

## THE NEW CONSUMER GUARANTEE DIRECTION

### Proposed bill recently introduced in NSW for changes to the *Fair Trading Act 1987* (NSW)

On 8 August 2018, the New South Wales Government introduced the *Fair Trading Legislation Amendment (Consumer Guarantee Directions) Bill 2018* (NSW) (Bill).

If passed, this Bill allows the Commissioner of the NSW Fair Trading office (Commissioner) to issue a 'consumer guarantee direction' to resolve the dispute.

The Bill has been introduced to assist in dealing with breaches of the consumer guarantees under the Australian Consumer Law in a cost and time effective manner.

### What are the proposed amendments?

- The Commissioner can now issue a 'consumer guarantee direction' for a business to repair, replace or refund the goods in dispute;
  - The goods in dispute must have been purchased at a price of \$25 - \$3,000 and in the previous six months prior to making the application for the consumer guarantee direction;
  - The Commissioner may refuse to make a direction if the circumstances warrant; and
  - The business and the consumer must first have attempted to resolve the issue using the Fair Trading's complaints resolution process already in place, prior to requesting a consumer guarantee direction.
- Fair and reasonable;
  - Easier process to follow;
  - Less intimidating and stressful as compared to the tribunal process currently in force;
  - Alternative to the courts and tribunals (which are time consuming and costly);
  - Encourages business to work together with the customer in coming to a resolution prior to involving Fair Trading - creating better outcomes for both parties;
  - Will only be available when the Commissioner is satisfied that the Fair Trading's complaints resolution process has been exhausted and the parties have failed to reach a mutual suitable outcome; and
  - A direction from the Commissioner will be final and binding – either the business should repair, replace or refund the goods or alternatively, that no direction be made in the circumstances.

### What are some of the benefits of the proposed legislation?

- Cost-effective;
- Time-saving;



### When does the new legislation come into effect?

If passed, the proposed Bill will come into operation on 1 January 2019.

### Is it only in NSW?

Yes, for now the Bill has only been introduced by the NSW Government. It is possible that other States and Territories will follow suit once the Bill is implemented in NSW.

### AAAA Member Benefits

Industry Legal Group provides advice on all issues relating to the Australian Consumer Laws.

Please contact Industry Legal Group on 1300 369 703 or [aaaa@industrylegalgroup.com.au](mailto:aaaa@industrylegalgroup.com.au) if you require any assistance.



## IMPORTANT NEWS

### Changes to modern awards which became effective 1 October 2018

Employees covered by the Clerks Private Sector Award now must provide casual employees the opportunity to convert to permanent part-time or full time status if they have worked a pattern of hours compatible with permanent work over a period of 12 months.

Since 1 October 2018, employees covered by the VMRSR Award must be engaged and paid for at least three consecutive hours of work on each occasion they are required to attend work.

These amendments took effect from the start of the first full pay period on or after 1 October 2018.

If you require assistance in regards to the above, please contact Employer Assist on 1300 735 306 or [aaaa@employerassist.com.au](mailto:aaaa@employerassist.com.au)