

1992—No. 415

CONSUMER CLAIMS TRIBUNALS ACT 1987—REGULATION

(Relating to fees and other matters)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Consumer Claims Tribunals Act 1987, has been pleased to make the Regulation set forth hereunder.

(Mrs) KERRY CHIKAROVSKI,
Minister for Consumer Affairs.

Commencement

1. This Regulation commences on 1 August 1992.

Amendments

2. The Consumer Claims Tribunals Regulation 1988 is amended:

(a) by omitting clause 3 and by inserting instead the following clause:

Definitions

3. In this Regulation:

“authorised officer”:

(a) of the registry means the registrar or a member of the staff of the registry authorised by the registrar for the purposes of the provision in which the expression occurs;

(b) of a Local Court means the Clerk of the Local Court or a member of the staff of the court authorised by the Clerk for the purposes of the provision in which the expression occurs;

“officer” in relation to an unincorporated body, means:

- (a) a secretary or treasurer of the body; or
- (b) a member of the executive or management committee of the body who was duly elected at a general meeting of members of the body;

“the Act” means the Consumer Claims Tribunals Act 1987.

(b) by omitting clause 6 and by inserting instead the following clause:

Limit of amount of order

6. (1) For the purposes of section 32 of the Act, the prescribed amount is \$10,000.

(2) However, in relation to any consumer claim (other than a building claim) lodged before 1 August 1992 and not finally determined as at that date, the prescribed amount is \$6,000.

(c) by omitting clause 7 (1) (b) (i) and by inserting instead the following subparagraph:

- (i) if the claimant satisfies an authorised officer of the registry or Local Court at which the claim is lodged that the claimant is an eligible pensioner or eligible student—\$5:

(d) by omitting from clause 7 (1) (b) (ii) the matter “\$10” and by inserting instead the matter “\$40”;

(e) by omitting clause 8 and by inserting instead the following clause:

Waiver of fees

8. Payment of the prescribed fee for lodging a consumer claim may be waived by the registrar (or an authorised officer of the Local Court at which the claim is lodged) if the registrar (or authorised officer) is satisfied that:

- (a) the consumer is a person of small means; or
- (b) hardship would be caused to the consumer if required to pay that fee; or
- (c) for any other reason it would be unfair or unreasonable to require the consumer to pay that fee.

(f) by omitting clause 12 (1) and by inserting instead the following subclause:

(1) A party to a proceeding before a consumer claims tribunal who wishes to be represented at the hearing of the proceeding must apply for representation in accordance with this clause.

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(g) by inserting after clause 12 (2) the following subclause:

(3) The application must be lodged by or on behalf of the applicant either:

- (a) with the registrar (at least 7 days before the scheduled date of the hearing); or
- (b) with the presiding referee (at the hearing).

(h) by omitting clause 15 and by inserting instead the following clause

Fee for copy of record

15. (1) For the purposes of section 9 (2) (b) of the Act, the prescribed fee payable by a person for a copy of the official record, or any part or parts of that record, is:

- (a) if the person satisfies an authorised officer of the registry that he or she is an eligible pensioner or eligible student—\$5; or
- (b) in any other case—\$20.

(2) In this clause, “eligible pensioner” and “eligible student” have the same meanings as in clause 7 (2).

(i) by omitting clause 16 and by inserting instead the following clause:

Informant in contempt proceedings

16. For the purposes of section 38 (5) of the Act, the office of the Commissioner is a prescribed office.

(j) by omitting from Form 1 (in Schedule 1) under the heading “OFFICE USE ONLY” the matter “\$10/\$2” and by inserting instead the matter “\$40/\$5”.

EXPLANATORY NOTE

The object of this Regulation is to amend the Consumer Claims Tribunals Regulation 1988 so as:

- (a) to increase from \$6,000 to \$10,000 the limit on the Tribunal’s power to make orders in respect of claims other than building claims (in respect of which the limit is already \$10,000); and
- (b) to increase the fees for lodging a claim with the Tribunal (from \$2 or \$10 to \$5 or \$40 respectively) and for obtaining copies of the official record of a hearing (from 60 cents per page to a flat fee of \$20, or \$5 concession and

- (c) to permit an application for representation at a hearing to be made to the referee at the hearing (at present, applications have to be made to the registrar, before the hearing); and
- (d) to prescribe the Commissioner for Consumer Main (in place of the current list of Departmental officers) as the person who may act as an informant in proceedings for contempt of the Tribunal, or authorise other persons to do so.

The Regulation also makes amendments consequential on the amendments to the Consumer Claims Tribunals Act 1987 which allow the creation of branches of the registry of consumer claims tribunals.
