

# Fair Trading and Other Legislation Amendment Bill 2011

## Summary of proposed amendments

### Introduction

The Fair Trading & Other Legislation Amendment Bill 2011 proposes to make changes to the following Acts:

- *Associations Incorporation Act 1981*
- *Collections Act 1966*
- *Credit (Commonwealth Powers) Act 2010*
- *Land Sales Act 1984*
- *Liquor Act 1992*
- *Residential Services (Accreditation) Act 2002*
- *Retirement Villages Act 1999*

The amendments are intended to contribute to the Queensland Government's goals of building a more competitive economy, reducing bureaucracy, and creating an environment for business success while also providing a fair and safe marketplace for consumers.

### About the amendments

#### Associations Incorporation Act 1981

The proposed amendments to the *Associations Incorporation Act* will allow incorporated associations (including those originally incorporated under the repealed *Religious Educational and Charitable Institutions Act 1861*) to seamlessly transition to being a company limited by guarantee under the *Commonwealth Corporations Act 2001* or an Indigenous corporation under the *Commonwealth Corporations (Aboriginal and Torres Strait Islander) Act 2006*.

These changes will bring Queensland in line with other Australian jurisdictions which permit such a voluntary transition without incurring transfer duty.

#### Collections Act 1966

Unlike other fair trading Acts, the *Collections Act* only allows the appointment of inspectors for individual complaints which is restrictive and administratively cumbersome. The proposed amendments to the *Collections Act* will allow powers under the Act to be exercised by inspectors appointed under the *Fair Trading Act 1989*.

They will also enable the implementation of a Webbe-Weller Review recommendation that members of the Disaster Appeals Trust Fund Committee be appointed by the Chief Executive rather than the Governor-in-Council. This will streamline the appointment process.

#### Credit (Commonwealth Powers) Act 2010

The proposed amendments to the *Credit (Commonwealth Powers) Act* will allow the register of conduct deeds to be published on the department's website to increase public access to this information.

#### Land Sales Act 1984

The *Land Sales Act* currently requires a seller to provide the transfer instrument to a purchaser of an off-the-plan unit within three-and-a-half years. A regulation may prescribe a longer period up to five-and-a-half years.

With a trend towards larger residential developments extensions of time are routinely sought, however, the approval process is overly cumbersome and time consuming.

The proposed amendments to the *Land Sales Act* will remove the existing extension process. A purchaser will have the right to avoid a contract if a registrable instrument of transfer is not received by a date specified in the contract.

If a date is not specified in the contract, then the default statutory period of three-and-a-half years will apply.

### **Liquor Act 1992**

The proposed amendment to the *Liquor Act* will allow nursing homes to provide up to two standard drinks to adult residents and their adult guests per day and to allow hospitals to provide up to two standard drinks to adult patients per day without the need for a liquor licence.

The amendment reduces red tape and brings nursing homes into line with retirement villages which enjoy a similar licensing exemption.

It also reflects the fact that many Queensland hospitals currently offer a small amount of liquor (usually a glass of wine) with meals to patients.

The amendment will not apply to nursing homes and hospitals in alcohol-restricted Indigenous areas.

### **Residential Services (Accreditation) Act 2002**

Under the current Act, conditions (for example, dealing with the management and safety of residential accommodation) can only be placed on an accreditation when it is originally issued.

The proposed amendments to the *Residential Services (Accreditation) Act* will allow conditions to be placed on an accreditation when it is renewed as well.

They will also enable the register of undertakings to be published on the department's website to increase public access to this information

### **Retirement Villages Act 1999**

The Bill contains a number of proposed amendments to the *Retirement Villages Act*.

#### ***Cooling-off period and exit fees***

The cooling-off period for residence contracts was amended in 2006, however this change resulted in unintended consequences for the

incoming resident. The Bill proposes to reverse the 2006 amendment.

To put the issue beyond doubt, the proposed amendments will clarify that the exit fee may be calculated on a pro-rata basis provided this is stated in the residence contract along with the calculation method or formula.

#### ***Definition of 'CPI increase'***

The definition of 'CPI increase' in the *Retirement Villages Act* is more complex than it needs to be. The Bill proposes to simplify the definition while not changing the actual calculation method.

#### ***Definition of 'termination date'***

The proposed amendments will clarify the definition of 'termination date' in the *Retirement Villages Act* so it is easier to understand how it applies in different circumstances.

#### ***Capital replacement fund***

The Bill proposes to amend the *Retirement Villages Act* to allow the capital replacement fund to be used for repairing village capital where the operator is partly or wholly liable for reinstatement of an accommodation unit.

#### ***Right for a relative to reside in a unit***

In certain circumstances, a relative who has a right to reside in an accommodation unit for three months following the death or vacation of the resident may elect to enter into a fresh residence contract with the operator.

The date by which a relative must notify the scheme operator of their intention to enter a new residence contract has been amended. This will assist in ensuring the parties agree on the resale price of the unit prior to expiration of the three month period.

#### ***Maintenance reserve fund***

The proposed amendments will clarify that where the operator is liable to pay the general services charges for an accommodation unit (for example, when the liability of a former resident to continue paying the charges after vacation has ceased) only the maintenance reserve fund contribution portion of the general services charges is to be paid into the maintenance reserve fund.

***Registration of a retirement village scheme***

The proposed amendments will clarify that the chief executive may refuse to register a scheme on the ground it is so inconsistent with how the Act envisages a retirement village to operate that it can not be considered a 'retirement village' as defined by the Act.