

CIVIL JUSTICE REFORM AMENDMENT BILL 2000

EXPLANATORY NOTES

GENERAL OUTLINE

Objectives of the Legislation

The objective of the legislation is to repeal all but one of the items that have not yet commenced in schedule 1 of the *Civil Justice Reform Act 1998*. Schedule 1 amends the *Small Claims Tribunals Act 1973*.

Reasons for the objectives and how they will be achieved

The *Civil Justice Reform Act 1998* dealt with a number of different aspects of the civil justice system in Queensland. The Act provided the necessary basis for the making of uniform court rules for the conduct of civil proceedings in the Supreme, District and Magistrates Courts, and made changes to the law regulating the relationship between solicitors and their clients in relation to fees and costs. In schedule 1, it also dealt with small claims tribunals. Those reforms included the creation of a single Small Claims Tribunal, with a tenancy and general division. Provision was also made for the appointment of a magistrate to a new position called Tenancy Claims Administrator, to be responsible for the tenancy division. Other procedural reforms included a new avenue of review to the District Court and the creation of a new tribunal central registry at Brisbane. The legislative provisions affecting small claims tribunals were to commence on a date to be fixed by proclamation.

The *Civil Justice Reform Act 1998* model for small claims was a response to concerns about the operation of small claims tribunals, especially in relation to their residential tenancies jurisdiction. However, the legislative model set out in that Act is now no longer necessary to meet those concerns. This is a result of administrative improvements that have

since been pursued to deal with these problems. It is now necessary to repeal that superseded model before it automatically commences on 2 May 2000.

Owing to potential financial and logistical problems that were identified after the passage of the legislative model in the *Civil Justice Reform Act 1998*, other improvements to the way in which tenancy disputes are resolved were explored by the Chief Stipendiary Magistrate, Department of Justice and Attorney-General and the Residential Tenancies Authority. As a result, some of the steps pursued by agencies have included:

- discussions with the Chief Stipendiary Magistrate and some tribunal referees on practice and access issues;
- the provision of information about residential tenancies issues to referees;
- the development of information resources to assist parties to better prepare for tribunal hearings;
- a client satisfaction survey of tribunal clients;
- the identification of strategies to improve the efficient processing of tribunal applications; and
- work to establish a computer data link between the Residential Tenancies Authority and small claims tribunal registries.

Industry and consumer representatives have been regularly advised of these steps through the Residential Tenancies Authority's Industry Development Forums.

Two provisions in schedule 1 of the *Civil Justice Reform Act 1998* have already commenced. These are items 20 and 22, which relate to the records of small claims tribunals. Both amend section 14 of the *Small Claims Tribunals Act 1973*. Item 20 amended section 14(2) to include as records of small claims tribunals other documents filed in registries in relation to claims. Item 22 amended section 14(3) and provides that the records of small claims tribunals shall also be open for inspection by the chief executive officer of the Residential Tenancies Authority and the Minister. These changes also permit the data link referred to above, by allowing agencies to share information held by tribunal registries. The automatic commencement of all other provisions was postponed by the *Civil Justice Reform (Postponement of Automatic Commencement) Regulation 1999*.

Item 6 of schedule 1 of the *Civil Justice Reform Act 1998* will not be repealed by this Bill. It will automatically commence on 2 May 2000. That provision increases the jurisdictional limit of the tribunal from \$5 000 to \$7 500. The change, which was not otherwise related to the model then proposed for the tribunal, is in line with the limit of the new minor debt claims jurisdiction of the Magistrates Courts, which is also \$7 500 and was part of the *Uniform Civil Procedure Rules 1999* reforms, also contained in the *Civil Justice Reform Act 1998*.

Administrative cost to Government of implementation

There will be no additional administrative cost to Government as a result of the repeals that would be effected by this Bill. Instead, by not pursuing the extensive changes to the small claims jurisdiction contained in schedule 1 of the *Civil Justice Reform Act 1998*, there will be savings. For example, the position of Tenancy Claims Administrator will not come into existence.

Fundamental legislative principles

The Bill does not breach any fundamental legislative principles.

Consultation

Consultation has occurred with the Chief Stipendiary Magistrate, Residential Tenancies Authority, Department of Equity and Fair Trading, Department of Families, Youth and Community Care and Department of Housing. In addition, the administrative improvements which are now being pursued instead of the legislative reforms in schedule 1, have been regularly discussed with relevant interested parties at Industry Development Forums conducted by the Residential Tenancies Authority.

NOTES ON PROVISIONS

Short Title

Clause 1 sets out the short title of the Act.

Act amended

Clause 2 states that this Act amends the *Civil Justice Reform Act 1998*.

Amendment of sch 1 (Amendments of Small Claims Tribunals Act 1973)

Clause 3 omits items 1 to 5, 7 to 19, 21 and 23 to 99 in schedule 1 of the *Civil Justice Reform Act 1998*, which would have amended the *Small Claims Tribunals Act 1973*. Only items 20 and 22 in schedule 1 have commenced. Item 6, which is not being repealed, will be left to commence on 2 May 2000. All other items will be repealed.