



New South Wales

# Fair Trading Amendment (Funeral Goods and Services) Bill 2007

## 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* (***the Act***) to enable the regulations to prescribe an information standard to require the provision of information to consumers about funeral goods and services by providers of those goods and services.

## 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 the date of assent to the proposed Act.

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

**Clause 4** provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

## **Schedule 1      Amendments**

**Schedule 1 [1]** inserts a new Part 5F into the Act comprising the following provisions:

**Proposed section 60Z** enables regulations to be made prescribing an information standard for funeral goods and services. The standard can impose requirements for the provision of information to consumers about funeral goods and services by the providers of those goods and services, including requirements as to the form and manner in which information is to be provided.

**Proposed section 60ZA** makes it an offence for a person, in connection with a supply to a consumer of funeral goods or services for which an information standard is prescribed in accordance with proposed section 60Z, to fail to comply with that standard. An action for damages under Part 6 of the Act will be available to a person who has suffered loss or damage because of a supply of goods or services in contravention of proposed section 60ZA.

**Schedule 1 [2]–[10]** make consequential amendments to Part 6 (Enforcement and remedies) of the Act.

**Schedule 1 [11]** inserts proposed clause 11H into Schedule 5 to the Act. It provides that the new Part 5F does not apply to a supply of funeral goods or services that occurs pursuant to an arrangement entered into with a consumer before a relevant information standard is first prescribed under that Part.

**Schedule 1 [12]** enables regulations of a savings and transitional nature to be made consequent on the enactment of the proposed Act.

First print



New South Wales

# Fair Trading Amendment (Funeral Goods and Services) Bill 2007

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New South Wales

# Fair Trading Amendment (Funeral Goods and Services) Bill 2007

No. , 2007

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## A Bill for

An Act to amend the *Fair Trading Act 1987* with respect to the provision to consumers of information about funeral goods and services; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Fair Trading Amendment (Funeral Goods and Services) Act 2007</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on the date of assent to this Act.	6
<b>3 Amendment of Fair Trading Act 1987 No 68</b>	7
The <i>Fair Trading Act 1987</i> is amended as set out in Schedule 1.	8
<b>4 Repeal of Act</b>	9
(1) This Act is repealed on the day following the day on which this Act commences.	10 11
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	12 13

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<b>Schedule 1</b>	<b>Amendments</b>	1
	(Section 3)	2
<b>[1] Part 5F</b>		3
Insert before Part 6:		4
	<b>Part 5F Funeral goods and services</b>	5
	<b>60Z Provision of information to consumers</b>	6
	(1) The regulations may prescribe an information standard for funeral goods and services.	7 8
	(2) The information standard may make provision for or with respect to requiring information to be provided to a consumer by a supplier of funeral goods and services in connection with the supply in trade or commerce of funeral goods or services to the consumer.	9 10 11 12 13
	(3) The information standard may include requirements with respect to the form and manner in which information is to be provided to a consumer.	14 15 16
	(4) This section does not limit section 38 (Prescribing of product information standards).	17 18
	(5) In this Part, <i>supply</i> includes proposed and prospective supply and offer to supply, and <i>supplier</i> has a corresponding meaning.	19 20
	<b>60ZA Compliance</b>	21
	(1) A person must not, in trade or commerce, in connection with the supply to a consumer of funeral goods or services fail to comply with an information standard prescribed under section 60Z.	22 23 24
	(2) If a person contravenes subsection (1) in connection with the supply of funeral goods or services by the person and another person suffers loss or damage as a result of the contravention, the person who suffers the loss or damage is deemed, for the purposes of this Act, to have suffered it by the supplying of the goods or services.	25 26 27 28 29 30
<b>[2] Section 62 Offences against this Act</b>		31
Insert “, 5F” after “5D” in section 62 (6).		32
<b>[3] Section 65 Injunctions</b>		33
Insert “, 5F” after “5E” in section 65 (1) (a).		34

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<b>[4] Section 66 Other injunctions</b>	1
Insert “, 5F” after “5E” in section 66 (1) (a) (i).	2
<b>[5] Section 67 Order to disclose information or publish advertisement</b>	3
Insert “, 5F” after “5E”.	4
<b>[6] Section 68 Actions for damages</b>	5
Omit “or 5E” from section 68 (1). Insert instead “, 5E or 5F”.	6
<b>[7] Section 69 Finding in proceedings to be evidence</b>	7
Omit “or 5E”. Insert instead “, 5E or 5F”.	8
<b>[8] Section 71 Defences</b>	9
Insert “, 5F” after “, 5D” in section 71 (1).	10
<b>[9] Section 72 Other orders</b>	11
Omit “Part 3, 4, 5, 5B, 5C, 5D or 8” wherever occurring.	12
Insert instead “Part 3, 4, 5, 5B, 5C, 5D, 5F or 8”.	13
<b>[10] Section 72</b>	14
Omit “Part 3, 4, 5, 5B, 5C, 5D, 5E or 8” wherever occurring.	15
Insert instead “Part 3, 4, 5, 5B, 5C, 5D, 5E, 5F or 8”.	16
<b>[11] Schedule 5 Savings and transitional provisions</b>	17
Insert after clause 11G:	18
<b>11H Fair Trading Amendment (Funeral Goods and Services) Act 2007</b>	19
Part 5F, as inserted by the <i>Fair Trading Amendment (Funeral Goods and Services) Act 2007</i> , does not apply to a supply of funeral goods or services as referred to in that Part that occurs pursuant to an arrangement entered into with a consumer before an information standard that is relevant to the supply is first prescribed under that Part.	20 21 22 23 24 25



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**[12] Schedule 5**

Insert at the end of clause 12 (1):

*Fair Trading Amendment (Funeral Goods and Services) Act  
2007*

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