



New South Wales

Competition Policy Reform (New South Wales) Regulation 2008

under the

Competition Policy Reform (New South Wales) Act 1995

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Competition Policy Reform (New South Wales) Act 1995*.

NATHAN REES, M.P.,
Premier

Explanatory note

The object of this Regulation is to authorise certain things to be done to the extent that they might otherwise contravene Part IV of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales*. The authorisation conferred by this Regulation relates to things done under Part 2A (Mandatory access standards for Newcastle coal terminals) of the *Ports and Maritime Administration Regulation 2007*.

The Regulation comprises or relates to matters arising under legislation that is substantially uniform with legislation of the Commonwealth and the other States and Territories.

The Regulation is made under section 38 (the general regulation-making power) and section 39 (regulations for exceptions under section 51 of Trade Practices Act or Code) of the *Competition Policy Reform (New South Wales) Act 1995*.

2008 No 592

Clause 1 Competition Policy Reform (New South Wales) Regulation 2008

Competition Policy Reform (New South Wales) Regulation 2008

under the

Competition Policy Reform (New South Wales) Act 1995

1 Name of Regulation

This Regulation is the *Competition Policy Reform (New South Wales) Regulation 2008*.

2 Definitions

(1) In this Regulation:

Commonwealth Act means the *Trade Practices Act 1974* of the Commonwealth.

Competition Code means the *Competition Code of New South Wales*.

exercise a function includes perform a duty.

function includes power, authority or duty.

(2) Notes included in this Regulation do not form part of this Regulation.

3 Object of Regulation

(1) The object of this Regulation is to authorise, for the purposes of section 51 of the Commonwealth Act and the Competition Code, particular things done in the State within a certain period after the authorisation is conferred (as specified in the authorisation).

(2) Things authorised to be done by this Regulation are authorised only to the extent (if any) that they would otherwise contravene Part IV of the Commonwealth Act and the Competition Code.

Note. Section 51 of the Commonwealth Act and the Competition Code provide that anything that is authorised by an Act or Regulation is to be disregarded in deciding whether a person has contravened Part IV of the Commonwealth Act and the Competition Code (which relates to restrictive trade practices).

4 Authorisation—mandatory access standards for Newcastle coal terminals

(1) The following are specifically authorised by this Regulation for the purposes of the Commonwealth Act and the Competition Code:

(a) any conduct of the Minister in exercising the Minister's functions under Part 2A of the *Ports and Maritime Administration*

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- Regulation 2007* (including the approval of proposed access rules under that Part),
- (b) the conduct of any person in negotiating or developing proposed access rules for approval by the Minister as approved access rules under that Part,
 - (c) the conduct of any person that is authorised or required by or under approved access rules,
 - (d) the conduct of any person for the purpose of ensuring compliance with approved access rules.
- (2) Expressions used in this clause have the same meanings as in Part 2A of the *Ports and Maritime Administration Regulation 2007*.
- (3) The authorisation conferred by this clause ceases to have effect on 1 July 2009.