

New South Wales



ANNO VICESIMO QUINTO

ELIZABETHÆ II REGINÆ

Act No. 83, 1976.

An Act to amend the Consumer Claims Tribunals Act, 1974, so as to grant further jurisdiction to consumer claims tribunals, to provide for the appointment of part-time referees and to make further provision in relation to orders that may be made by the tribunals. [Assented to, 2nd December, 1976.]

BE

Consumer Claims Tribunals (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title. 1. This Act may be cited as the "Consumer Claims Tribunals (Amendment) Act, 1976".

Commencement. 2. (1) Except as provided in subsection (2), this Act shall commence on the date of assent to this Act.

(2) Schedule 1 (3) and section 3, in its application to that provision, shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Amendment of Act No. 16, 1974. 3. The Consumer Claims Tribunals Act, 1974, is amended in the manner set forth in Schedule 1.

Sec. 3.

SCHEDULE 1.**AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT, 1974.**

(1) Section 3, the matter relating to Part I—

Omit "ss. 1–4.", insert instead "ss. 1–4A."

SCHEDULE

Consumer Claims Tribunals (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT,
1974—*continued.*

(2) (a) Section 4 (1), definition of “claimant”—

Omit the definition, insert instead :—

“claimant” means a person who has referred his claim to a consumer claims tribunal in accordance with section 13 (1);

(b) Section 4 (1), definition of “consumer”—

(i) Omit “, not being a corporation”.

(ii) From paragraph (b), omit “persons;”, insert instead :—

persons,

but does not include a corporation other than—

(c) a corporation that is a body corporate constituted under the Strata Titles Act, 1973, by a proprietor or proprietors of lots within the meaning of that Act; and

(d) a corporation owning an interest in land and having a memorandum or articles of association conferring on owners of shares in the corporation the right to occupy certain parts of a building erected on the land,

all or the majority of which lots or parts, as the case may be, are intended to be occupied as dwellings;

SCHEDULE

Consumer Claims Tribunals (Amendment).

SCHEDULE 1—*continued.***AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT,
1974—*continued.*****(c) Section 4 (1), definition of “consumer claim”—**

Omit the definition, insert instead :—

“consumer claim” means—

(a) a claim by a person for—

(i) the payment of money;

(ii) the performance of work;
or

(iii) the payment of money
and the performance of
work; or

(b) a claim by a person for relief from
an obligation to pay money,

being, in the case of paragraph (a), a
claim or, in the case of paragraph (b),
an obligation arising out of a contract
for the supply of goods or the provision
of services or for the supply of goods
and the provision of services between
that person as a consumer and a person
who, in relation to those goods or ser-
vices, or those goods and services, is a
trader;

(d) Section 4 (1), definition of “respondent”—

Omit “trader”, insert instead “person”.

SCHEDULE

Consumer Claims Tribunals (Amendment).

SCHEDULE 1—*continued.*

**AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT,
1974—*continued.***

(e) Section 4 (1), definition of “services”—

Omit the definition, insert instead :—

“services” includes the rights and benefits that are or are to be supplied under—

(a) a contract for or involving—

- (i) the performance of work (including work of a professional nature);
- (ii) the provision of, or the use or enjoyment of, facilities for amusement, entertainment, recreation or instruction;
- (iii) the conferring of rights or privileges for which remuneration is payable in the form of a royalty, tribute, levy or similar exaction; or
- (iv) the provision of gas or electricity or other forms of energy; or

(b) a contract of insurance (excluding life assurance);

(f) Section 4 (3)—

After section 4 (2), insert :—

- (3) For the purpose of paragraphs (a) and (b) of the definition of “consumer”, a corporation referred to in paragraph (c) or (d) of that definition shall be deemed not to carry on a business.

SCHEDULE

*Consumer Claims Tribunals (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT,
1974—*continued.*

(3) Section 4A—

After section 4, insert :—

Act applies
to certain
claims by
lessees.

4A. (1) In this section, “lease” means a lease of any kind of dwelling other than a dwelling that is intended to be movable.

(2) A reference to this Act in subsection (3) is a reference to this Act excluding sections 18 (2), 23 (1) (b), (c), (d) and (d1), 24 and 38 (1) (a).

(3) This Act applies to and in respect of a claim by a person (other than a corporation) for the repayment of money held by or on behalf of another person to whom or in accordance with whose directions the money was paid by way of a bond or another form of security in connection with a contract of lease between the firstmentioned person as lessee and the secondmentioned person as lessor in the same way as it applies to and in respect of a consumer claim.

(4) (a) Section 6 (1A)—

After section 6 (1), insert :—

(1A) A referee appointed under subsection (1) may, by the instrument appointing him, be appointed as a part-time referee.

(b) Section 6 (2)—

After “referee”, insert “, other than a part-time referee,.”.

SCHEDULE

Consumer Claims Tribunals (Amendment).

SCHEDULE 1—*continued.*

**AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT,
1974—*continued.***

(c) Section 6 (2A)—

After “referee”, insert “, other than a part-time referee.”.

(d) Section 6 (2B)—

After section 6 (2A), insert :—

(2B) A part-time referee is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

(e) Section 6 (3)—

Omit “exceeding seven years”, insert instead :—
exceeding—

(a) seven years if he is not a part-time referee; or

(b) three years if he is a part-time referee,

(f) Section 6 (3A)—

After section 6 (3), insert :—

(3A) The Governor may, in the instrument of appointment of a referee, insert terms that negate or vary the effect of section 8 (2) in relation to the referee.

(g) Section 6 (4)—

Omit the subsection, insert instead :—

(4) This Act applies to and in respect of the re-appointment of a referee in the same way as it applies to an original appointment of a referee.

SCHEDULE

*Consumer Claims Tribunals (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT,
1974—*continued.*

(h) Section 6 (8)—

Omit “in respect of any such appointee as if he”,
insert instead :—

in respect of—

- (a) a referee other than a part-time referee; and
- (b) a part-time referee when he is acting in his office as referee,

as if they

(5) Section 7 (1) (b), (c)—

Omit “if” wherever occurring, insert instead “if he is not a part-time referee and”.

(6) Section 9—

After “referee” where firstly occurring, insert “, other than a part-time referee.”

(7) Section 18—

Omit the section, insert instead :—

No juris-
diction in
certain
cases.

18. (1) A consumer claims tribunal has jurisdiction in respect of a consumer claim arising from a contract whether the contract was made before or after the commencement of this Act.

SCHEDULE

Consumer Claims Tribunals (Amendment).

SCHEDULE 1—continued.

**AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT,
1974—continued.**

(2) Notwithstanding subsection (1), a consumer claims tribunal does not have jurisdiction in respect of any consumer claim if the contract from which it arose was made earlier than 2 years before the day on which the claim was referred to a tribunal.

(8) (a) Section 22 (2)—

Omit “, at the request of the claimant.”.

(b) Section 22 (2)—

After “section 23 that”, insert “, to the extent authorised by that section.”.

(9) (a) Section 23 (1) (d)—

Omit “or”.

(b) Section 23 (1) (d1)—

After section 23 (1) (d), insert :—

(d1) where the consumer claim in the proceeding is a claim for relief from an obligation to pay money not exceeding the prescribed amount—

(i) an order that money in an amount specified in the order is not due or owing by the claimant to a person so specified in respect of a contract described in the order; or

SCHEDULE

Consumer Claims Tribunals (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT,
1974—continued.**

(ii) an order that requires the claimant to pay money in an amount (not exceeding the prescribed amount) specified in the order to a person so specified; or

(c) Section 23 (4)—

After section 23 (3), insert :—

(4) In subsection (1) (d1), “prescribed amount” has the meaning ascribed thereto in section 26 (1).

(10) Section 30 (3)—

Omit the subsection, insert instead :—

(3) Subsection (2) does not prevent—

(a) an officer within the meaning of the Companies Act, 1961, of a corporation; or

(b) where a corporation that is a body corporate constituted under the Strata Titles Act, 1973, is a party to a proceeding before a consumer claims tribunal—the proprietor or, if there is more than one proprietor, one of the proprietors constituting that corporation,

from representing that corporation.
