

Small Claims – Getting Bigger in NSW

Justice Legislation Amendment Bill (No 3) 2018 (NSW)

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Summary

Yesterday, the NSW Attorney General introduced the *Justice Legislation Amendment Bill (No 3) 2018*, which will, if passed, result in substantial amendments to court processes and jurisdictional limitations. Most notably, an amendment to s 29 of the *Local Court Act 2007* (NSW) is proposed and will, if enacted, increase the jurisdiction of the Small Claims Division of the Local Court from \$10,000 to \$20,000.

Implications

There is no detail yet as to the changes the amending legislation may bring to the Small Claims process. If the legislation is enacted as expected, then we will almost certainly see changes that will impact new cases in relation to both costs and procedure, given the current Practice Notes in the Local Court.

It appears likely that the legislation will pass and that there will be a 'transitional process' that will enable the Local Courts to completely implement the amendments. It is quite clear that the amendments once implemented will significantly increase the burden on the Small Claims Division. As there is essentially one sitting assessor in the Local Court at Sydney, there may be some delay in the processing of current matters before the assessor. The amendments may result in more assessors being appointed and amendments to the scale fees awarded by the Local Court.

The Future

Debate on the proposed amending legislation is scheduled to take place on 31 October 2018. As the Second Reading Speech occurred yesterday, it appears more than likely that the proposed amendments will be made but the start date is unknown at present.

The proposed increase in the jurisdictional limit of the Small Claims Division will have a significant effect on how insurers deal with litigated claims. The likely costs implications associated with the increase in jurisdictional limit may impact on how insurers and third parties consider the commercial viability of litigating smaller claims in NSW.

More updates to come.

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