

Dust Diseases Tribunal Amendment (Damages—Deceased’s Dependants) Bill 2010
Explanatory note

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

Overview of Bill

In *Bl (Contracting) Pty Ltd v Strikwerda* [2005] NSWCA 288, the New South Wales Court of Appeal held that the damages to be awarded to a widow in a compensation to relatives claim brought by her in the Dust Diseases Tribunal in respect of the death of her husband from a dust-related condition was to be reduced to take into account the fact that the estate of her husband had already been enlarged by a successful claim for damages in relation to the same condition.

The object of this Bill is to amend the *Dust Diseases Tribunal Act 1989* to provide that the damages payable in relation to a compensation to relatives claim for the death of a person from a dust-related condition cannot be reduced to take into account that the claimant has an entitlement to participate in the distribution of the deceased person’s estate in circumstances where the estate has been enlarged by a successful claim for the same dust-related condition.

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.

Schedule 1 Amendment of Dust Diseases Tribunal Act 1989 No 63

Schedule 1 [1] makes the amendment to the *Dust Diseases Tribunal Act 1989* described in the Overview above.

Schedule 1 [2] inserts a savings and transitional provision in the Act.