

# Contract and Commercial Law Act 2017 introduces minor changes that may require refreshing of contracts

7 September 2017

- 1 The Contract and Commercial Law Act 2017 ('**CCL**') came into force on 1 September 2017. It consolidates 11 contract and commercial law statutes into one—the CCL.
- 2 The CCL does not make any substantive changes to the law. Only minor amendments are made to update the language and usability of the acts involved. Although the changes to the law are minor, this is a good opportunity to do an overall review of your standard contracts to ensure they are up-to-date with current legislation and operate as you intend.

## What has changed?

### The CCL has consolidated 11 existing contract and commercial acts into one

- 3 The CCL has consolidated 11 existing acts by repealing them, and including their provisions into the CCL. The 11 repealed acts are:
  - Carriage of Goods Act 1979;
  - Contracts (Privity) Act 1982;
  - Contractual Mistakes Act 1977;
  - Contractual Remedies Act 1979;
  - Electronic Transactions Act 2002;
  - Frustrated Contracts Act 1944;
  - Illegal Contracts Act 1970;
  - Mercantile Law Act 1908 (other than Part 5);
  - Minors' Contracts Act 1969;
  - Sale of Goods Act 1908; and
  - Sale of Goods (United Nations Convention) Act 1994(together the '**Old Acts**').

### The CCL does not make substantive changes to the existing law, only minor amendments

- 4 The CCL does not make substantive changes to the existing law. The provisions in the Old Acts are largely transferred over to the CCL, and only minor amendments are made around:
  - modernising the language as most of the Old Acts contain out-of-date language; and
  - clarifying the intention of Parliament and reconciling inconsistencies between provisions.

## **The CCL affects contracts entered into before, and those entered into after, 1 September 2017**

5 The entirety of the CCL applies to all contracts entered into on or after 1 September 2017.

6 For agreements and deeds entered into before 1 September 2017:

- minor amendments made to the Old Acts in order to clarify Parliament's intent or reconcile inconsistencies will not apply (this list is provided in Schedule 2 of the CCL); but
- the rest of the CCL will apply (including the amendments made to modernise the language of the CCL).

### **What do I need to do in relation to these changes?**

7 Standard contracts referring to any of the Old Acts should be reviewed so that they now refer to the appropriate parts and subparts of the CCL.

8 It is also a good time to check that your contracts include a standard provision that addresses future legislative amendments. Such provision would state that any reference made in the contract to certain legislative provisions include any subsequent amendments made to those legislative provisions.

### **How do these changes affect the law regarding electronic transactions?**

9 The Electronic Transactions Act 2002 is one of the Old Acts. Sections 207 to 240 of the CCL now set out the New Zealand law regarding electronic transactions. The key principles have not changed but have been reconfirmed in the CCL.

10 Some key principles of New Zealand electronic transactions law are:

- Information is not denied legal effect because it is in electronic form or is an electronic communication
- A legal requirement that information be in writing is met by putting that information in electronic form
- A legal requirement to retain information can be met electronically if:
  - The electronic form provides a reliable means of assuring the maintenance of the integrity of the information
  - The information is readily accessible so as to be useable for subsequent use.

Please contact [Peter Fernando](#) if you have any questions regarding the changes brought by the CCL, or require review of your organisation's contracts.

*© 2017 KENSINGTON SWAN The contents of this newsletter are for general information purposes only, and should not be acted upon without specific advice. Kensington Swan does not accept any liability other than to its clients, and then only in relation to specific requests for advice.*