

[Act 1995 No 40]



New South Wales

# **Commercial Tribunal Legislation Amendment Bill 1995**

## **Explanatory note**

This explanatory note relates to this Bill as introduced into Parliament.

### **Overview of Bill**

The object of this Bill is to make a number of miscellaneous amendments to the *Commercial Tribunal Act 1984* and related Acts to revise the composition and the practice and procedure of the Commercial Tribunal.

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## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides that the provisions of the proposed Act are to commence on a day or days to be appointed by proclamation.

**Clauses 3–5** are formal provisions that give effect to the amendments of Acts set out in Schedules 1–3.

### **Amendment of the Commercial Tribunal Act 1984**

**Schedule 1** contains the amendments to the *Commercial Tribunal Act 1984*.

**Schedule 1 [1], [4] and [9]** make the appointment of a Deputy Registrar discretionary rather than obligatory.

**Schedule 1 [2], [10] and [14]** provide for the use of informative notes in the Principal Act and insert a note which lists the Acts under which the Commercial Tribunal exercises jurisdiction.

**Schedule 1 [3]** revises the criteria for the appointment of part-time members of the Commercial Tribunal so as to provide for the appointment of persons with knowledge or experience in respect of the relevant industry or consumer issues and to remove any implication that the persons are appointed to represent industry and consumer groups.

**Schedule 1 [5]–[8], [20] and [21]** make changes by way of statute law revision.

**Schedule 1 [11] and [18]** make it clear that the Chairman of the Commercial Tribunal determines the constitution of the Tribunal for hearings and that the Registrar arranges and determines the times and places at which the hearings are to be held.

**Schedule 1 [12] and [13]** allow the Chairman or Deputy Chairman of the Commercial Tribunal to deal with certain interlocutory and other proceedings when sitting alone.

**Schedule 1 [15]–[17]** enable the Commercial Tribunal to deal with 2 or more matters together that arise under the same Act as well as under different Acts.

**Schedule 1 [19]** enables the replacement of members of the Commercial Tribunal who vacate office or are unable to proceed and, with the consent of the parties, enables the Tribunal to proceed in such circumstances with 2 out of the 3 members of the Tribunal.

**Schedule 1 [22]** makes it clear that a summons to give evidence or produce documents at a hearing of the Commercial Tribunal may require one or the other of those things as well as both of those things.

**Schedule 1 [23]** and **[24]** make it clear that counsel and other persons assisting the Commercial Tribunal are appointed rather than employed by the Tribunal.

**Schedule 1 [25]** gives the Commercial Tribunal express power to dismiss proceedings for want of jurisdiction or want of prosecution.

**Schedule 1 [26]** and **[27]** increase from 14 to 28 days the period within which the Commercial Tribunal is required to give written reasons for its decision after an application for reasons has been lodged with it.

**Schedule 1 [28]–[31]** enact savings and transitional provisions.

#### **Amendment of the Credit (Administration) Act 1984**

**Schedule 2 [1]–[3]** contain the amendments to the *Credit (Administration) Act 1984*. The amendments ensure that the technical rules of evidence do not apply in certain proceedings relating to credit before the Commercial Tribunal.

**Schedule 2 [4]** is consequential on the amendments made by Schedule 1 [23] and [24].

#### **Amendment of the Building Services Corporation Act 1989**

**Schedule 3** contains an amendment to the *Building Services Corporation Act 1989*. The amendment enables the Commercial Tribunal to extend by up to 30 days the period within which appeals to the Tribunal under that Act may be lodged.