

[Act 1995 No 58]



New South Wales

## Fair Trading Amendment Bill 1995

### Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

#### Overview of Bill

The object of this Bill is to amend the *Fair Trading Act 1987*:

- to make it clear that the Commissioner may grant legal assistance to consumers for appeals and proceedings for judicial review arising out of legal proceedings for which legal assistance may currently be granted under Division 2 of Part 2 of the Act
  - to make it clear that the provisions relating to the grant of legal assistance by the Commissioner apply to proceedings in tribunals as well as courts.
-

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides that the proposed Act will commence on the date of assent.

**Clause 3** is a formal provision that gives effect to the Schedule of amendments to the *Fair Trading Act 1987*.

## Schedule 1 Amendments

**Schedule 1 [1]** inserts proposed section 11A into the *Fair Trading Act 1987*, which makes it clear that the provisions relating to the grant of legal assistance to consumers apply to tribunals as well as courts.

**Schedule 1 [2]** amends section 12 of the Principal Act, as a consequence of the amendment made by Schedule 1 [5], to make it clear that legal assistance may only be granted for civil proceedings.

**Schedule 1 [3]** amends section 12 of the Principal Act to make it clear that a person may apply for legal assistance in an appeal or application for judicial review relating to legal proceedings arising out of the supply to the person of goods or services or the disposal to the person of an interest in land. An example of a possible application for judicial review is an administrative law challenge to a decision of a consumer claims tribunal on the basis of denial of natural justice.

**Schedule 1 [5]** removes the requirement that legal assistance can only be granted for the recovery of a liquidated or unliquidated amount.

**Schedule 1 [4]** and **[6]** make consequential amendments.

**Schedule 1 [7]** inserts proposed clause 11B into Schedule 5. The new clause enables legal assistance to be granted under the amended provisions in relation to matters arising and proceedings commenced before the amendments commence. However, this will not apply if an application has previously been refused.

**Schedule 1 [8]** extends the power to make transitional regulations to cover the amendments made by the proposed Act.