceedings and to proceedings of the kind referred to in paragraph (c); and
  - (e) the sentencing, punishment and release of persons convicted of offences; and
  - (f) fines, penalties and forfeitures; and
  - (g) liability to make reparation in connection with offences; and
  - (h) proceeds of crime; and
  - (i) spent convictions.

### **Application of Commonwealth laws to offences against New Tax System Price Exploitation Code of this jurisdiction**

**22.(1)** The Commonwealth laws apply as laws of this jurisdiction in relation to an offence against the New Tax System Price Exploitation 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 New Tax System Price Exploitation 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 a regulation under this Act.

### **Application of Commonwealth laws to offences against New Tax System Price Exploitation Codes of other jurisdictions**

**23.(1)** The Commonwealth laws apply as laws of this jurisdiction in relation to an offence against the New Tax System Price Exploitation 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

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New Tax System Price Exploitation 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 a regulation under this Act.

(4) This section does not require, prohibit, empower, authorise or otherwise provide for, the doing of an act outside this jurisdiction.

### **Functions and powers conferred on Commonwealth officers and authorities**

**24.(1)** A Commonwealth law applying because of section 22<sup>4</sup> that confers on a Commonwealth officer or authority a function or power in relation to an offence against the Trade Practices Act also confers on the officer or authority the same function or power in relation to an offence against the corresponding provision of the New Tax System Price Exploitation Code of this jurisdiction.

(2) A Commonwealth law applying because of section 23 that confers on a Commonwealth officer or authority a function or power in relation to an offence against the Trade Practices Act also confers on the officer or authority the same function or power in relation to an offence against the corresponding provision of the New Tax System Price Exploitation 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

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<sup>4</sup> Section 22 (Application of Commonwealth laws to offences against New Tax System Price Exploitation Code of this jurisdiction)

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exercising the same function or power in relation to an offence against the corresponding provision of the Trade Practices Act.

### **Restriction of functions and powers of officers and authorities of this jurisdiction**

25. If, 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 4—Administrative law*

#### **Definition**

26. In this division—

“Commonwealth administrative laws” means—

- (a) the following Acts—
  - (i) the *Administrative Appeals Tribunal Act 1975* (Cwlth);
  - (ii) the *Freedom of Information Act 1982* (Cwlth);
  - (iii) the *Ombudsman Act 1976* (Cwlth);
  - (iv) the *Privacy Act 1988* (Cwlth); and
- (b) the regulations in force under those Acts.

#### **Application of Commonwealth administrative laws to New Tax System Price Exploitation Code of this jurisdiction**

27.(1) The Commonwealth administrative laws apply as laws of this jurisdiction to any matter arising in relation to the New Tax System Price Exploitation 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 New Tax System Price Exploitation 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 a regulation under this Act.

(4) Any provision of a Commonwealth administrative law applying because of this section that purports to confer jurisdiction on a federal court is taken not to have that effect.

### **Application of Commonwealth administrative laws to New Tax System Price Exploitation Codes of other jurisdictions**

**28.(1)** The Commonwealth administrative laws apply as laws of this jurisdiction to any matter arising in relation to the New Tax System Price Exploitation 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 New Tax System Price Exploitation 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 a regulation under this Act.

(4) Any provision of a Commonwealth administrative law applying because of this section that purports to confer jurisdiction on a federal court is taken not to have that effect.

(5) This section does not require, prohibit, empower, authorise or otherwise provide for, the doing of an act outside this jurisdiction.

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**Functions and powers conferred on Commonwealth officers and authorities**

**29.(1)** A Commonwealth administrative law applying because of section 27<sup>5</sup> 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 New Tax System Price Exploitation Code of this jurisdiction.

**(2)** A Commonwealth administrative law applying because of section 28 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 New Tax System Price Exploitation 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.

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

**30.** If, 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.

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<sup>5</sup> Section 27 (Application of Commonwealth administrative laws to New Tax System Price Exploitation Code of this jurisdiction)

## **PART 6—MISCELLANEOUS**

### **No doubling-up of liabilities**

#### **31.(1) If—**

- (a) an act or omission is an offence against the New Tax System Price Exploitation Code of this jurisdiction and is also an offence against the Trade Practices Act or an application law of another participating jurisdiction; and
- (b) the offender has been punished for the offence under the Trade Practices Act or the application law of the other jurisdiction;

the offender is not liable to be punished for the offence against the New Tax System Price Exploitation Code of this jurisdiction.

(2) If a person has been ordered to pay a pecuniary penalty under the Trade Practices Act or the application law of another participating jurisdiction, the person is not liable to a pecuniary penalty under the New Tax System Price Exploitation Code of this jurisdiction for the same conduct.

### **Things done for multiple purposes**

32. The validity of an authorisation, notification or any other thing given or done for the purposes of the New Tax System Price Exploitation Code of this jurisdiction is not affected only because it was given or done also for the purposes of the Trade Practices Act or the New Tax System Price Exploitation Code of 1 or more other jurisdictions.



**Reference in Commonwealth law to a provision of another law**

**33.** For the purposes of section 22, 23, 27 or 28,<sup>6</sup> 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.

**Fees and other money**

**34.(1)** All fees, taxes, penalties (including pecuniary penalties referred to in section 76 of the New Tax System Price Exploitation 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 (but not including an amount ordered to be refunded by a person to another person) must be paid to the Commonwealth.

**(2)** This subsection imposes the fees (including fees that are taxes) that the regulations in the New Tax System Price Exploitation Code of this jurisdiction prescribe.

**Regulation-making power**

**35.** The Governor in Council may make regulations under this Act.

**PART 7—ATTACHMENT****Attachment—Schedule version of Part VB**

**36.(1)** Attached to this Act is a copy of the Schedule version of Part VB.

**(2)** The attachment does not form part of this Act.

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<sup>6</sup> Section 22 (Application of Commonwealth laws to offences against New Tax System Price Exploitation Code of this jurisdiction), 23 (Application of Commonwealth laws to offences against New Tax System Price Exploitation Codes of other jurisdictions), 27 (Application of Commonwealth administrative laws to New Tax System Price Exploitation Code of this jurisdiction) or 28 (Application of Commonwealth administrative laws to New Tax System Price Exploitation Codes of other jurisdictions)

(3) The attachment must be revised so that it is an accurate copy of the Schedule version of Part VB as amended from time to time.

(4) The revision under subsection (3) must happen in the first reprint of the Act after the amendment of the Schedule version of Part VB.

## **PART 8—AMENDMENT OF COMPETITION POLICY REFORM (QUEENSLAND) ACT 1996**

### **Amendment of Competition Policy Reform (Queensland) Act 1996**

**37.** The *Competition Policy Reform (Queensland) Act 1996* is amended as shown in the schedule.

**SCHEDULE****AMENDMENT OF COMPETITION POLICY  
REFORM (QUEENSLAND) ACT 1996**

section 37

**Amendment of s 3 (Definitions)**

**1.** Section 3(1), definition “Schedule version of Part IV”, ‘the Schedule’—

*omit, insert—*

‘part 1 of the Schedule’.

**Replacement of ss 13 and 14**

**2.** Sections 13 and 14—

*omit, insert—*

**‘Application law of this jurisdiction**

**‘13.** The application law of this jurisdiction binds (so far as the legislative power of Parliament permits) the State of Queensland and each other State, so far as the relevant State carries on a business, either directly or by an authority of that State.

**‘Application law of other jurisdictions**

**‘14.** The application law of each participating jurisdiction other than this jurisdiction binds the State of Queensland, so far as the State carries on a business, either directly or by an authority of the State.’.

## SCHEDULE (continued)

**Amendment of s 16 (States not liable to pecuniary penalty or prosecution)**

**3.(1)** Section 16(2), ‘this jurisdiction’—

*omit, insert—*

‘the State of Queensland’.

**(2)** Section 16(3), ‘any jurisdiction’—

*omit, insert—*

‘a State’.

**Amendment of s 17 (This part overrides the prerogative)**

**4.** Section 17, ‘this jurisdiction, this jurisdiction’—

*omit, insert—*

‘the State of Queensland, the State’.

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**ATTACHMENT TO NEW TAX SYSTEM PRICE  
EXPLOITATION CODE (QUEENSLAND) ACT 1999**

section 36

**SCHEDULE VERSION OF PART VB**

**Definitions**

**75AT.** In this section and sections 75AU to 75AZ, unless the contrary intention appears:

**GST** has the same meaning as in the GST Act.

**GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

**GST implementation date** means the day on which the GST Act commences.

**GST Transition Act** means the *A New Tax System (Goods and Services Tax Transition) Act 1999* of the Commonwealth.

**New Tax System changes** means the following:

- (a) the amendment of the *Sales Tax (Exemptions and Classifications) Act 1992* of the Commonwealth made by the GST Transition Act;
- (b) the ending of sales tax, as provided for in the *A New Tax System (End of Sales Tax) Act 1999* of the Commonwealth;
- (c) the imposition of GST;
- (d) any other changes (including changes to Commonwealth, State or Territory laws) prescribed by the regulations for the purposes of this definition.

**New Tax System transition period** means the period:

- (a) starting on the later of 1 July 1999 and the commencement of the *A New Tax System (Trade Practices Amendment) Act 1999* of the Commonwealth; and

## ATTACHMENT (continued)

- (b) ending on the day that is 2 years after the GST implementation date.

**price**, in relation to a supply, includes:

- (a) a charge of any description for the supply; and
- (b) any pecuniary or other benefit, whether direct or indirect, received or to be received by a person for or in connection with the supply.

**regulated supply** means:

- (a) a supply that:
  - (i) occurs during the New Tax System transition period and before the GST implementation date; and
  - (ii) is of goods of a kind that, immediately before the commencement of the GST Transition Act, were specified in any of items 4 to 14 of Schedule 5 to the *Sales Tax (Exemptions and Classifications) Act 1992* of the Commonwealth; or
- (b) a supply that:
  - (i) occurs during the New Tax System transition period and on or after the GST implementation date; and
  - (ii) is by a person who is registered or required to be registered under the GST Act; and
  - (iii) is a taxable supply for the purposes of the GST Act, or would have been a taxable supply for the purposes of the GST Act had it not been GST-free or input taxed for the purposes of that Act.

**supply** means:

- (a) a supply of goods, including by way of sale, exchange, lease, hire or hire-purchase; or
- (b) any other transaction or dealing that is a supply for the purposes of the GST Act.

## ATTACHMENT (continued)

**Price exploitation in relation to New Tax System changes**

**75AU.(1)** A person contravenes this section if the person engages in price exploitation in relation to the New Tax System changes.

**(2)** For the purposes of this section, a person engages in price exploitation in relation to the New Tax System changes if:

- (a) the person makes a regulated supply; and
- (b) the price for the supply is unreasonably high, having regard alone to the New Tax System changes (so far as they have taken effect); and
- (c) the price for the supply is unreasonably high even if the following other matters are also taken into account:
  - (i) the supplier's costs;
  - (ii) supply and demand conditions;
  - (iii) any other relevant matter.

**Price exploitation—guidelines about when prices contravene section 75AU**

**75AV.(1)** In this section:

*guidelines* means the guidelines in force under section 75AV of the *Trade Practices Act 1974* of the Commonwealth.

**(2)** The Commission must have regard to the guidelines in making decisions under section 75AW or 75AX in relation to the issue, variation and revocation of notices under that section.

- (3)** The Court may have regard to the guidelines in any proceedings:
- (a) under section 76 relating to section 75AU; or
  - (b) under section 80 for an injunction relating to section 75AU.

## ATTACHMENT (continued)

**Commission may issue notice to person it considers has contravened section 75AU**

**75AW.(1)** If the Commission considers that a person has made a supply in contravention of section 75AU, the Commission may give the person a notice in writing under this section.

**(2)** The notice must:

- (a) be expressed to be given under this section; and
- (b) identify:
  - (i) the person that made the supply; and
  - (ii) the kind of supply made; and
  - (iii) the circumstances in which the supply was made; and
- (c) state that, in the Commission's opinion:
  - (i) the price for the supply was unreasonably high as mentioned in paragraph 75AU(2)(b); and
  - (ii) that unreasonably high price was not attributable to matters referred to in paragraph 75AU(2)(c).

**(3)** In any proceedings:

- (a) under section 76 relating to section 75AU; or
- (b) under section 80 for an injunction relating to section 75AU;

the notice is taken to be prima facie evidence that:

- (c) the price for the supply was unreasonably high as mentioned in paragraph 75AU(2)(b); and
- (d) that unreasonably high price was not attributable to matters referred to in paragraph 75AU(2)(c).

**(4)** The Commission may vary or revoke the notice on its own initiative or on application made by the person. The Commission must give the person notice in writing of the variation or revocation.



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ATTACHMENT (continued)

**Commission may issue notice to aid prevention of price exploitation**

**75AX.(1)** The Commission may give a person a notice in writing under this section if the Commission considers that doing so will aid the prevention of price exploitation (within the meaning of section 75AU).

**(2)** The notice must:

- (a) be expressed to be given under this section; and
- (b) be expressed to relate to any supply that the person makes that is:
  - (i) of a kind specified in the notice; and
  - (ii) made in circumstances specified in the notice; and
  - (iii) made during the period specified in the notice (which must not be a period ending after the end of the New Tax System Transition period); and
- (c) specify the maximum price that, in the Commission's opinion, may be charged for a supply to which the notice is expressed to relate.

**(3)** The Commission may, on its own initiative or on application made by the person:

- (a) vary the notice to:
  - (i) change the period specified as required by subparagraph (2)(b)(iii); or
  - (ii) change the price specified in the notice as required by paragraph (2)(c); or
- (b) revoke the notice.

The Commission must give the corporation notice in writing of the variation or revocation.

**(4)** The Commission may publish the notice, or particulars of any variation or revocation of the notice, in such manner as the Commission considers appropriate, including, for example, in a national newspaper.

## ATTACHMENT (continued)

**Commission may monitor prices**

**75AY.(1)** The Commission may monitor prices for either or both of the following purposes:

- (a) to assess the general effect of the New Tax System changes on prices charged by persons for supplies during the New Tax System transition period;
- (b) to assist its consideration of whether section 75AU has been, is being, or may in the future be, contravened.

**(2)** A member of the Commission may, by notice in writing served on a person, require the person:

- (a) to give the Commission specified information in writing signed by:
  - (i) the person; or
  - (ii) if the person is a body corporate—a competent officer of the body corporate; or
- (b) to produce to the Commission specified documents;

being information, or documents containing information, relating to prices or the setting of prices that the member considers will or may be useful to the Commission in monitoring prices as mentioned in subsection (1).

**(3)** Without limiting subsection (2), information or documents that may be required under that subsection may relate to prices, or the setting of prices:

- (a) before or after all or any of the New Tax System changes have taken effect; and
- (b) before or after the start of the New Tax System transition period; and
- (c) in a situation, or during a period, specified in the notice.

**(4)** A person must not:

- (a) refuse or fail to comply with a notice under subsection (2) to the extent that the person is capable of complying with it; or

## ATTACHMENT (continued)

- (b) in purported compliance with such a notice, intentionally or recklessly provide information or a document that is false or misleading.

Penalty: 20 penalty units.

**Reporting**

**75AZ.(1)** The Commission must, within 28 days after the end of each quarter, give the Minister administering Part VB of the *Trade Practices Act 1974* of the Commonwealth a written report about the operations of the Commission under sections 75AU to 75AX during the quarter.

(2) Without otherwise limiting subsection (1), a report under that subsection must include particulars of:

- (a) all notices given under section 75AX during the quarter; and
- (b) all variations or revocations during the quarter of notices given under section 75AX.

(3) For this purpose, a *quarter* is a period of 3 months:

- (a) that occurs wholly or partly during the New Tax System transition period; and
- (b) that starts on any of the following days in a year:
  - (i) 1 January;
  - (ii) 1 April;
  - (iii) 1 July;
  - (iv) 1 October.

(4) As soon as practicable after the Minister receives a report under subsection (1), the Minister must make the report public by such means as the Minister considers appropriate.

(5) If this section commences during a quarter (but not on the first day of a quarter):

- (a) no report is to be made at the end of the quarter; but

## ATTACHMENT (continued)

- (b) the report made at the end of the next quarter is also to include the information required by subsection (1) in relation to the previous quarter.