

[Act 1998 No 55]



New South Wales

Fair Trading Amendment Bill 1998

Explanatory note

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

The following Bills are cognate with this Bill:

Home Building Amendment Bill 1998

Landlord and Tenant (Rental Bonds) Amendment (Penalty Notices) Bill 1998

Motor Vehicle Repairs Amendment Bill 1998

Property, Stock and Business Agents Amendment (Penalty Notices) Bill 1998

Residential Tenancies Amendment Bill 1998

Retirement Villages Amendment Bill 1998

Overview of Bill

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

- (a) to provide for the enforcement by the Supreme Court of written undertakings provided by persons to the Director-General of the Department of Fair Trading in connection with the Director-General's functions under the Act,

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

- (b) to allow consumers adversely affected by a contravention of a code of practice for fair dealing to apply to the Commercial Tribunal for an order without the need to obtain consent from the Director-General or a prescribed person.

Outline of provisions

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

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Fair Trading Act 1987* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [1] inserts proposed section 73A to provide for the enforcement by the Supreme Court of written undertakings provided by persons to the Director-General of the Department of Fair Trading in connection with the Director-General's functions under the Act (other than those under Part 7 relating to codes of practice). The proposed section is in similar terms to sections 87B and 87C of the *Trade Practices Act 1974* of the Commonwealth relating to the enforcement of written undertakings under that Act. Functions under Part 7 are excluded as the Part already contains provisions for the giving of enforceable undertakings.

Schedule 1 [2] and **[3]** amend section 78A to remove the requirement that the consent of the Director-General or another person prescribed by the regulations must be obtained prior to a consumer adversely affected by a contravention of a code of practice applying to the Commercial Tribunal for an order.