

Big Changes for Small Claims: Disputes Tribunal reform explained

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Introduction

The Disputes Tribunal (the Tribunal) plays a vital role in resolving minor civil disputes in New Zealand, offering a more accessible, informal, and cost-effective alternative to the traditional court system.

The Disputes Tribunal Amendment Bill (the Bill) has recently passed its third reading in Parliament and is expected to become law early next year. The Tribunal's jurisdiction will double from \$30,000 to \$60,000, allowing higher value claims to be heard. In this article we discuss the potential impacts of this change.

Greater Accessibility

An estimated 2,000 additional cases will be heard annually in the Tribunal. Many of these would previously have been abandoned due to jurisdictional limits or not pursued because legal fees outweighed the value of the claim.

By diverting cases from the District Court, the Tribunal will likely help alleviate court backlogs and reduce delays.

Increased Case Complexity

The Tribunal's informal procedures and freedom from strict legal rules generally work well for low-value claims. However, the higher financial limit may result in more legally and factually complex disputes being heard. This raises concerns about whether the Tribunal is equipped to handle more nuanced matters.

While Tribunal referees are legally trained, the nature of the Tribunal process means their decision-making cannot be expected to match the depth or rigour of a Judge or Arbitrator operating within a more formal adjudicative framework. As complexity increases, so too does the risk of inconsistent or insufficiently reasoned outcomes.

This risk is amplified by section 18(6) of the Disputes Tribunal Act, which provides that the Tribunal is not bound to give effect to strict legal rights and must determine the dispute according to the substantial merits and justice of the case. While this flexibility may serve the interests of fairness in low-value, straightforward claims, it becomes more problematic when awards can now reach up to \$60,000.

Increased Judicial Review?

Tribunal decisions can only be appealed to the District Court where there has been procedural unfairness that prejudicially affected the outcome. With the Tribunal now able to hear disputes up to \$60,000, the stakes are significantly higher, yet appeal

rights remain narrowly confined. Unsuccessful parties may face substantial financial consequences but still have minimal avenues to challenge decisions on their merits.

This imbalance may prompt an increase in applications for judicial review, which is a process where the High Court examines whether the Tribunal acted lawfully, fairly, and within its jurisdiction. However, judicial review is not a rehearing of the case and does not allow parties to challenge factual findings or legal conclusions unless they involve a material error of law or process.

Where plainly wrong decisions emerge from the Tribunal, we may see more judicial review applications on the basis that the Tribunal made an error of law. However, this will not be an easy avenue for challenging a decision, particularly given section 18(6) of the Disputes Tribunal Act, which allows the Tribunal to depart from strict legal rights.

Increased Settlement

With the Tribunal's expanded jurisdiction, parties may be more inclined to settle disputes privately to avoid the uncertainty and potential exposure of a Tribunal hearing. This could lead to higher settlement offers from respondents and increased pressure to resolve disputes early.

In practice, we often observe offers clustering around the upper limit of the Tribunal's jurisdiction. This reflects a strategic calculation. Lawyers understand that, while a claimant may technically be entitled to a higher amount, recovering that sum through the District Court is often impractical and costly. As a result, the Tribunal's increased jurisdictional ceiling effectively reshapes the settlement landscape.

Increased Lawyer Involvement

Lawyers cannot appear in the Tribunal, but they can assist in preparing claims. With larger claims now falling within the Tribunal's jurisdiction, it may make economic sense to engage a lawyer to draft your claim, particularly in complex matters, to give yourself the best chance of success.

Ironically, by increasing the Tribunal's jurisdiction, the reforms may also increase the role of lawyers in the process. While the Tribunal is designed to be lawyer-free, the higher stakes may prompt more parties to seek legal advice before filing or when faced with a claim.

Conclusion

With the Bill set to become law early next year, the Disputes Tribunal is poised to play a more significant role in New Zealand's civil justice system. If you are currently in a dispute involving amounts over \$30,000 but under or close to \$60,000, it would be worthwhile waiting until the new jurisdiction comes in effect before filing a claim.

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