

CONSUMER CLAIMS TRIBUNALS (BUILDING DISPUTES) AMENDMENT BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Building Services Corporation Bill 1989.

The object of this Bill is to amend the Consumer Claims Tribunals Act 1987 to make further provision for the hearing and determination of claims ("building claims") arising under residential building contracts or arising from a supply of residential building goods or services in such other circumstances as may be prescribed by the regulations.

The amendments will make provision for the following:

- either the supplier or the consumer of the building goods or services will (subject to certain exceptions) be able to bring a building claim before a consumer claims tribunal (not just the consumer as at present);
- a consumer claims tribunal will be known as a building disputes tribunal when it hears a building claim and will be constituted by a referee with extensive experience in the building industry;
- when a building claim is lodged it will (subject to any prescribed exceptions) first be referred to the Building Services Corporation ("the BSC") for consideration for action under the proposed Building Services Corporation Act 1989 but if the claim is not settled as a result it will then be heard by a building disputes tribunal;
- at any time during the hearing of a building claim, the tribunal can refer the matter for consideration and possible action by the BSC;
- the BSC is not prevented from taking action under its Act merely because a claim is pending before a building disputes tribunal;
- a building disputes tribunal will be able to make the same orders when it finds in favour of the respondent as it can when it finds in favour of the

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claimant (currently a consumer claims tribunal can only make a limited range of orders when it finds in favour of the respondent);

- * the proposed new provisions do not prevent the making of a consumer claim that is a building claim excluded from the operation of the proposed new provisions if it could be made under the Act currently;
- * the regulations will be able to exclude from the operation of the proposed new provisions claims that would otherwise be building claims.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a proclaimed day or days.

Clause 3 gives effect to the Schedule of amendments.

Schedule 1 amends the Consumer Claims Tribunals Act 1987 to make provision as described above and makes consequential amendments.
