



New South Wales

Fair Trading Legislation (Repeal and Amendment) Bill 2015

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to repeal the *Consumer Claims Act 1998* and re-enact the substance of that Act in the *Fair Trading Act 1987*,
- (b) to repeal the *Fitness Services (Pre-paid Fees) Act 2000* and the *HomeFund Commissioner Act 1993*,
- (c) to provide for the repeal of the *Landlord and Tenant Act 1899* no later than 5 years after the date of assent to the proposed Act,
- (d) to make consequential and related amendments to other Acts.

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.

Clause 3 repeals the Acts referred to in the Overview, other than the *Landlord and Tenant Act 1899*. The repeal of that Act is provided for by **Schedule 3.4**.

Schedule 1 Amendment of Fair Trading Act 1987 No 68

Schedule 1 [11] re-enacts the substance of the *Consumer Claims Act 1998*, which is repealed by section 3 of the proposed Act. **Schedule 1 [6], [7], [12] and [16]** make consequential amendments.

Schedule 1 [2] inserts a definition of *banker* for the purposes of the *Fair Trading Act 1987*, clarifying that wherever the term appears in that Act, it includes any authorised deposit-taking institution (including building societies and credit unions).

Schedule 1 [13] amends a definition of *prescribed authority*, replacing a reference to an abolished office (the Government Analyst) with a reference to bodies or persons prescribed by regulations under the *Fair Trading Act 1987*. The amendment will enable certificates signed by or on behalf of bodies or persons prescribed by the regulations to be used as evidence in proceedings under that Act (unless the defendant requires the person who signed the certificate to be called as a witness in the proceedings).

Schedule 1 [1], [3]–[5], [9], [14], [15] and [17] update terminology and expressions (including as a consequence of the enactment of the *Government Sector Employment Act 2013*).

Schedule 1 [8] and [10] make amendments consequent on the repeal of the *Fitness Services (Pre-paid Fees) Act 2000* by the proposed Act.

Schedule 1 [18] enables the making of savings and transitional regulations consequent on the enactment of the proposed Act or any other Act that amends the *Fair Trading Act 1987*.

Schedule 1 [19] contains savings and transitional provisions consequent on the repeal and re-enactment of the *Consumer Claims Act 1998*, and on the repeal of the *Fitness Services (Pre-paid Fees) Act 2000*, by the proposed Act.

Schedule 2 Amendment of Acts consequent on repeal of Consumer Claims Act 1998

Schedule 2 makes amendments to Acts specified in the Schedule consequent on the repeal of the *Consumer Claims Act 1998* by the proposed Act.

Schedule 3 Amendment of other Acts

Schedule 3.4 inserts a new section into the *Landlord and Tenant Act 1899* that provides for the repeal of that Act 5 years after the section commences or on an earlier day appointed by proclamation.

Schedule 3.1, 3.3 [1], [4], [7], [8], [12], [13], [15] and [20] and **3.6** make amendments to Acts specified in Schedule 3.1, 3.3 and 3.6 consequent on the repeal by the proposed Act of the *HomeFund Commissioner Act 1993*.

Schedule 3.2 and 3.5 make amendments to Acts specified in those subschedules consequent on the repeal by the proposed Act of the *Fitness Services (Pre-paid Fees) Act 2000*.

Schedule 3.3 [2], [3], [5], [6], [9]–[11], [14], [16]–[19], [21] and [22] make amendments in the nature of statute law revision.