

Act 1994 No. 54

**BUILDING SERVICES CORPORATION (AMENDMENT)  
BILL 1994\***

NEW SOUTH WALES



**EXPLANATORY NOTE**

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

The object of this Bill is to amend the Building Services Corporation Act 1989 in connection with the powers and structure of the Building Services Corporation (“BSC”). The Bill also amends the Consumer Claims Tribunals Act 1987.

**Complaints—Schedule 1**

The Bill removes the requirement that a complaint cannot be lodged with the BSC unless the complainant has given the builder 30 days’ notice. (See Schedule 1 (3), and Schedule 1 (S), proposed ‘clause 21.)

**Rectification orders—Schedule 1**

The Bill transfers the responsibility for making rectification orders from the BSC to a Building Disputes Tribunal (under the Consumer Claims Tribunals Act 1987). Rectification orders will be made on the application of the BSC. (See in particular Schedule 1 (4) and (10).)

**Building dispute referees—Schedule 1**

The Bill removes the specific requirements of section 4A of the Consumer Claims Tribunals Act 1987 relating to the qualifications of a building dispute referee and consultation before a referee is nominated as a building dispute referee, in line with the initial appointment of referees under the Act. (See Schedule 1 (6) and (11) (b).)

**Discipline—Schedule 2**

The Bill transfers the responsibility for hearing and determining show cause actions from the BSC to the Commercial Tribunal. Show cause notices will continue to be issued by the BSC.

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\* Amended in committee—see table at end of volume.

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**Insurance—Schedule 3**

The Bill deals with disputes arising under house purchasers' agreements under the repealed Builders Licensing Act 1971. These agreements were deemed to be entered into by house purchasers and the BSC, and existing agreements were continued in force by savings and transitional provisions contained in the Building Services Corporation Act 1989.

Disputes about decisions of the BSC under an agreement will be able to be made the subject of an appeal to the Commercial Tribunal, instead of being the subject of arbitration as provided under the agreement. Existing arbitrations will be able to be terminated, and BSC decisions already made can be re-opened. The Commercial Tribunal will be able to award interest on amounts ordered to be paid.

**Structure of the BSC—Schedule 4**

The Bill reconstitutes the BSC, and removes the existing arrangements regarding members and associate members. It will be managed exclusively by the General Manager, and will continue to be subject to ministerial control.

**Home Building Advisory Council—Schedule 5**

The Bill establishes the Home Building Advisory Council, whose function is to advise the Minister on consumer-related issues relating to the home building industry. The Advisory Council will consist of 10 members. The members will be the Chairperson of the Advisory Council, the General Manager of the BSC, four persons appointed after advertisement and having experience in the building industry, and four persons appointed after consultation with peak industry and consumer groups.

**Miscellaneous—Schedule 6**

The Bill makes the following miscellaneous amendments.

Provision is made for payment to the Consolidated Fund from the General Account of the BSC of amounts to meet expenditure in connection with the Commercial Tribunal Act 1984 and the Consumer Claims Tribunals Act 1987 (Schedule 6 (1)).

The power to make regulations of a savings and transitional nature is extended to amendments made by the proposed Act (Schedule 6 (2)).

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the proposed Act to commence on a proclaimed day or days.

**Clauses 3 and 4** are formal provisions giving effect to the Schedules of amendments.

The Schedules contain the amendments described above.

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