



New Zealand House of Representatives
Te Whare Māngai o Aotearoa

Justice Committee

Komiti Whiriwhiri Take Ture

54th Parliament

March 2025

Disputes Tribunal Amendment Bill

98—1

Presented to the House of Representatives
by Hon James Meager, Chairperson

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Disputes Tribunal Amendment Bill

Recommendation

The Justice Committee has examined the Disputes Tribunal Amendment Bill and recommends that the bill proceed without amendment.

Introduction

This bill would amend the Disputes Tribunal Act 1988 by increasing the financial jurisdiction of the Disputes Tribunal from \$30,000 to \$60,000. It aims to improve access to justice for people who either cannot afford to take a claim to the District Court or choose not to because the associated fees would exceed the value of the claim they are pursuing. The bill would also amend the Disputes Tribunal Rules 1989 to introduce a new filing fee tier of \$468 for claims of \$30,001 or more. This would aid with cost recovery and reflect the likely higher private benefits of using the Disputes Tribunal for higher-value claims.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Submissions received on the bill

We received 107 submissions and heard oral evidence from 3 submitters. A full summary of submissions, along with comments from our advisers, is available in the departmental report on the bill, published on the Parliament website. We thank submitters for sharing their views on the bill.

Below we summarise some of the main themes from submissions on the bill.

Change to the financial jurisdiction

Some submitters commented that the bill would improve access to affordable dispute resolution services and support more timely resolution of issues. They also thought that the bill would reduce some of the pressure on the court system and improve public confidence in the justice system. Other submitters thought that increasing the financial jurisdiction could make the claims process less accessible. This is because higher-value claims could potentially require more legal and technical expertise, and could risk increasing inequality by favouring those with more resources. Another concern raised by submitters was the impact on the Disputes Tribunal caused by the increased complexity of cases. Some submitters also thought the bill could undermine tikanga Māori by prioritising efficiency over fairness and community-based solutions. We consider that the proposed doubling of the financial jurisdiction would improve access to justice by providing an affordable way to resolve civil disputes for lower-value civil claims.

Introducing a new filing fee tier

Some submitters suggested that the new filing fee tier of \$468 for claims of \$30,001 or more is too high. They remarked that this change does not align with the intent to make the Disputes Tribunal a low-cost alternative to the court system. They thought that this fee might reduce the accessibility of the Disputes Tribunal, and disproportionately affect vulnerable populations. We think the proposed new filing fee tier is appropriate for higher-value claims because it acknowledges the greater private interest in those claims.

Some submitters suggested alternative filing fee arrangements, including having a more graduated system, an income-based system, or setting a lower fee. Some submitters also recommended that parties should be able to recover their filing fees if they are successful. We note that the Regulatory Systems (Tribunals) Amendment Bill, currently with this committee, would give Disputes Tribunal referees the discretion to order the respondent to repay the cost of the filing fee to a wholly or partly successful applicant. This would ensure that the costs of pursuing justice do not fall on those who have been wronged.

New Zealand Labour Party differing view

Labour supports increased access to justice including through an increase in the money-limit on the jurisdiction of the Disputes Tribunal. We applaud the work of the Disputes Tribunal in the expeditious disposal of an enormous number of civil disputes in a fair, effective, and legitimate process.

However, we have some concerns with this reform. First, we consider that the filing fee of \$468 will be a barrier to some people to bringing claims. We accept that when people can pay a filing fee to contribute to the cost of providing the dispute resolution provided by the Tribunal that is appropriate. We also consider the fee proposed to be within the bounds of an acceptable amount. However, we consider that there will be cases where people are of very limited means and the filing fee will be an insurmountable barrier to bringing a claim. In the District Court (which has a filing fee for initiating a claim of \$260) there is an ability to apply for and be granted a fees waiver on the basis of hardship. We find it irrational that it is possible to apply for a fee waiver on the basis of hardship for \$260 in the District Court, but under this reform there will be no ability to apply for such a hardship waiver for the much higher fee of \$468. We were advised that the filing fee will not be a barrier to access to justice. However, no evidence was provided for that conclusion. We were disappointed that the committee did not support the Labour Party's proposed amendment to allow for fees waivers.

We also note that a finding of a quantum of \$60,000 for many people would be very significant. The Disputes Tribunal is a long way from a "small claims tribunal" (as the Disputes Tribunal used to be known). Rather, a finding (either way) could signal the financial ruin of the litigant. It may be of note that \$60,000 exceeds the limit in respect of which the no-assets insolvency procedure is available. It is also the case that the procedure of the Disputes Tribunal is summary in nature without formal rules of evidence, and without a strict obligation to apply the law. There is also no right of appeal on matters of law or fact (but with a limited right of appeal on the basis of a breach of natural justice). We consider that the pendulum has swung too far in favour of quick and final justice and that there are inadequate protections against errors by the Tribunal referee in light of the size of a potential judgment.

Those protections might be created by a limited right of appeal on error of law or a requirement to apply the law. We are disappointed that there was no appetite in the committee for these discussions.

Finally, we consider this to be a missed opportunity. While we understand the desire of this Government for “quick wins”, there are other improvements that could have been made to the Act. The subject matter jurisdiction of the Tribunal is hard to understand and does not cover a number of areas that could have been expanded (such as disputes relating to land, intellectual property, or “choses in action”). We consider these limitations are deserving of re-examination to improve access to justice.

Appendix

Committee procedure

The Disputes Tribunal Amendment Bill was referred to the committee on 19 November 2024. The closing date for submissions was 16 January 2025. We received and considered submissions from 107 interested groups and individuals. We heard oral evidence from 3 submitters.

We received advice on the bill from the Ministry of Justice. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office was available to assist with legal drafting.

Committee members

Hon James Meager (Chairperson)
Hon Ginny Andersen
Jamie Arbuckle
Carl Bates (from 29 January 2025)
Cameron Brewer (until 29 January 2025)
Tākuta Ferris
Paulo Garcia (until 29 January 2025)
Dr Tracey McLellan
Rima Nakhle
Tamatha Paul (until 29 January 2025)
Tom Rutherford (from 29 January 2025)
Todd Stephenson
Hon Dr Duncan Webb
Dr Lawrence Xu-Nan (from 29 January 2025)

Related resources

The documents that we received as advice and evidence are available on the [Parliament website](#).