



New South Wales

Fair Trading Amendment (Mandatory Funeral Industry Code) Bill 2008

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 Principal Act*) to provide for the establishment by regulation of a mandatory code of conduct for the funeral industry.

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 that gives 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 [2] substitutes section 60ZA and inserts a new section 60ZAA.

Proposed section 60ZA enables regulations to be made to establish a funeral industry code of conduct that prescribes rules that must be observed by suppliers of funeral goods and services. A funeral industry code of conduct may also establish a system of registration of suppliers of funeral goods and services and may provide that a person is prohibited from supplying funeral goods and services unless registered in accordance with the regulations. A funeral industry code of conduct may also provide for the qualifications required for registration, the imposition of conditions on registration, the cancellation or suspension of registration and the review of decisions made in respect of registration. The proposed section makes it an offence for a person, in connection with a supply to a consumer of funeral goods and services, to fail to comply with a funeral industry code of conduct.

Proposed section 60ZAA provides for an action for damages under Part 6 of the Principal Act to be available to a person who has suffered loss or damage because of a supply of funeral goods or services in contravention of proposed section 60ZA (thereby extending the existing provision that applies in relation to a contravention of section 60Z).

Schedule 1 [1] and [3]–[5] make consequential amendments to section 60Z and Schedule 5.

Introduced by the Hon C E Cusack, MLC

First print



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New South Wales

Fair Trading Amendment (Mandatory Funeral Industry Code) Bill 2008

No. , 2008

A Bill for

An Act to amend the *Fair Trading Act 1987* to provide for the establishment of a mandatory code of conduct for the funeral industry.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Fair Trading Amendment (Mandatory Funeral Industry Code) Act 2008</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6
3 Amendment of Fair Trading Act 1987 No 68	7
The <i>Fair Trading Act 1987</i> is amended as set out in Schedule 1.	8
4 Repeal of Act	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

Schedule 1	Amendments	1
	(Section 3)	2
[1]	Section 60Z Provision of information to consumers	3
	Omit section 60Z (5). Insert instead:	4
	(5) 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 this section.	5 6 7
	(6) In this section, <i>supply</i> includes proposed and prospective supply and offer to supply, and <i>supplier</i> has a corresponding meaning.	8 9
[2]	Sections 60ZA and 60ZAA	10
	Omit section 60ZA. Insert instead:	11
60ZA	Mandatory funeral industry code of conduct	12
	(1) In this section:	13
	<i>funeral industry code of conduct</i> means a code of conduct established under this section.	14 15
	<i>supplier of funeral goods and services</i> means a person who is in the business of supplying funeral goods and services to consumers.	16 17 18
	(2) The regulations may establish a funeral industry code of conduct that prescribes rules to be observed by suppliers of funeral goods and services in the course of carrying on the business of a supplier of funeral goods and services.	19 20 21 22
	(3) A funeral industry code of conduct may also include provision for or with respect to the registration by the Director-General of suppliers of funeral goods and services, including provision for or with respect to any of the following:	23 24 25 26
	(a) prohibiting a person from supplying funeral goods and services to consumers unless registered in accordance with the regulations,	27 28 29
	(b) qualifications for registration,	30
	(c) the imposition of conditions on registration,	31
	(d) the cancellation or suspension of registration (for example, for a contravention of a provision of the funeral industry code of conduct or a condition of registration),	32 33 34
	(e) the review by the Administrative Decisions Tribunal of decisions made in respect of registration.	35 36

(4)	A supplier of funeral goods and services must, in trade or commerce, comply with a funeral industry code of conduct.	1 2
60ZAA	Damages	3
	If a person contravenes a provision of this Part 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.	4 5 6 7 8 9
[3]	Schedule 5 Savings and transitional provisions	10
	Omit “Part 5F” from clause 11H. Insert instead “Section 60Z”.	11
[4]	Schedule 5, clause 11H	12
	Omit “that Part” wherever occurring. Insert instead “that section”.	13
[5]	Schedule 5, clause 12	14
	Insert at the end of clause 12 (1):	15
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