

Consumer Guarantees (Right to Repair) Amendment Bill

Submission of the New Zealand Law Society Te Kāhui
Ture o Aotearoa

1 April 2025

1 Introduction

- 1.1 The New Zealand Law Society Te Kāhui Ture o Aotearoa (**Law Society**) welcomes the opportunity to comment on the Consumer Guarantees (Right to Repair) Amendment Bill (**Bill**). The Bill amends the Consumer Guarantees Act 1993 (**Act**) to require manufacturers to make repair parts and information available to consumers.
- 1.2 The Bill is a Member's Bill. The general policy statement indicates the intention is to increase the lifetime of everyday products by encouraging the repair of goods. It is hoped this will result in a reduction of the waste going to landfills, which in turn will assist in mitigating the impacts of climate change.¹
- 1.3 This submission has been prepared with input from the Law Society's Commercial and Business Law Committee.²
- 1.4 In summary, the Law Society supports the proposal to amend the guarantee by a manufacturer under section 12 of the Act. However, the Law Society does have some concerns about the Bill progressing as currently drafted, and we suggest some alternative options that ought to be considered, to ensure the Bill achieves what is intended without increasing the burden on consumers.
- 1.5 The Law Society does not wish to be heard in relation to this submission.

2 Proposed amendments to section 12

- 2.1 Clause 5 proposes to substantially expand on the guarantee as to information, repairs, and spare parts provided for by section 12 of the Act. The Explanatory Note to the Bill states that these amendments are to 'provide for guarantees...with a provision that provides more specifically for consumers to be able to repair goods that they own.'
- 2.2 In particular, proposed section 12(1)(b) inserts a guarantee that a manufacturer will provide the consumer with '*the most recent version of any information, spare parts, software, and other tools that the manufacturer uses for diagnosing, maintaining, or repairing the goods*' on request.
- 2.3 The Law Society has three concerns about this proposed amendment:
 - (a) We suggest that if the goal is to require manufacturers to provide information, the information should be given at the time the goods are supplied, rather than requiring a consumer to make a request. However, considering the potentially burdensome nature of the obligation to provide parts, software, and other tools, the provision of these items may still necessitate a specific request from the consumer due to the substantial responsibility involved.
 - (b) If the intention is that all the information listed must be provided in all cases where goods are first supplied to a consumer in New Zealand, we consider it is important to recognise that components of the requested information are likely to be trade secrets that manufacturers would be forced to make publicly

¹ Explanatory note.

² See the Law Society's website for more information about this Committee:
<https://www.lawsociety.org.nz/branches-sections-and-groups/law-reform-committees/commercial-li/>

available. Continued protection of trade secrets should be allowed, and the Law Society recommends that, at a minimum, exceptions should be provided to protect trade secrets.

- (c) Third, we note the Act's definition of 'goods' includes ships, aircraft and cars and the Bill does not propose to amend this definition in relation to the Bill's objective. However, the requirements proposed in new section 12(1)(b) may be onerous and unsafe if extended to include certain products. For example, the provision of diagnostic information and tools for a sports car, aircraft or ship could be impossible to supply and potentially dangerous if used by consumers to attempt self-repair. Computer diagnostics for cars are specific and the machinery and computers are expensive. The provision of this information, putting aside feasibility, risks endangering consumers and the public, depending upon how it is used and by whom. We recommend the Bill is amended to limit the application of proposed section 12 to specific goods such as computers, mobile phones, and whiteware.

3 Proposed section 19A

- 3.1 Clause 7 inserts proposed section 19A, which provides that a consumer may request that a supplier repair goods rather than replace them. This provision would be inserted in Part 2 of the Act which gives consumers a right of redress against suppliers where the goods fail to comply with any guarantee set out in sections 5 to 10 of the Act.
- 3.2 We note that proposed section 19A(3)(b) provides that if the supplier is unable to repair, the consumer can have the goods repaired elsewhere and obtain 'all reasonable costs' from the supplier. The Law Society is of the view this is likely to result in frequent disputes between suppliers and consumers as to what 'reasonable costs' may be in the circumstances. We recommend this provision is given further consideration and policy analysis, to avoid an increase in expensive, time-consuming and prolonged disputes.
- 3.3 It is also worth considering whether consumers may prefer the replacement or refund option rather than risk incurring out-of-pocket expenses beyond what is determined to be the 'reasonable cost' of having the good repaired elsewhere.
- 3.4 In the Law Society's view, any amendment to consumers' rights to remedy against suppliers under Part 2 of the Act must not derogate from the current right to a refund under section 19(1)(c). As drafted, new section 19A(3) provides consumers the right to accept a replacement, have the goods repaired elsewhere, or reject the goods, all subject to a "reasonable time" test. However, this approach excludes the right to a refund as outlined in section 20 and may be disadvantageous to consumers.
- 3.5 The Law Society recommends, at a minimum, amending the proposal to include the right to a refund and to remove the "reasonable time" test. Our preference is that section 19A states that it does not remove a consumer's rights to ask for a replacement, to reject the goods, or to ask for a refund.

4 Other considerations

- 4.1 The Law Society notes that the Bill relies heavily on consumer advocacy for and capability to repair good, which may be a restrictive factor in the uptake of the proposed changes, thereby undermining the effectiveness of the Bill. The Committee may wish to seek advice on alternative measures that encourage suppliers to focus on repairs, placing the responsibility and decision-making on the supplier rather than on consumers.



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