

Consumer Guarantees Amendment Bill

Member's Bill

Explanatory note

General policy statement

This Bill amends the Consumer Guarantees Act 1993 (the **principal Act**) to improve its operation in 2 areas in relation to extended warranties, and the supply of goods and services by suppliers through a competitive bidding process using an online trading facility. Suppliers are defined in the principal Act as persons who, in trade, supply goods and services to consumers.

The principal Act came into force in April 1994 to amend the law relating to the guarantees given to consumers upon the supply of goods or services, and the rights of redress against suppliers and manufacturers in respect of any failure of goods or services to comply with such guarantees.

Extended warranties are typically sold to consumers when they purchase electrical items. Generally, these warranties offer no further protection to the consumer beyond the rights and remedies they already have under the principal Act. This Bill provides that consumers are to be informed about whether an extended warranty they are considering purchasing provides any benefit, right, or convenience that is greater than the rights under the principal Act. The Bill also provides for a cooling-off period once an extended warranty has been purchased. This will allow consumers to reconsider whether to continue

with the extended warranty and if they decide not to do so within the cooling-off period they will be entitled to a full refund of the amount paid for the warranty.

Competitive online sales have become increasingly popular in New Zealand. There has been some debate about whether online sales are covered by the principal Act. This Bill seeks to clarify this issue by specifically providing that online sales are covered. This will mean, for example, that a consumer who is supplied with a fridge by a supplier via an online competitive bidding process would attract the same rights as if the same fridge was purchased from the bricks and mortar store of the same supplier.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides for the Bill to come into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the Bill amends the Consumer Guarantees Act 1993.

Clause 4 sets out the purposes of the Bill.

Clause 5 inserts *new sections 15A and 15B* to provide for rights in relation to extended warranties, namely rights in relation to disclosure of certain information and a cooling-off period in which to reconsider the purchase of an extended warranty.

Clause 6 amends section 41 by adding *new subsection (4)* to clarify that the guarantees provided for under section 5 apply to supply of goods and services by a supplier through a competitive bidding process using an online trading facility.

Dr Jackie Blue

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Consumer Guarantees Amendment Act **2010**.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent. 5
- 3 Principal Act amended**
This Act amends the Consumer Guarantees Act 1993.

4 Purpose

The purposes of this Act are—

- (a) to assist consumers to make informed decisions about purchasing extended warranties:
- (b) to provide for a cooling-off period following the purchase of an extended warranty in which a consumer can reconsider that purchase, and, where a consumer cancels the purchase of the extended warranty in such a period, they are entitled to receive a full refund of the amount paid for the extended warranty without any other penalty: 5 10
- (c) to provide for the guarantees provided in the principal Act to apply when a supplier supplies goods and services through a competitive bidding process using an online trading facility. 15

5 New sections 15A and 15B inserted

The following sections are inserted after section 15:

“15A Disclosure

- “(1) Every extended warranty must include written disclosure to the consumer that the Act provides enforceable guarantees, including fitness for purpose and durability. 20
- “(2) If an extended warranty does not provide any benefit, right, or convenience that is greater than the rights under the Act, disclosure to this effect must be included in the statement required in **subsection (1)**. 25
- “(3) If an extended warranty does provide a benefit, right, or convenience that is greater than the rights under the Act, these must be clearly identified as being additional to the rights under the Act.
- “(4) Every extended warranty must include written disclosure of the right provided for in **section 15B**. 30

“15B Cooling-off period

A consumer may cancel the purchase of any extended warranty within 7 days of purchase and must be provided with a full refund without any other penalty.” 35

6 Exceptions

Section 41 is amended by adding the following subsection:

- “(4) Supply by auction or competitive tender under subsection (3) does not include supply of goods and services by a supplier through a competitive bidding process using an online trading facility.” 5
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