

DRAFT FOR CONSULTATION

Consumer Guarantees (Right to Repair) Amendment Bill

Member's Bill

Explanatory note

General policy statement

This Bill amends the Consumer Guarantees Act 1993 to require manufacturers to make repair parts and information available to consumers. This will extend the life-time of products, keeping resources in circulation and waste out of landfills. This reform is an important step toward building a circular resource economy to mitigate climate change and protect biodiversity. By enabling consumers to repair rather than replace products, it also reduces household expenses at a moment when cost pressures are particularly acute.

This Bill gives consumers the right to repair their products by repealing section 42, replacing section 12 and inserting *new section 19A*. Section 42 provides that repair facilities and parts do not have to be made available if the consumer is notified at the time the product is supplied that these will not be available. This means that many products, which might be easily repaired, are instead dumped. The Bill removes this provision. The Bill also replaces section 12 to expand consumers' guarantees regarding information, repairs, and spare parts. It requires that the manufacturer provides, upon the consumers' request, the information, spare parts, and tools necessary to diagnose, maintain, or repair goods which have been supplied by the manufacturer. New section 19A empowers consumers to request that suppliers repair goods rather than replacing them.

Keeping products in use as long as practicably possible preserves valuable resources. It reduces the emissions created by producing and transporting new products. Resources are kept in circulation and out of landfills. It is a small but critical step toward upholding New Zealand's commitment, under the Paris Agreement, to contribute to the global effort to limit global warming to an increase of 1.5°C. Equally, strengthening consumers' right to repair will help to alleviate current financial pressures which, while occurring globally, are felt most acutely by those with the least.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides for this Bill to come into force on the day after Royal assent (*but see new Schedule 1* for transitional arrangements).

Clause 3 identifies the Consumer Guarantees Act 1993 as the Act being amended by the Bill.

Clause 4 inserts *new section 2A*, to provide for transitional arrangements.

Clause 5 replaces section 12, which provides for guarantees in respect of repairs and spare parts, with a provision that provides more specifically for consumers to be able to repair goods that they own.

Clause 6 amends section 14, which relates to manufacturer's express guarantees, to prevent these guarantees from requiring that repairs are undertaken only by authorised repairers or using only specific parts.

Clause 7 inserts *new section 19A*, specifying that a consumer may require repair rather than replacement. If such a request is made, the repairs must be completed within a reasonable time.

Clause 8 amends section 25 to reflect the amendment to section 12.

Clause 9 repeals section 42 of the principal Act, removing an exception in respect of the repairs and parts guarantee.

Clause 10 inserts *new Schedule 1* into the principal Act, which provides for transitional arrangements.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Consumer Guarantees (Right to Repair) Amendment Act **2023**.

2 Commencement

This Act comes into force on the day after the date of Royal assent.

3 Principal Act

This Act amends the Consumer Guarantees Act 1993.

4 New section 2A inserted (Transitional, savings, and related provisions)

After section 2, insert:

2A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms.

5 Section 12 replaced (Guarantee as to repairs and spare parts)

Replace section 12 with:

12 Guarantee as to information, repairs, and spare parts

- (1) Where goods are first supplied to a consumer in New Zealand (whether or not that supply is the first-ever supply of the goods), there is a guarantee that a manufacturer will—
 - (a) take reasonable action to ensure that facilities for repair of the goods and supply of parts for the goods are reasonably available for a reasonable period after the goods are so supplied; and
 - (b) provide the consumer, upon the request of 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.
- (2) For the purposes of this section, a manufacturer is treated as using information, spare parts, software, and other tools for diagnosing, maintaining, or repairing goods, whether or not the diagnostics, maintenance, or repairs are undertaken by the manufacturer or by another party.
- (3) The manufacturer must comply with a request under **subsection (1)(b)**—
 - (a) as soon as is reasonably practicable; and
 - (b) in any case, no later than 20 working days after the day on which the manufacturer receives the request.
- (4) The manufacturer must provide any information requested under this section without charge, unless the consumer requests paper copies, in which case the manufacturer may charge the consumer a fee not exceeding a reasonable estimate of the costs of providing these.
- (5) The manufacturer may charge the consumer a fee for providing spare parts, software, and other tools, however,—
 - (a) if the manufacturer sells diagnostic, maintenance, or repair services, the fee must not exceed a reasonable estimate of the net profit percentage that the manufacturer earns for selling those services; and

- (b) in all other cases, the fee must not exceed the amount the manufacturer charges any other person.
- (6) The provision of information, spare parts, software, and other tools under this section does not limit or affect any intellectual property rights in the information, spare parts, software, and other tools.
- (7) Part 3 gives the consumer a right of redress against the manufacturer where the goods fail to comply with the guarantee in this section.

6 Section 14 amended (Provisions relating to manufacturers' express guarantees)

After section 14(3), insert:

- (4) Any provision in an express guarantee to which this section applies has no effect to the extent that it purports to require a consumer to use only a manufacturer's authorised repairer or parts (*see* section 12).

7 Section 19A inserted (Request to repair)

After section 19, insert:

19A Request to repair

- (1) A consumer may request that a supplier repairs goods under section 19(1)(a)(i) rather than replacing them under section 19(1)(b).
- (2) If a consumer makes a request to repair under this section, the supplier must repair the goods within a reasonable time.
- (3) If a supplier is unable to repair goods within a reasonable time, the consumer may—
 - (a) accept replacement of the goods with goods of identical type under section 19(1)(b); or
 - (b) have the goods repaired elsewhere and obtain from the supplier all reasonable costs incurred in the repairs; or
 - (c) subject to section 20, reject the goods in accordance with section 22.

8 Section 25 amended (Circumstances where consumers have right of redress against manufacturers)

Replace section 25(c) with:

- (c) the goods fail to comply with the guarantee as to information, repairs, and spare parts set out in section 12:

9 Section 42 repealed (Exception in respect of repairs and parts)

Repeal section 42.

10 New Schedule inserted

Insert the **Schedule 1** set out in the **Schedule** of this Act as the first schedule to appear after the last section of the principal Act.

Schedule
New Schedule 1 inserted

s 9

Schedule 1
Transitional, savings, and related provisions

s 2A

Part 1
Provisions relating to Consumer Guarantees (Right to Repair)
Amendment Act 2023

1 Transitional matters

- (1) This Act, as amended by the Consumer Guarantees (Right to Repair) Amendment Act **2023** (the **2023 Act**), applies in relation to goods supplied after the 2023 Act commenced.
- (2) This Act, as in force before the 2023 Act commenced, continues to apply in relation to any goods supplied before that Act commenced.