



New South Wales

# Consumer, Trader and Tenancy Tribunal Bill 2001

## Explanatory note

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

### Overview of Bill

The object of this Bill is to establish a Consumer, Trader and Tenancy Tribunal that replaces the existing Fair Trading Tribunal and Residential Tribunal. The combined jurisdiction of the replaced Tribunals is to be conferred on the Consumer, Trader and Tenancy Tribunal.

The new Tribunal will essentially have the same structure and procedures as the Tribunals that it replaces, but with some modifications and improvements. In particular, the Bill contains a number of new provisions designed to enhance the quality and consistency of the Tribunal's decision-making (eg Tribunal members will be required to enter into performance agreements and to comply with a code of conduct and with the procedural directions of the Tribunal's Chairperson). The Bill also provides a mechanism for reviewing members' performances.

## Outline of provisions

### **Part 1 Preliminary**

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

**Clause 2** provides for the commencement of the proposed Act.

**Clause 3** specifies the objects of the proposed Act.

**Clause 4** defines certain words and expressions used in the proposed Act.

### **Part 2 Establishment of Tribunal**

#### **Division 1 Establishment and membership**

**Clause 5** establishes the Consumer, Trader and Tenancy Tribunal and provides that it may exercise the functions that are conferred or imposed in it.

**Clause 6** provides that the Tribunal is to be constituted by a Chairperson, 2 Deputy Chairpersons, senior members and other members. One of the Deputy Chairpersons will be a public servant who is not to hear and determine matters but who is responsible for the financial management of the Tribunal.

**Clause 7** provides for the appointment of the members of the Tribunal by the Governor. A member may be appointed on a full-time or part-time basis.

**Clause 8** provides for the qualifications of the members.

**Clause 9** gives effect to Schedule 3 to the proposed Act which contains provisions relating to performance management and review. Under those provisions, each member (other than the non-sitting Deputy Chairperson) will be required to enter into a performance agreement and to comply with a code of conduct. Those provisions also establish a Peer Review Panel to review certain matters relating to the members.

## **Division 2      Organisation and functions**

**Clause 10** enables the Tribunal to exercise its functions in specialist Divisions as specified in Schedule 1 to the proposed Act and also provides for simultaneous sittings of the Tribunal and its Divisions.

**Clause 11** provides that, for purposes of any proceedings, the Tribunal may be constituted by up to 3 members. The proposed section also enables the Chairperson to determine the constitution of the Tribunal for the purposes of different classes of matters before it.

**Clause 12** specifies the functions of the Chairperson who is responsible for the effective and efficient operation of the Tribunal and the management of its work. The Chairperson also has the specific function of giving procedural directions to the members of the Tribunal (ie directions relating to the practice and procedure to be followed in, and to the actual conduct of, Tribunal proceedings). The Chairperson may also give directions in connection with a range of matters concerning the business of the Tribunal.

**Clause 13** provides for the functions of the Deputy Chairperson (Registry and Administration) who is a non-sitting member of the Tribunal responsible for the effective, efficient and equitable management of the staff and resources of the Tribunal. The Deputy Chairperson will also have the same functions of the Registrar of the Tribunal.

**Clause 14** provides that members of the Tribunal generally have the functions assigned to them under the proposed Act. The proposed section makes it clear that the members must comply with any procedural directions given by the Chairperson.

## **Division 3      Assessors**

**Clause 15** provides for the appointment of assessors with specialist knowledge in any of the areas over which the Tribunal exercises jurisdiction.

**Clause 16** provides for assessors to make inquiries into, and report on, matters connected with pending proceedings in the Tribunal.

**Clause 17** enables assessors to provide other advice and assistance to the Tribunal.

**Clause 18** provides that any costs payable to an assessor who assists the Tribunal in proceedings are to be paid by the Tribunal unless the regulations provide for such costs to be paid by the parties in the proceedings.

## **Division 4      Registrar and staff**

**Clause 19** provides for the employment (under Part 2 of the *Public Sector Management Act 1988*) of a Registrar, Deputy Registrars and staff to assist the Tribunal in the exercise of its functions.

**Clause 20** describes the functions of the Registrar and Deputy Registrars. The Registrar, in particular, is responsible for assisting in managing the business and affairs of the Tribunal.

## **Part 3    Jurisdiction of Tribunal**

**Clause 21** states the general jurisdiction of the Tribunal.

**Clause 22** provides for determining the proper forum when a court or another tribunal has concurrent jurisdiction with the Tribunal in a particular matter. A person bringing a claim or seeking to have the Tribunal review the decision of any person or body may generally choose whichever forum the person prefers (the proper forum being determined by where the proceedings are first commenced).

**Clause 23** provides for the transfer of proceedings from the Tribunal to a court that has jurisdiction in the matter or from a court to the Tribunal so long as it has jurisdiction.

## **Part 4    Procedure of Tribunal**

**Clause 24** deals with the general procedure for bringing matters before the Tribunal and for notice to be given of applications.

**Clause 25** for notice of the hearing of a matter to be given to the parties in the proceedings.

**Clause 26** provides for the conduct of certain proceedings, including the service of notices, in relation to parties with a joint liability.

**Clause 27** determines the presiding member in proceedings when the Tribunal is constituted by 2 or 3 members.

**Clause 28** describes the general features of Tribunal proceedings. The Tribunal is not bound by the rules of evidence and is to conduct its business with minimum formality. It has a duty to assist the understanding of the parties in the proceedings

as to the significance of any aspect of the proceedings and to deal with matters as quickly as practicable. The proposed section confers various powers on the Tribunal in connection with its proceedings.

**Clause 29** enables a member to give procedural directions in relation to particular proceedings. Any such directions are subject to the general procedural directions that the Chairperson is required to give.

**Clause 30** enables the Tribunal to take certain action in relation to proceedings in which a party is being unreasonably disadvantaged by the conduct of another party.

**Clause 31** allows the Tribunal to request a report or other assistance from any other person or body in relation to any proceedings.

**Clause 32** enables the Tribunal to allow errors or omissions in pleadings or other documents filed in connection with proceedings to be corrected and to cure irregularities in connection with the commencement or conduct of proceedings.

**Clause 33** provides that Tribunal hearings are generally to be in public, but confers discretion on the Tribunal to order a private or partly private hearing and empowers it to make orders for the suppression of names and facts involved in the proceedings.

**Clause 34** enables the Tribunal in certain cases to dispense with a hearing of any matter and to decide the matter by a review of documentary evidence.

**Clause 35** requires the Tribunal to ensure that the parties in proceedings have a reasonable opportunity to present their cases and to make submissions to the Tribunal.

**Clause 36** deals with representation of parties. The general rule is that the parties in proceedings must present their own cases, but in some cases the Tribunal may make an order permitting a party to be represented by someone else. The Tribunal may also appoint a person to represent a party who belongs to a special class of person as specified in the proposed section (eg an incapacitated person).

**Clause 37** provides for the use of interpreters to assist the Tribunal.

**Clause 38** allows the Tribunal to take evidence by telephone, audio visual link or any other means of communication.

**Clause 39** allows the Tribunal to call evidence of its own motion, to administer oaths and examine and summon witnesses.

**Clause 40** empowers the Registrar to issue summonses to compel the attendance of witnesses or the production of documentary or other evidence.

**Clause 41** allows the apprehension by warrant of witnesses who fail to obey a summons.

**Clause 42** specifies what constitutes contempt of the Tribunal.

**Clause 43** provides for the enforcement of certain orders of the Tribunal by enabling the Tribunal to allow a person in whose favour an order is made to renew proceedings if the order is not complied with.

**Clause 44** provides legal practitioners and other persons appearing or testifying before the Tribunal with the same protections and immunities as when they appear or testify before the Supreme Court.

**Clause 45** determines the decision of the Tribunal, when constituted by more than one member, on a matter where opinion is divided.

**Clause 46** allows the Tribunal to reserve its decision in relation to any proceedings.

**Clause 47** confers a general power on the Tribunal, in making any order it is otherwise empowered to make, to attach conditions to the order.

**Clause 48** allows the Tribunal to give effect to agreements between the parties for the settlement of proceedings.

**Clause 49** requires the Tribunal to give notice of its decision in a matter to the parties in the proceedings and also to give its reasons for its decision if requested to do so by either party.

**Clause 50** enables the Tribunal to correct any error discovered in the text of a notice of its decision or statement of its reasons.

**Clause 51** provides that an order made by the Tribunal for the payment of money is, when its particulars are certified by the Registrar and the certificate filed with a court of competent jurisdiction, enforceable as a judgment of that court.

**Clause 52** creates an offence of wilfully contravening or failing to comply with an order of the Tribunal.

**Clause 53** makes provision in relation to costs.

## **Part 5 Alternative dispute resolution**

### **Division 1 Conciliation and preliminary measures**

**Clause 54** imposes a duty on the Tribunal to attempt to bring the parties to a dispute to a settlement without the need for further proceedings.

**Clause 55** provides for the holding of preliminary conferences between the parties before the hearing of a matter before the Tribunal as a means of attempting to achieve early settlement.

### **Division 2 Mediation and neutral evaluation**

**Clause 56** defines certain expressions for the purposes of the proposed Division.

**Clause 57** specifies the difference between *mediation* and *neutral evaluation*. In a mediation, the mediator presides over a negotiation process in which the parties are encouraged to come to a resolution of their dispute. In a neutral evaluation, the evaluator attempts to simplify the issues, isolate the relevant principles that will determine the outcome of the dispute and evaluate each party's probability of success.

**Clause 58** provides for the appointment of the persons who will conduct mediation sessions and neutral evaluation sessions.

**Clause 59** allows the Tribunal to refer matters for mediation or neutral evaluation.

**Clause 60** provides that the costs of mediation or neutral evaluation are to be borne by the Tribunal except to the extent provided by the regulations.

**Clause 61** allows the Tribunal to make orders giving effect to any compromise arrived at in a mediation or neutral evaluation of a dispute.

**Clause 62** extends to mediation sessions and neutral evaluations the same privilege with regard to defamation as exists in relation to legal proceedings.

**Clause 63** restricts the disclosure, by a mediator or neutral evaluator, of information obtained in a mediation session or neutral evaluation.

**Clause 64** provides that the proposed Division does not prevent the relevant parties from seeking other means of resolving their dispute.

## Part 6 Appeals and rehearings

**Clause 65** provides that there is no appeal from the Tribunal by proceedings in the nature of the prerogative writs or by proceedings in equity except to the extent that the Tribunal's jurisdiction is disputed.

**Clause 66** provides a right of appeal to the Supreme Court on a matter of law in certain cases.

**Clause 67** allows the Tribunal to refer any matter of law to the Supreme Court for determination.

**Clause 68** provides for the rehearing of completed proceedings in certain cases where the Chairperson is satisfied that a substantial injustice has been suffered by the party applying for the rehearing. If significant new evidence is being relied on, the applicant must establish or provide the new evidence in support of the application. The Chairperson's decision to grant or refuse an application for a rehearing is an administrative decision that is not part of the Tribunal's proceedings in any way. The rehearing of a matter does not give rise to any further rehearing.

**Clause 69** provides that an appeal or application for a rehearing does not stay the decision against which the appeal or application is brought unless the Chairperson or the Supreme Court hearing the appeal or determining the application otherwise orders.

## Part 7 Miscellaneous

**Clause 70** applies certain provisions of the *Evidence Act 1995* to the Tribunal in connection with the production of documents.

**Clause 71** makes it an offence for a person, in Tribunal proceedings or in any application under the proposed Act, to provide any information or to make any statement that is false or misleading.

**Clause 72** requires the Tribunal to provide information in certain circumstances.

**Clause 73** makes it an offence for a person to disclose information obtained in exercising a function under the proposed Act.

**Clause 74** provides that the proposed Act is to bind the Crown.

**Clause 75** provides for a seal of the Tribunal, of which judicial notice may be taken.



**Clause 76** provides for the authentication of documents of the Tribunal (otherwise than by its seal) by signature of any member or the Registrar.

**Clause 77** provides that proof is not required in legal proceedings of certain matters relating to the Tribunal.

**Clause 78** provides for the giving of notices and lodgment of documents for the purposes of the proposed Act.

**Clause 79** provides for the return of documents used in evidence before the Tribunal.

**Clause 80** provides for the payment of allowances and expenses to witnesses who are required to appear before the Tribunal.

**Clause 81** enables the Tribunal to extend the period of time for the doing of anything under any Act in respect of which the Tribunal has jurisdiction.

**Clause 82** provides that proceedings for an offence under the proposed Act or the regulations are to be taken before a Local Court.

**Clause 83** protects Tribunal members and registry officers from being liable for acts and omissions in exercising their functions.

**Clause 84** provides for an annual report to be submitted to Parliament concerning the work and activities of the Tribunal.

**Clause 85** allows the Chairperson to report to the Minister or to the Director-General of the Department of Fair Trading concerning matters arising under the administration of the proposed Act or affecting the jurisdiction of the Tribunal or that the Chairperson considers to be in the public interest.

**Clause 86** enables regulations to be made under the proposed Act.

**Clause 87** provides for the form of documents to be used for the purposes of the proposed Act.

**Clause 88** repeals the *Fair Trading Tribunal Act 1998*, the *Residential Tribunal Act 1998* and the regulations under those Acts.

**Clause 89** gives effect to the Schedule containing savings, transitional and other provisions.

**Clause 90** gives effect to the Schedule containing consequential amendments to Acts.

**Clause 91** requires a review of the proposed Act to be undertaken after 3 years.

## **Schedules**

**Schedule 1** specifies the Divisions of the Tribunal and the jurisdiction of the Tribunal that is to be exercised in those Divisions.

**Schedule 2** contains additional provisions relating to Tribunal members.

**Schedule 3** contains provisions concerning performance management and review in relation to Tribunal members.

**Schedule 4** contains additional provisions relating to assessors of the Tribunal.

**Schedule 5** contains additional provisions relating to mediators and neutral evaluators.

**Schedule 6** contains savings, transitional and other provisions. Provision is made for the Chairpersons of the existing Fair Trading and Residential Tribunals to cease holding office on the date of assent to the proposed Act. Provision is also made for the phasing-out of, and the eventual abolition of, those Tribunals.

**Schedule 7** contains consequential amendments to certain Acts.



New South Wales

# Consumer, Trader and Tenancy Tribunal Bill 2001

## Contents

	Page
<b>Part 1 Preliminary</b>	
1 Name of Act	2
2 Commencement	2
3 Objects of Act	2
4 Definitions	2
<b>Part 2 Establishment of Tribunal</b>	
<b>Division 1 Establishment and membership</b>	
5 Establishment of Consumer, Trader and Tenancy Tribunal	4
6 Membership of Tribunal	4
7 Appointment of members	5
8 Qualifications of members	5
9 Performance management and review	5

---

	Page
<b>Division 2      Organisation and functions</b>	
10 Divisions and sittings of Tribunal	5
11 Constitution of Tribunal for particular proceedings	5
12 Functions of Chairperson	6
13 Deputy Chairperson (Registry and Administration)	7
14 Functions of other Tribunal members	7
<b>Division 3      Assessors</b>	
15 Appointment of assessors	8
16 Inquiries by assessors	8
17 Assessors sitting with Tribunal	8
18 Costs of assessors	9
<b>Division 4      Registrar and staff</b>	
19 Registrar and staff	9
20 Functions of Registrar and Deputy Registrars	9
<b>Part 3      Jurisdiction of Tribunal</b>	
21 General statement of jurisdiction	11
22 Other jurisdictions excluded in certain cases	11
23 Transfer of proceedings to courts or to other tribunals	12
<b>Part 4      Procedure of Tribunal</b>	
24 Application to Tribunal	13
25 Notice of proceedings	13
26 Parties to proceedings (joint liability)	14
27 Presiding member	14
28 Procedure of Tribunal generally	15
29 Procedural directions by members	16
30 Proceedings causing disadvantage	17
31 Assistance to Tribunal	17
32 Amendments and irregularities	17
33 Proceedings on hearing to be conducted in public	18
34 Circumstances in which hearing may be dispensed with	18
35 Opportunity for parties to present case	19
36 Representation of parties	19
37 Interpreters	20
38 Oral evidence by telephone etc	21
39 Powers in relation to witnesses	21
40 Issue of summons	22

---

Contents

---

	Page
41 Witness may be apprehended	22
42 Contempt of Tribunal	23
43 Enforcement of certain Tribunal orders	24
44 Protection of practising legal practitioners, witnesses and others	25
45 Tribunal divided in opinion	25
46 Tribunal may reserve decision	25
47 Power to impose conditions	26
48 Powers when proceedings settled	26
49 Notice of decisions and reasons	26
50 Power to correct decisions of Tribunal	27
51 Recovery of amounts ordered to be paid (other than penalties)	27
52 Compliance with order of Tribunal	28
53 Costs	28
 <b>Part 5 Alternative dispute resolution</b>	
 <b>Division 1 Conciliation and preliminary measures</b>	
54 Tribunal to promote conciliation	29
55 Preliminary conferences	29
 <b>Division 2 Mediation and neutral evaluation</b>	
56 Definitions	30
57 Meaning of “mediation” and “neutral evaluation”	30
58 Appointment of mediators and neutral evaluators	30
59 Referral by Tribunal	31
60 Costs of mediation and neutral evaluation	31
61 Agreements and arrangements arising from mediation or neutral evaluation sessions	31
62 Privilege	32
63 Secrecy	33
64 Other measures not precluded	33
 <b>Part 6 Appeals and rehearings</b>	
65 Review by prerogative writ etc generally excluded	34
66 Referral of questions of law to Supreme Court	34
67 Appeal against decision of Tribunal with respect to matter of law	35
68 Rehearings by Tribunal	36
69 Original decision to operate unless otherwise ordered	38

---

	Page
<b>Part 7</b>	
<b>Miscellaneous</b>	
70 Privileged documents	39
71 False or misleading statements	39
72 Provision of information by Tribunal	39
73 Improper disclosure of information	40
74 Act to bind Crown	40
75 Seal of Tribunal	40
76 Authentication of documents	40
77 Proof of certain matters not required	41
78 Notices, service and lodgment of documents	41
79 Return of documents after proceedings concluded	42
80 Allowances and expenses of witnesses	42
81 Extensions of time	42
82 Proceedings for offences	43
83 Protection from personal liability	43
84 Annual report	43
85 Chairperson may furnish reports	43
86 Regulations	43
87 Forms	44
88 Repeal of legislation	45
89 Savings, transitional and other provisions	45
90 Amendment of Acts	45
91 Review of Act	45
<b>Schedules</b>	
1 Divisions of the Tribunal	46
2 Provisions relating to members	48
3 Performance management and review	55
4 Provisions relating to assessors	57
5 Provisions relating to mediators and neutral evaluators	59
6 Savings, transitional and other provisions	61
7 Amendment of Acts	65



New South Wales

# Consumer, Trader and Tenancy Tribunal Bill 2001

No , 2001

---

## A Bill for

An Act to establish the Consumer, Trader and Tenancy Tribunal to adjudicate certain consumer and commercial disputes and disputes between landlords and tenants; to repeal the *Fair Trading Tribunal Act 1998* and the *Residential Tribunal Act 1998* and to amend certain other Acts consequentially; and for other purposes.

---

**The Legislature of New South Wales enacts:** 1

## **Part 1 Preliminary** 2

### **1 Name of Act** 3

This Act is the *Consumer, Trader and Tenancy Tribunal Act 2001*. 4

### **2 Commencement** 5

(1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2). 6 7

(2) Clause 4 of Schedule 6, and section 89 in its application to that clause, commence on the date of assent. 8 9

### **3 Objects of Act** 10

The objects of this Act are as follows: 11

(a) to establish a Consumer, Trader and Tenancy Tribunal to determine disputes in relation to matters over which it has jurisdiction, 12 13 14

(b) to ensure that the Tribunal is accessible, its proceedings are efficient and effective and its decisions are fair, 15 16

(c) to enable proceedings to be determined in an informal, expeditious and inexpensive manner, 17 18

(d) to ensure the quality and consistency of the Tribunal's decision-making. 19 20

### **4 Definitions** 21

(1) In this Act: 22

*assessor* means an assessor appointed under this Act. 23

*Chairperson* means the Chairperson of the Tribunal. 24

*Deputy Chairperson (Registry and Administration)* means the member referred to in section 6 (1) (b). 25 26

*Deputy Chairperson (Determinations)* means the member referred to in section 6 (1) (c). 27 28

*Director-General* means the Director-General of the Department of Fair Trading. 29 30



---

<b><i>Division</i></b> of the Tribunal means a Division of the Tribunal specified in Schedule 1.	1 2
<b><i>exercise</i></b> a function includes perform a duty.	3
<b><i>function</i></b> includes a power, authority or duty.	4
<b><i>legal practitioner</i></b> means a barrister, or solicitor, within the meaning of the <i>Legal Profession Act 1987</i> .	5 6
<b><i>member</i></b> means member of the Tribunal.	7
<b><i>procedural directions</i></b> means directions relating to the practice and procedures to be followed in, and to the actual conduct of, proceedings.	8 9 10
<b><i>proceedings</i></b> means proceedings in or before the Tribunal.	11
<b><i>Registrar</i></b> means the Registrar of the Tribunal.	12
<b><i>Tribunal</i></b> means the Consumer, Trader and Tenancy Tribunal of New South Wales established by this Act.	13 14
(2) Notes included in the text of this Act do not form part of this Act.	15

Clause 5 Consumer, Trader and Tenancy Tribunal Bill 2001

Part 2 Establishment of Tribunal

Division 1 Establishment and membership

---

## Part 2 Establishment of Tribunal

1

### Division 1 Establishment and membership

2

#### 5 Establishment of Consumer, Trader and Tenancy Tribunal

3

- (1) A Consumer, Trader and Tenancy Tribunal of New South Wales is established by this Act. 4  
5
- (2) The Tribunal has and may exercise such functions as are conferred or imposed on it by or under any Act. 6  
7

**Note.** The following Acts confer jurisdiction on the Tribunal: 8

*Community Land Management Act 1989* 9

*Consumer Claims Act 1998* 10

*Consumer Credit Administration Act 1995* 11

*Consumer Credit (New South Wales) Act 1995* 12

*Credit Act 1984* 13

*Credit (Finance Brokers) Act 1984* 14

*Credit (Home Finance Contracts) Act 1984* 15

*Fair Trading Act 1987* 16

*Home Building Act 1989* 17

*Motor Dealers Act 1974* 18

*Motor Vehicle Repairs Act 1980* 19

*Residential Parks Act 1998* 20

*Residential Tenancies Act 1987* 21

*Retirement Villages Act 1999* 22

*Strata Schemes Management Act 1996* 23

*Travel Agents Act 1986* 24

#### 6 Membership of Tribunal

25

- (1) The Tribunal consists of the following members: 26
  - (a) the Chairperson, 27
  - (b) the Deputy Chairperson (Registry and Administration), 28
  - (c) the Deputy Chairperson (Determinations), 29
  - (d) senior members, 30
  - (e) other members. 31
- (2) Schedule 2 has effect with respect to the members. 32

<b>7</b>	<b>Appointment of members</b>	1
(1)	The members are to be appointed by the Governor under this section.	2
(2)	A member appointed under this section may be appointed on a full-time basis or a part-time basis.	3 4
(3)	This section does not apply to the Deputy Chairperson (Registry and Administration).	5 6
<b>8</b>	<b>Qualifications of members</b>	7
(1)	A person is eligible to be appointed as the Chairperson if the person is a legal practitioner or is qualified to be admitted as a legal practitioner.	8 9
(2)	A person is eligible to be appointed as a member (including the Chairperson) under section 7 if the person has such qualifications or skills as may be determined by the Minister.	10 11 12
<b>9</b>	<b>Performance management and review</b>	13
	Schedule 3 has effect.	14
<b>Division 2</b>	<b>Organisation and functions</b>	15
<b>10</b>	<b>Divisions and sittings of Tribunal</b>	16
(1)	The Tribunal comprises the Divisions specified in clause 1 of Schedule 1 and is to exercise its functions in accordance with that Schedule.	17 18
(2)	The regulations may amend clause 1 of Schedule 1.	19
(3)	More than one sitting of the Tribunal, or of any Division, may be held at the same time.	20 21
<b>11</b>	<b>Constitution of Tribunal for particular proceedings</b>	22
(1)	For the purposes of any proceedings, the Tribunal may be constituted by 1, 2 or 3 of its members.	23 24
(2)	The Chairperson may give directions as to which member or members are to constitute the Tribunal for the purposes of any particular proceedings or class of proceedings.	25 26 27

- (3) In giving a direction as to the member or members who are to constitute the Tribunal for the purposes of any particular proceedings, the Chairperson is to have due regard to the degree of public importance or complexity of the matters to which the proceedings relate. 1  
2  
3  
4  
5
- (4) A direction under this section in respect of particular proceedings may be revoked, and another given in its place: 6  
7
- (a) at any time after the giving of the direction and before the commencement of the hearing of the proceedings, or 8  
9
- (b) if the member constituting the Tribunal (or, in the case of proceedings where it is constituted by 2 or more members, one of those members) during the hearing of the proceedings, or after the completion of the hearing but before the matter to which the proceedings relate is determined: 10  
11  
12  
13  
14
- (i) ceases to be a member, or 15
- (ii) ceases to be available for the purposes of the proceedings, 16  
17
- at any time after the member ceases to be a member or to be available. 18  
19
- (5) The Tribunal, if reconstituted in accordance with subsection (4) (b), may, for the purposes of the proceedings, have regard to any record of the proceedings of the Tribunal as previously constituted, including a record of any evidence taken in the proceedings. 20  
21  
22  
23
- 12 Functions of Chairperson** 24
- (1) The Chairperson is responsible for the following: 25
- (a) the effective and efficient operation of the Tribunal generally, 26
- (b) the effective and efficient management of the Tribunal's work. 27
- (2) In particular, the Chairperson has the following functions: 28
- (a) to direct and monitor the procedural operations of the Tribunal to ensure that those operations are fair, economical, informal and as speedy as practicable, 29  
30  
31
- (b) to allocate the work of the Tribunal among the members, 32
- (c) to give procedural directions to the members, 33
- (d) to review those directions on a regular basis. 34

- 
- |  |    |
|--|----|
| (3) The procedural directions given by the Chairperson must:   | 1  |
| (a) be made publicly available, and  | 2  |
| (b) be consistent with this Act and the regulations.   | 3  |
| (4) The Chairperson may also give directions in relation to the following:   | 4  |
| (a) the practice and procedure to be followed in alternative dispute resolution procedures under this Act,   | 5  |
|  | 6  |
| (b) the places at which the Tribunal may sit,  | 7  |
| (c) any matter in respect of which the Chairperson is authorised by this or any other Act or the regulations to give directions,   | 8  |
|  | 9  |
| (d) subject to this or any other Act and the regulations—any matter necessary or convenient to be determined by direction of the Chairperson for carrying out or giving effect to this Act.                            | 10 |
|  | 11 |
|  | 12 |
| (5) Subject to the regulations, the functions of the Chairperson (other than a power of delegation under this section) may be delegated to any member or to the Registrar or another member of the staff the Tribunal. | 13 |
|  | 14 |
|  | 15 |
|  | 16 |
| <b>Note.</b> Section 49 of the <i>Interpretation Act 1987</i> contains general provisions relating to the delegation of functions.   | 17 |
|  | 18 |
| <b>13 Deputy Chairperson (Registry and Administration)</b>   | 19 |
| (1) The Deputy Chairperson (Registry and Administration) of the Tribunal is to be employed under Part 2 of the <i>Public Sector Management Act 1988</i> .  | 20 |
|  | 21 |
|  | 22 |
| (2) The Deputy Chairperson (Registry and Administration) is responsible to the Director-General for the effective, efficient and equitable management of the staff and resources of the Tribunal.                      | 23 |
|  | 24 |
|  | 25 |
| (3) The Deputy Chairperson (Registry and Administration) is not a sitting member and does not have the function of hearing or determining matters that are the subject of any proceedings.                             | 26 |
|  | 27 |
|  | 28 |
| (4) The Deputy Chairperson (Registry and Administration) has and may exercise the functions of the Registrar.  | 29 |
|  | 30 |
| <b>14 Functions of other Tribunal members</b>  | 31 |
| (1) A member has and may exercise the functions conferred or imposed on the member by or under this or any other Act.  | 32 |
|  | 33 |
-

- |   |   |
|---|---|
| (2) Each member must comply with any procedural directions given by the | 1 |
| Chairperson.  | 2 |

**Division 3 Assessors** 3

## 15 Appointment of assessors 4

- |  |             |
|--|-------------|
| (1) The Chairperson may appoint any person whose name is on the list compiled under Schedule 4 as an assessor for the purpose of particular proceedings. | 5<br>6<br>7 |
| (2) An assessor has the functions conferred or imposed on an assessor by or under any Act.   | 8<br>9      |
| (3) Schedule 4 applies to and in respect of an assessor appointed under this section.  | 10<br>11    |

<b>16</b>	<b>Inquiries by assessors</b>	12
-----------	-------------------------------	----

- |     |   |                      |
|-----|---|----------------------|
| (1) | If proceedings are pending, the Tribunal or the Chairperson may, with the consent of the parties to whom the proceedings relate, direct that an inquiry into any issue raised in, or other matter connected with, the proceedings be made by a single assessor. | 13<br>14<br>15<br>16 |
| (2) | The assessor making such an inquiry is to make a report to the Tribunal.  | 17<br>18             |
| (3) | If a report is made to the Tribunal under this section, the Registrar is to furnish a copy of the report to each of the parties concerned as soon as is practicable.  | 19<br>20<br>21       |
| (4) | The Tribunal may adopt any findings or observations set out in a report under this section.   | 22<br>23             |
| (5) | An assessor, in making an inquiry under this section, has and may exercise such functions as the regulations may prescribe.   | 24<br>25             |
| (6) | An assessor who has made an inquiry under this section in relation to any proceedings is disqualified from further participation in those proceedings unless the parties otherwise agree.   | 26<br>27<br>28       |

## 17 Assessors sitting with Tribunal 29

- (1) The Tribunal may, in determining any proceedings or part of any proceedings, be assisted by one or more assessors.

- (2) An assessor assisting the Tribunal under this section may assist and advise the Tribunal, but is not to adjudicate on any matter that is the subject of the proceedings. 1  
2  
3
- (3) The Tribunal may dispense with the services of an assessor at any stage of the proceedings concerned. 4  
5

#### **18 Costs of assessors** 6

- (1) Any costs payable to an assessor who has assisted the Tribunal in proceedings are payable by the Tribunal, except to the extent that regulations provide that the parties in the proceedings are to pay such costs. 7  
8  
9  
10
- (2) The regulations made for the purposes of this section may provide that the parties are to pay such costs: 11  
12
  - (a) in the proportions that they may agree among themselves or, failing agreement, in the manner ordered by the Tribunal, or 13  
14
  - (b) in any other manner prescribed by the regulations. 15

### **Division 4 Registrar and staff** 16

#### **19 Registrar and staff** 17

- (1) A Registrar of the Tribunal, and such Deputy Registrars and other staff as may be necessary for the purposes of this Act, may be employed under Part 2 of the *Public Sector Management Act 1988*. 18  
19  
20
- (2) The Chairperson may enter into arrangements with any government agency or other body or person (whether in the public or private sector) for the provision of assistance to the Tribunal in connection with the exercise of its functions. 21  
22  
23  
24

#### **20 Functions of Registrar and Deputy Registrars** 25

- (1) The Registrar has the following functions: 26
  - (a) to assist in managing the business and the affairs of the Tribunal, 27  
28
  - (b) such administrative or other functions as may be conferred or imposed on the Registrar by or under any Act. 29  
30

- (2) A Deputy Registrar may exercise the functions of the Registrar: 1
  - (a) as directed by the Registrar, and 2
  - (b) during the absence of, or a vacancy in the office of, the 3Registrar. 4
- (3) Anything done or omitted to be done by a Deputy Registrar in 5exercising a function of the Registrar has effect as if it had been done 6or omitted to be done by the Registrar. 7



## Part 3 Jurisdiction of Tribunal

### 21 General statement of jurisdiction

- (1) The Tribunal has such jurisdiction to decide matters, and such powers to make orders and otherwise exercise any function in connection with any such decisions, as is conferred on it by this or any other Act.
- (2) Except as provided by this or any other any Act, the Tribunal has jurisdiction in respect of matters arising before or after the commencement of section 5.

### 22 Other jurisdictions excluded in certain cases

- (1) For the purposes of this section, **court** means any court, tribunal, board or other body or person (other than one referred to in subsection (2)) that:
  - (a) is empowered under any other Act, or
  - (b) by consent of or agreement between 2 or more persons has authority,
 to decide or resolve any issue that is in dispute, whether through arbitration or conciliation or any other means.
- (2) However, **court** does not, for the purposes of this section, include:
  - (a) a court, tribunal, board or other body or person that, in relation to a particular matter, is empowered by law to impose a penalty, admonition or other sanction for a contravention of a law or for misconduct or breach of discipline proved to have been committed in connection with that matter but is not empowered to award or order compensation or damages in respect of that matter, or
  - (b) a court, tribunal, board or other body or person prescribed, or of a class prescribed, by the regulations for the purposes of this section.
- (3) If, at the time when an application was made to the Tribunal in accordance with this Act, no issue arising under the application was the subject of a dispute in proceedings pending before a court, a court has no jurisdiction to hear or determine such an issue.
- (4) Subsection (3) ceases to apply to the extent to which the application concerned is dismissed for want of jurisdiction or withdrawn.

- (5) Subsection (3) does not prevent a court from hearing and determining any proceedings in which it is claimed that any order, determination or ruling of the Tribunal is invalid for want of jurisdiction or from making any order as a consequence of that finding. 1  
2  
3  
4
- (6) For the purposes of subsection (3), an issue arises under an application made to the Tribunal only if the existence of the issue is shown in the applicant's claim or is recorded in the record made by the Tribunal in accordance with this Act. 5  
6  
7  
8
- (7) If, at the time when an application is made to the Tribunal in accordance with this Act, an issue arising under the application was the subject of a dispute in proceedings pending before a court, the Tribunal, on becoming aware of those proceedings, ceases to have jurisdiction to hear or determine the issue. 9  
10  
11  
12  
13
- (8) Subsection (7) ceases to apply to the extent to which the proceedings concerned are dismissed or quashed by the court, or by another court, for want of jurisdiction or without deciding the issue on its merits, or withdrawn. 14  
15  
16  
17
- (9) At a hearing of an application by the Tribunal, a finding or decision made by a court, tribunal, board, body or person referred to in subsection (2) is admissible as evidence of the finding or decision. 18  
19  
20
- 23 Transfer of proceedings to courts or to other tribunals** 21
- (1) If the parties in any Tribunal proceedings so agree, or if the Tribunal of its own motion or on the application of a party so directs, the proceedings are: 22  
23  
24
- (a) to be transferred to a court (in accordance with the rules of that court) that has jurisdiction in the matter, and 25  
26
- (b) to continue before that court as if they had been instituted there. 27
- (2) If the parties in any proceedings that have been instituted in a court so agree, or if the court of its own motion or on the application of a party so directs, the proceedings are, if the proceedings relate to a matter for which the Tribunal has jurisdiction: 28  
29  
30  
31
- (a) to be transferred to the Tribunal in accordance with the regulations, and 32  
33
- (b) to continue before the Tribunal as if the proceedings had been instituted in the Tribunal. 34  
35

## Part 4 Procedure of Tribunal

### 24 Application to Tribunal

- (1) A person (*the applicant*) may, in accordance with the Act under which the application is made, apply to the Tribunal to have a matter dealt with by the Tribunal.
- (2) Despite the provisions of any other Act, an application to have a matter dealt with by the Tribunal must be made:
  - (a) in writing (or in such other form as may be prescribed by the regulations), and
  - (b) in accordance with the regulations.
- (3) The Registrar must cause notice of an application to the Tribunal to be given to each party (other than the applicant) in the proceedings within such time and in such manner as the Chairperson directs.
- (4) It is sufficient compliance with subsection (3) if:
  - (a) the Registrar directs a party in the proceedings to serve notice of the application on another party on the Registrar's behalf, and
  - (b) notice is served on the other party in accordance with the Chairperson's directions referred to in subsection (3).

### 25 Notice of proceedings

- (1) If any proceedings are to be determined by a hearing, the Registrar must cause notice of the time and place that is fixed for the hearing to be given to each party in the proceedings.
- (2) If a party who has been notified under subsection (1) fails to attend at the time and place notified, the proceedings may be held in the absence of the party.
- (3) If a person who is a party in any proceedings:
  - (a) is a protected person within the meaning of the *Protected Estates Act 1983*, or
  - (b) has a guardian, or

- (c) is both a protected person and a person who has a guardian, 1  
the Registrar must cause notice of the time and place that is fixed for 2  
the hearing to be given to the Protective Commissioner, any guardian 3  
of the person, and any other person the Registrar considers appropriate 4  
and any other person prescribed by the regulations for the purposes of 5  
this subsection. 6
- 26 Parties to proceedings (joint liability)** 7
- (1) This section applies to or in respect of such classes of proceedings as 8  
may be prescribed by the regulations. 9
- (2) If a party in any proceedings to which this section applies has a right 10  
to proceed against 2 or more persons having joint liability: 11
- (a) it is sufficient if any one of those persons is (or are) served with 12  
any notice in respect of the proceedings, and 13
- (b) a decision in the proceedings may be given and enforced 14  
against the person or persons subject to the liability. 15
- (3) Section 97 (Joint liability) of the *Supreme Court Act 1970* applies to 16  
and in respect of a decision by the Tribunal in any proceedings to 17  
which this section applies in the same way as section 97 of that Act 18  
applies to and in respect of a judgment given in proceedings before the 19  
Supreme Court. 20
- (4) If at any time the Tribunal is of the opinion that a person should be 21  
joined as a party in proceedings to which this section applies, the 22  
Tribunal may, by notice in writing given to the person or by oral 23  
direction during the proceedings, join the person as a party in the 24  
proceedings. 25
- 27 Presiding member** 26
- (1) This section applies in relation to proceedings in which the Tribunal 27  
is constituted by 2 or 3 members. 28
- (2) If the Chairperson is one of the members of the Tribunal as constituted 29  
for the purposes of the proceedings, the Chairperson is the presiding 30  
member. 31
- (3) If the Tribunal as constituted for the purposes of the proceedings does 32  
not include the Chairperson but includes the Deputy Chairperson 33  
(Determinations), that Deputy Chairperson is the presiding member. 34

- 
- |   |    |
|---|----|
| (4) If the Tribunal as constituted for the purposes of the proceedings:   | 1  |
| (a) does not include the Chairperson or the Deputy Chairperson (Determinations), and  | 2  |
|   | 3  |
| (b) includes one, and only one, senior member,  | 4  |
| the senior member is the presiding member.  | 5  |
| (5) In any case where subsections (2)–(4) do not apply, the Chairperson is to designate one of the members who constitute the Tribunal for the purposes of the proceedings as the presiding member.   | 6  |
|   | 7  |
|   | 8  |
| <b>28 Procedure of Tribunal generally</b>   | 9  |
| (1) The Tribunal may, subject to this Act, determine its own procedure.   | 10 |
| (2) The Tribunal is not bound by the rules of evidence and may inquire into and inform itself on any matter in such manner as it thinks fit, subject to the rules of procedural fairness.   | 11 |
|   | 12 |
|   | 13 |
| (3) The Tribunal is to act with as little formality as the circumstances of the case permit and according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms.                              | 14 |
|   | 15 |
|   | 16 |
|   | 17 |
| (4) The Tribunal is to take such measures as are reasonably practicable to ensure that the parties in any proceedings understand:   | 18 |
|   | 19 |
| (a) the nature of the assertions made in the proceedings and the legal implications of those assertions, and  | 20 |
|   | 21 |
| (b) the procedure of the Tribunal and any decision or ruling made by the Tribunal that relates to the proceedings.  | 22 |
|   | 23 |
| (5) The Tribunal:   | 24 |
| (a) is to act as expeditiously as is practicable, and   | 25 |
| (b) is to ensure, as far as practicable, that all relevant material is disclosed to the Tribunal so as to enable it to determine all of the relevant facts in issue in any proceedings, and   | 26 |
|   | 27 |
|   | 28 |
| (c) may require evidence or argument to be presented in writing and decide on the matters on which it will hear oral evidence or argument, and  | 29 |
|   | 30 |
|   | 31 |
| (d) in the case of a hearing—may require the presentation of the respective cases of the parties in proceedings to be limited to the periods of time that it determines are reasonably necessary for the fair and adequate presentation of the cases, and | 32 |
|   | 33 |
|   | 34 |
|   | 35 |
-

- (e) may require a document to be served outside the State, and 1
- (f) may adjourn proceedings to any time and place (including for 2  
the purpose of enabling the parties to negotiate a settlement), 3  
and 4
- (g) may dismiss any proceedings if the applicant fails to attend a 5  
hearing, and 6
- (h) must, if requested by the applicant, allow the applicant to 7  
withdraw the application, and 8
- (i) may dismiss any proceedings if it considers the proceedings to 9  
be frivolous or vexatious or for any other reason that appears to 10  
it sufficient, and 11
- (j) may order that any proceedings are to be stayed. 12
- (6) The Registrar or Deputy Registrar is to give any party in proceedings 13  
that have been stayed under subsection (5) (j), and who was not 14  
present or represented when the proceedings were stayed, notice that 15  
the proceedings have been stayed. 16
- (7) Subsection (5) (g)–(i) does not apply in relation to proceedings arising 17  
under the *Strata Schemes Management Act 1996* or the *Community 18  
Land Management Act 1989*. 19

**29 Procedural directions by members** 20

- (1) A member may, in any proceedings, give procedural directions in 21  
relation to the proceedings. 22
- (2) In the event of an inconsistency between any procedural direction 23  
given by a member under this section and any procedural direction 24  
given by the Chairperson under section 12, the procedural direction 25  
given by the Chairperson is to prevail. 26
- (3) Procedural directions under this section may be given by any member 27  
(whether or not the member is hearing the matter to which the 28  
proceedings relate). 29
- (4) Without limiting the grounds on which a member may give procedural 30  
directions, such directions may be given that, in the opinion of the 31  
member, will enable costs to be reduced and will help to achieve a 32  
prompt hearing of the matters in issue between the parties in the 33  
proceedings. 34

---

(5) The powers conferred by this section extend to enabling a member, if it appears just and expedient to do so, to direct that several matters that are in some manner associated are to be heard and determined together.	1 2 3 4
(6) The functions of a member under this section may be delegated to the Registrar.	5 6
<b>30 Proceedings causing disadvantage</b>	7
(1) This section applies if the Tribunal is of the opinion that a party in any proceedings is conducting the proceedings in such a way that unreasonably disadvantages another party in the proceedings by any conduct (including by failing to comply with an order or direction of the Tribunal).	8 9 10 11 12
(2) The Tribunal may:	13
(a) if the party causing the disadvantage is the applicant—order that the proceedings (or part of the proceedings) be dismissed or struck out, or	14 15 16
(b) if the party causing the disadvantage is not the applicant:	17
(i) determine the proceedings (or part of the proceedings) in favour of the applicant and make any appropriate orders, or	18 19 20
(ii) order that the party causing the disadvantage be struck out of the proceedings (or part of the proceedings).	21 22
<b>31 Assistance to Tribunal</b>	23
The Tribunal or Registrar may, in relation to any proceedings, request a report or other assistance from the Director-General or any other person or body.	24 25 26
<b>32 Amendments and irregularities</b>	27
(1) The Tribunal may, in any proceedings, make any amendments to any document (for example, an application) filed in connection with the proceedings that the Tribunal considers to be necessary in the interests of justice.	28 29 30 31
(2) Any such amendment may be made:	32
(a) at any stage of the proceedings, and	33

---

- (b) on such terms as the Tribunal thinks fit, 1  
but may only be made after notifying the party to whom the 2  
amendment relates. 3
- (3) If a provision of this Act or the regulations is not complied with in 4  
relation to the commencement or conduct of proceedings, the failure 5  
to comply is to be treated as an irregularity and does not nullify the 6  
proceedings or any decision in the proceedings unless the Tribunal 7  
otherwise determines. 8
- (4) The Tribunal may, however, in dealing with any such irregularity, 9  
wholly or partly set aside the proceedings or a decision in the 10  
proceedings. 11
- 33 Proceedings on hearing to be conducted in public** 12
- (1) If any proceedings are to be determined by a hearing, the hearing is to 13  
be open to the public, except as provided by this section. 14
- (2) If the Tribunal is satisfied that it is desirable to do so by reason of the 15  
confidential nature of any evidence or matter or for any other reason, 16  
it may make any one or more of the following orders: 17
- (a) an order that the hearing be conducted wholly or partly in 18  
private, 19
- (b) an order prohibiting or restricting the publication of the names 20  
and addresses of witnesses appearing before the Tribunal, 21
- (c) an order prohibiting or restricting the publication of evidence 22  
given before the Tribunal, whether in public or in private, or of 23  
matters contained in documents lodged with the Tribunal or 24  
received in evidence by the Tribunal, 25
- (d) an order prohibiting or restricting the disclosure, to any of the 26  
parties in the proceedings, of evidence given before the 27  
Tribunal, or of the contents of a document lodged with the 28  
Tribunal or received in evidence by the Tribunal, in relation to 29  
the proceedings. 30
- 34 Circumstances in which hearing may be dispensed with** 31
- (1) The Tribunal may, with the consent of the parties in any proceedings, 32  
determine the proceedings: 33
- (a) by considering the documents or other material lodged with or 34  
provided to the Tribunal, and 35



- 
- (b) without any hearing, 1
- if it appears to the Tribunal that the issues for determination can be 2  
adequately determined in the absence of the parties. 3
- (2) The regulations may prescribe classes of matters or circumstances in 4  
which the consent referred to in subsection (1) may be dispensed with. 5
- 35 Opportunity for parties to present case 6**
- The Tribunal must ensure that each party in any proceedings is given 7  
a reasonable opportunity: 8
- (a) to call or give evidence and otherwise present the party's case 9  
(whether at a hearing or otherwise), and 10
- (b) to make submissions in relation to the issues in the proceedings. 11
- 36 Representation of parties 12**
- (1) Except as provided by this section, a party in any proceedings has the 13  
carriage of his or her own case and is not entitled to be represented by 14  
any person. 15
- (2) A party may, in accordance with the regulations, apply to the Tribunal 16  
for permission to be represented by a person in the proceedings or in 17  
part of the proceedings. The Tribunal may approve any such 18  
application and make an order permitting the party to be represented. 19
- (3) In any proceedings where an amount is claimed or disputed, a party is 20  
not entitled to be represented by a legal practitioner if the amount does 21  
not exceed \$10,000 (or such other amount as may be prescribed by the 22  
regulations) unless the Tribunal is of the opinion that the exceptional 23  
circumstances of the case warrant such representation. 24
- (4) If a party been granted legal assistance under Division 2 of Part 2 of 25  
the *Fair Trading Act 1987*, the parties in the proceedings are entitled 26  
to be represented by a legal practitioner. 27
- (5) Except as otherwise provided by the regulations, a person is not 28  
entitled to demand or receive any fee or reward for representing a party 29  
in any proceedings. This subsection does not apply to or in respect of 30  
a legal practitioner. 31
- (6) If a party is, in the opinion of the Tribunal, a special class of person, 32  
the Tribunal may appoint another person, with that other person's 33  
consent, to represent the party concerned. For the purposes of this 34  
subsection, a *special class of person* means any of the following: 35
-

- (a) a minor, 1
  - (b) a person who is totally or partially incapable of representing himself or herself in proceedings because the person is intellectually, physically, psychologically or sensorily disabled, of advanced age, a mentally incapacitated person or otherwise disabled, 2  
3  
4  
5  
6
  - (c) any other person of a class prescribed by the regulations for the purposes of this subsection. 7  
8
  - (7) However, even though the Tribunal is satisfied that a party is a special class of person, the Tribunal: 9  
10
    - (a) is not to delay the proceedings unduly because another person has not been appointed under subsection (6) after a reasonable period of time, and 11  
12  
13
    - (b) is to determine the proceedings as expeditiously as possible in the interests of all the parties concerned. 14  
15
  - (8) The Chairperson may give such directions as the Chairperson considers appropriate in relation to the appointment of a person for the purposes of subsection (6). 16  
17  
18
  - (9) This section does not apply in relation to proceedings arising under the *Strata Schemes Management Act 1996* or the *Community Land Management Act 1989*. 19  
20  
21
- Note.** In the case of Tribunal proceedings under an Act referred to in subsection (9), a party is automatically entitled to be represented in the proceedings. 22  
23  
24
- 37 Interpreters** 25
- (1) A person may, in any proceedings, request the Tribunal to appoint an interpreter for the purposes of communication between the Tribunal and the person. 26  
27  
28
  - (2) The Tribunal must comply with a request made by a person under this section unless it considers that the person is sufficiently proficient in spoken English. 29  
30  
31
  - (3) If the Tribunal considers that a person in any proceedings is not sufficiently proficient in spoken English, the Tribunal must appoint an interpreter for the purposes of communication between the Tribunal and the person, even though the person has not made a request under this section. 32  
33  
34  
35  
36

---

(4) In this section, <i>interpreter</i> includes a person who interprets signs or other things made or done by a person who cannot speak adequately for the purposes of giving evidence in proceedings.	1 2 3
<b>38 Oral evidence by telephone etc</b>	4
(1) The Tribunal may allow a person to appear before it, or to give evidence in any proceedings, and may conduct any aspect of its proceedings, by telephone, audio visual link or any other means of communication.	5 6 7 8
(2) If, any case where proceedings are held in public, a person appears or gives evidence by any means referred to in subsection (1), the Tribunal is to take such steps as are reasonably necessary to ensure that the public nature of the proceedings is preserved and that the rights of all the parties in the proceedings are not prejudiced.	9 10 11 12 13
<b>39 Powers in relation to witnesses</b>	14
(1) The Tribunal may:	15
(a) call any witness of its own motion, and	16
(b) examine any witness on oath, or require evidence to be verified by a statutory declaration, and	17 18
(c) examine or cross-examine any witness to such extent as the Tribunal thinks proper in order to elicit information relevant to the exercise of the functions of the Tribunal in any proceedings, and	19 20 21 22
(d) compel any witness to answer questions which the Tribunal considers to be relevant in any proceedings.	23 24
<b>Note.</b> See section 80 for the payment of witnesses' allowances and expenses.	25
(2) If the Tribunal decides to call a person as a witness under subsection (1) (a), the Tribunal may:	26 27
(a) seek to procure the voluntary attendance of the witness before it by notifying the person in such manner as it thinks appropriate in the circumstances, or	28 29 30
(b) issue a summons to compel the attendance of the person before it.	31 32
(3) Nothing in subsection (1) enables the Tribunal to compel a witness to answer a question if the witness has a reasonable excuse for refusing to answer the question.	33 34 35

---

<b>40</b>	<b>Issue of summons</b>	1
(1)	A summons for the purposes of this Act may be issued by the Registrar:	2
		3
(a)	on the application of a party in the proceedings, or	4
(b)	at the direction of the Tribunal.	5
(2)	The fee prescribed by the regulations is payable for the issue of a summons on the application of a party in the proceedings.	6
		7
(3)	Such a summons must be signed by the Registrar or as otherwise prescribed by the regulations and may require the person to whom it is addressed:	8
		9
		10
(a)	to attend and give evidence, or	11
(b)	to attend and produce documents or other things,	12
	or both.	13
(4)	The regulations may make provision for or with respect to excusing, in prescribed circumstances, a person who produces documents or other things in answer to a summons from attendance at the Tribunal.	14
		15
		16
(5)	A person who, without lawful excuse, fails to comply with the requirements of a summons is guilty of an offence.	17
		18
	Maximum penalty: 100 penalty units.	19
(6)	A summons may be served within or outside the State.	20
<b>41</b>	<b>Witness may be apprehended</b>	21
(1)	If a person who is served with a summons to attend before the Tribunal fails to comply with the summons, the Chairperson or the Deputy Chairperson (Determinations) may, on proof of the service of the summons, issue a warrant for the apprehension of the person.	22
		23
		24
		25
(2)	A warrant issued under subsection (1) authorises the apprehension of the witness, the bringing of the witness before the Tribunal and the detention of the witness in custody for that purpose until released by order of the Chairperson or Deputy Chairperson (Determinations) or the Supreme Court.	26
		27
		28
		29
		30
(3)	The apprehension of any witness under this section does not relieve the witness from any liability incurred by reason of non-compliance with a summons to attend before the Tribunal.	31
		32
		33

**42 Contempt of Tribunal**

- |   |    |
|---|----|
| (1) A person is guilty of contempt of the Tribunal if:              | 1  |
| (a) the person fails to attend in obedience to a summons after      | 2  |
| having been served with a summons to attend before the              | 3  |
| Tribunal as a witness, or   | 4  |
| (b) the person fails to produce any document or other thing in the  | 5  |
| person's custody or control that the person is required by a        | 6  |
| summons to produce after having been served with a summons          | 7  |
| to attend before the Tribunal, or                                   | 8  |
| (c) the person refuses to be sworn or to make an affirmation or     | 9  |
| refuses or otherwise fails to answer any question that is put to    | 10 |
| the person by the Tribunal after being called or examined as a      | 11 |
| witness before the Tribunal, or                                     | 12 |
| (d) the person wilfully threatens or insults:                       | 13 |
| (i) a member, assessor or officer of the Tribunal, or               | 14 |
| (ii) any witness or person summoned to attend before the            | 15 |
| Tribunal, or  | 16 |
| (iii) any person who is a party in the proceedings concerned,       | 17 |
| or  | 18 |
| (iv) any person who is authorised to appear before the              | 19 |
| Tribunal, or  | 20 |
| (e) the person misbehaves himself or herself before the Tribunal,   | 21 |
| or  | 22 |
| (f) the person interrupts the proceedings of the Tribunal, or       | 23 |
| (g) the person obstructs or attempts to obstruct the Tribunal, a    | 24 |
| member of the Tribunal or a person acting with the authority of     | 25 |
| the Tribunal in the exercise of any lawful function, or             | 26 |
| (h) the person publishes, or permits or allows to be published, any | 27 |
| evidence given before the Tribunal or any of the contents of a      | 28 |
| document produced at a hearing that the Tribunal has ordered        | 29 |
| not to be published, or   | 30 |
| (i) the person publishes, or permits or allows to be published, any | 31 |
| evidence given before the Tribunal at a hearing held in private     | 32 |
| or any of the contents of a document produced at a hearing held     | 33 |
| in private, except to an officer or member of the Tribunal or as    | 34 |
| permitted by the Tribunal or by the regulations, or                 | 35 |
|   | 36 |

- (j) the person does any other thing that, if the Tribunal were a court of law having power to commit for contempt, would be contempt of that court, 1  
2  
3  
unless the person establishes that there was a reasonable excuse for the act or omission concerned. 4  
5
- (2) Sections 152 and 152A of the *Justices Act 1902* apply to and in respect of contempt of the Tribunal, when constituted by (or by members that include) the Chairperson or the Deputy Chairperson (Determinations), in the same way as those sections apply to and in respect of contempt of a Local Court presided over by a Magistrate. 6  
7  
8  
9  
10
- 43 Enforcement of certain Tribunal orders** 11
- (1) If the Tribunal makes an order in relation to any proceedings, the Tribunal may, when the order is made or later, give leave to the person in whose favour the order is made to renew the proceedings if the order is not complied with within the period specified by the Tribunal. 12  
13  
14  
15
- (2) If an order has not been complied with within the period specified by the Tribunal, the person in whose favour the order was made may renew the proceedings to which the order relates by lodging a notice with the Tribunal stating that the order has not been complied with. 16  
17  
18  
19
- (3) The provisions of this Act apply to a notice lodged in accordance with subsection (2) as if the notice were an application made in accordance with section 24. 20  
21  
22
- (4) When a claim has been renewed in accordance with this section, the Tribunal: 23  
24
- (a) may make any other appropriate order under this Act as it could have made when the matter was originally determined, or 25  
26
- (b) may refuse to make such an order. 27
- (5) This section does not apply if the operation of an order has been suspended. 28  
29
- (6) A notice under this section must be in the form prescribed by the regulations. 30  
31

---

<b>44</b>	<b>Protection of practising legal practitioners, witnesses and others</b>	1
(1)	A practising legal practitioner, or any other person appearing before the Tribunal on behalf of a party in any proceedings, has the same protection and immunity as a barrister has in appearing for a party in proceedings in the Supreme Court.	2 3 4 5
(2)	Subject to this Act, a person summoned to attend or appearing before the Tribunal as a witness has the same protection, and is, in addition to the penalties provided by this Act, subject to the same liabilities, as a witness in proceedings in the Supreme Court.	6 7 8 9
<b>45</b>	<b>Tribunal divided in opinion</b>	10
(1)	If the Tribunal is constituted by more than one member for the purposes of the determination of any proceedings and the members are divided in opinion, the opinion of a majority is taken to be the decision of the Tribunal.	11 12 13 14
(2)	However, a question of law (including the question as to whether a particular question is a question of law) arising in proceedings constituted by more than one member is to be decided in accordance with the opinion of the member presiding at the proceedings.	15 16 17 18
(3)	If, on a matter other than a question of law, opinion is equally divided, the opinion of the presiding member is taken to be the decision of the Tribunal.	19 20 21
<b>46</b>	<b>Tribunal may reserve decision</b>	22
(1)	The Tribunal may reserve its decision in relation to any proceedings.	23
(2)	A reserved decision of the Tribunal may be handed down:	24
(a)	by the Tribunal at a subsequent sitting, or	25
(b)	if the decision of a member is set out in writing and signed by the member—by being delivered by any member, or	26 27
(c)	by the Registrar, at a time and place of which the parties in the proceedings have been given reasonable notice, or	28 29
(d)	by publication to the parties in a manner approved by the Chairperson.	30 31

---

<b>47</b>	<b>Power to impose conditions</b>	1
	A power of the Tribunal to make an order or other decision includes	2
	a power to make the order or other decision subject to such conditions	3
	(including exemptions) as the Tribunal specifies when making the	4
	order or other decision, except as may be provided to the contrary by	5
	any other Act.	6
<b>48</b>	<b>Powers when proceedings settled</b>	7
(1)	The Tribunal may, in any proceedings, make such orders (including an	8
	order dismissing the application that is the subject of the proceedings)	9
	as it thinks fit to give effect to any agreed settlement reached by the	10
	parties in the proceedings if:	11
(a)	the terms of the agreed settlement are in writing, signed by or	12
	on behalf of the parties and lodged with the Tribunal, and	13
(b)	the Tribunal is satisfied that it would have the power to make	14
	a decision in the terms of the agreed settlement or in terms that	15
	are consistent with the terms of the agreed settlement.	16
(2)	The Tribunal may dismiss the application that is the subject of the	17
	proceedings if it is not satisfied that it would have the power to make	18
	a decision in the terms of the agreed settlement or in terms consistent	19
	with the terms of the agreed settlement.	20
<b>49</b>	<b>Notice of decisions and reasons</b>	21
(1)	The Tribunal must, within the time prescribed by the regulations, give	22
	notice of its decision in a matter that is the subject of proceedings to	23
	the parties in the proceedings.	24
(2)	Any party may, within the time and in the manner prescribed by the	25
	regulations, request the Tribunal to provide a statement of reasons for	26
	its decision. The statement must be provided within 7 days after the	27
	request is made.	28
(3)	The statement may be brief but must:	29
(a)	set out the decision and the reasons for it, and	30
(b)	set out the findings on any material question of fact, and	31
(c)	refer to the evidence or any other material on which the	32
	findings of fact were based.	33



---

**50 Power to correct decisions of Tribunal**

- (1) If, after the making of a decision by the Tribunal, the Tribunal is satisfied that there is an obvious error in the text of a notice of the decision or a written statement of reasons for the decision, the Tribunal may direct the Registrar to alter the text of the notice or statement in accordance with the directions of the Tribunal.
- (2) If the text of a notice or statement is so altered, the altered text is taken to be the notice of the Tribunal's decision or the statement of its reasons, as the case may be, and notice of the alteration is to be given to the parties in the proceedings in such manner as the Chairperson may direct.
- (3) Examples of obvious errors in the text of a notice of a decision or a statement of reasons for a decision are where:
- (a) there is an obvious clerical or typographical error in the text of the notice or statement, or
  - (b) there is an error arising from an accidental slip or omission, or
  - (c) there is a defect of form, or
  - (d) there is an inconsistency between the stated decision and the stated reasons.
- (4) The powers of the Tribunal under this section may be exercised by the Chairperson or by the member who presided at the proceedings to which the decision relates.

**51 Recovery of amounts ordered to be paid (other than penalties)**

- (1) For the purposes of the recovery of any amount ordered to be paid by the Tribunal (including costs, but not including a civil or other penalty), the amount is to be certified by the Registrar.
- (2) A certificate given under this section must identify the person liable to pay the certified amount.
- (3) A certificate of the Registrar that:
- (a) is given under this section, and
  - (b) is filed in the registry of a court having jurisdiction to give judgment for a debt of the same amount as the amount stated in the certificate,
- operates as such a judgment.

<b>52</b>	<b>Compliance with order of Tribunal</b>	1
(1)	A person must not wilfully contravene or fail to comply with an order of the Tribunal made under this or any other Act.	2
	Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.	3
(2)	Subsection (1) does not apply to or in respect of:	4
(a)	an order for the payment of any money, or	5
(b)	an order under section 52 of the <i>Residential Tenancies Act 1987</i> ,	6
(c)	such classes of orders, or such classes of proceedings, as may be prescribed by the regulations.	7
		8
		9
		10
		11
<b>53</b>	<b>Costs</b>	12
(1)	Subject to this section and the regulations, the parties in any proceedings are to pay their own costs.	13
(2)	The Tribunal may, in accordance with the regulations, award costs in relation to any proceedings.	14
(3)	If costs are to be awarded by the Tribunal in accordance with regulations, the Tribunal may:	15
(a)	determine by whom and to what extent costs are to be paid, and	16
(b)	order costs to be assessed on the basis set out in Division 6 of Part 11 of the <i>Legal Profession Act 1987</i> or on any other basis.	17
(4)	In this section, <i>costs</i> includes the costs of, or incidental to, proceedings.	18
(5)	This section does not apply in relation to proceedings under the <i>Strata Schemes Management Act 1996</i> or the <i>Community Land Management Act 1989</i> .	19
		20
		21
		22
		23
		24
		25
		26

## Part 5 Alternative dispute resolution

1

### Division 1 Conciliation and preliminary measures

2

#### 54 Tribunal to promote conciliation

3

- (1) Before making an order to determine any matter that is the subject of proceedings, it is the duty of the Tribunal to use its best endeavours to bring the parties in the proceedings to a settlement that is acceptable to all the parties.
- (2) If such a settlement is reached, the Tribunal must make orders that give effect to the settlement to the extent permitted by this Act.
- (3) Any statement or admission made before the Tribunal or any person at a meeting or other proceeding held for the purposes of subsection (1) is not admissible at a hearing of the matter concerned or in any other legal proceedings.

4

5

6

7

8

9

10

11

12

13

#### 55 Preliminary conferences

14

- (1) In addition to or in the course of any action taken under section 54, the Tribunal may, before commencing to hear and determine an application, confer with, or arrange for a member or the Registrar to confer with, the parties in the proceedings and make any determination with respect to the proceedings that is agreed to by the parties.
- (2) If proceedings are referred under this section to a member or the Registrar and the parties agree to the determination of the member or the Registrar, the determination has effect as a decision of the Tribunal.
- (3) If the proceedings are not determined under this section and the matter proceeds to a hearing:
  - (a) evidence is not to be given, and statements are not to be made, concerning any words spoken or acts done at a conference held in accordance with this section unless the parties otherwise agree, and
  - (b) any member who presided over a preliminary conference in respect of the proceedings is not entitled to be a member of the Tribunal determining the proceedings if any party in the

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

preliminary conference objects, in the manner and form  
prescribed by the regulations, to the member's participation in  
the proceedings. 1  
2  
3

- (4) The Chairperson may direct that a preliminary conference is to be held  
under this section in the case of any applications made to the Tribunal  
of a kind specified in the direction. 4  
5  
6

## **Division 2 Mediation and neutral evaluation 7**

### **56 Definitions 8**

In this Division: 9

*mediation session* means a meeting arranged for the mediation of a  
matter under this Division. 10  
11

*mediator* means a person to whom the Tribunal refers a matter for  
mediation under this Division. 12  
13

*neutral evaluation session* means a meeting arranged for the neutral  
evaluation of a matter under this Division. 14  
15

*neutral evaluator* means a person to whom the Tribunal refers a  
matter for neutral evaluation under this Division. 16  
17

### **57 Meaning of "mediation" and "neutral evaluation" 18**

- (1) In this Act, *mediation* means a structured negotiation process in which  
the mediator, as a neutral and independent party, assists the parties to  
a dispute to achieve their own resolution of the dispute. 19  
20  
21
- (2) In this Act, *neutral evaluation* means a process of evaluation of a  
dispute in which the neutral evaluator seeks to identify and reduce the  
issues of fact and law that are in dispute. The neutral evaluator's role  
includes assessing the relative strengths and weaknesses of each party's  
case and offering an opinion as to the likely outcome of the  
proceedings. 22  
23  
24  
25  
26  
27

### **58 Appointment of mediators and neutral evaluators 28**

- (1) The Chairperson may appoint any person whose name is on the list  
compiled under Schedule 5 as a mediator or neutral evaluator for the  
purpose of particular proceedings in the Tribunal. 29  
30  
31

(2) Mediators and neutral evaluators have the functions conferred or imposed on them by or under this or any other Act.	1 2
(3) Schedule 5 has effect in respect of a mediator or neutral evaluator appointed under this section.	3 4
<b>59 Referral by Tribunal</b>	5
(1) The Tribunal may, by order, refer a matter arising in any proceedings for mediation or neutral evaluation if the Tribunal considers the circumstances appropriate.	6 7 8
(2) The mediator or neutral evaluator may, but need not be, a person whose name is on a list compiled under Schedule 5.	9 10
<b>60 Costs of mediation and neutral evaluation</b>	11
(1) The costs of mediation or neutral evaluation, including the costs payable to the mediator or neutral evaluator, are payable by the Tribunal, except to the extent that the regulations provide that the parties in the proceedings are to pay such costs.	12 13 14 15
(2) Regulations made for the purposes of this section may provide that the parties are to pay such costs:	16 17
(a) in such proportions as they may agree among themselves or, failing agreement, in such manner as may be ordered by the Tribunal, or	18 19 20
(b) in any other prescribed manner.	21
<b>61 Agreements and arrangements arising from mediation or neutral evaluation sessions</b>	22 23
(1) The Tribunal may make orders to give effect to any agreement or arrangement arising out of a mediation session or neutral evaluation session if the Tribunal is satisfied that it would have the power to make a decision in terms of the agreement or arrangement or in terms that are consistent with the agreement or arrangement.	24 25 26 27 28
(2) Nothing in this Division affects the enforceability of any other agreement or arrangement that may be made, whether or not arising out of a mediation session or neutral evaluation session, in relation to the matters the subject of any such session.	29 30 31 32

## 62 Privilege

- (1) In this section, *mediation session* or *neutral evaluation session* includes any steps taken in the course of making arrangements for the session or in the course of the follow-up of a session. 1
- (2) Subject to subsection (3), the same privilege with respect to defamation as exists with respect to judicial proceedings and a document produced in judicial proceedings exists with respect to:
  - (a) a mediation session or neutral evaluation session, or 2
  - (b) a document or other material sent to or produced to a mediator or neutral evaluator, or sent to or produced at the Tribunal or the office of the Registrar, for the purpose of enabling a mediation session or neutral evaluation session to be arranged. 3
- (3) The privilege conferred by subsection (2) only extends to a publication made:
  - (a) at a mediation session or neutral evaluation session, or 4
  - (b) as provided by subsection (2) (b), or 5
  - (c) as provided by section 63. 6
- (4) Evidence of any thing said or of any admission made in a mediation session or neutral evaluation session is not admissible in any proceedings before any court, tribunal or body. 7
- (5) A document prepared for the purposes of, or in the course of, or as a result of, a mediation session or neutral evaluation session, or any copy of such a document, is not admissible in evidence in any proceedings before any court, tribunal or body. 8
- (6) Subsections (4) and (5) do not apply with respect to any evidence or document:
  - (a) if the persons in attendance at, or identified during, the mediation session or neutral evaluation session and, in the case of a document, all persons identified in the document, consent to the admission of the evidence or document, or 9
  - (b) in proceedings instituted with respect to any act or omission in connection with which a disclosure has been made under section 63 (c). 10

**63 Secrecy**

A mediator or neutral evaluator may disclose information obtained in connection with the administration or execution of this Division only in any one or more of the following circumstances:

- (a) with the consent of the person to whom the information relates,
- (b) in connection with the administration or execution of this Division,
- (c) if there are reasonable grounds to believe that the disclosure is necessary to prevent or minimise the danger of injury to any person or damage to any property,
- (d) if the disclosure is reasonably required for the purpose of referring any party or parties in a mediation session or neutral evaluation session to any person, agency, organisation or other body and the disclosure is made with the consent of the parties in the mediation session or neutral evaluation session for the purpose of aiding in the resolution of a dispute between those parties or assisting the parties in any other manner,
- (e) in accordance with a requirement imposed by or under a law of the State (other than a requirement imposed by a subpoena or other compulsory process) or the Commonwealth.

**64 Other measures not precluded**

Nothing in this Division prevents:

- (a) the parties in any proceedings from agreeing to and arranging for mediation or neutral evaluation of any matter otherwise than as referred to in this Division, or
- (b) a matter arising in any proceedings from being dealt with under the provisions of the *Community Justice Centres Act 1983*.

## Part 6 Appeals and rehearings

### 65 Review by prerogative writ etc generally excluded

- (1) Except as provided by this section, a court has no jurisdiction to grant relief or a remedy by way of:
- (a) a judgment or order in the nature of prohibition, mandamus, certiorari or other relief, or
  - (b) a declaratory judgment or order, or
  - (c) an injunction,
- in respect of any matter that has been heard and determined (or is to be heard or determined) by the Tribunal in accordance with this Act or in respect of any ruling, order or other proceeding relating to such a matter.
- (2) A court is not prevented from granting relief or a remedy of a kind referred to in subsection (1) in relation to a matter in respect of which the jurisdiction of the Tribunal to determine the matter was disputed if the ground on which the relief or remedy is sought is that:
- (a) the Tribunal gave an erroneous ruling as to its jurisdiction, or
  - (b) the Tribunal erred in refusing or failing to give a ruling as to its jurisdiction when its jurisdiction was disputed.
- (3) A court is not prevented from granting relief or a remedy of a kind referred to in subsection (1) in relation to a matter in respect of which the Tribunal has made an order if the ground on which the relief or remedy is sought is that:
- (a) the Tribunal had no jurisdiction to make the order, or
  - (b) in relation to the hearing or determination of the matter, a party had been denied procedural fairness.

### 66 Referral of questions of law to Supreme Court

- (1) A referral under this section is to be made in accordance with rules of the Supreme Court.
- (2) If, in any proceedings, a question arises with respect to a matter of law, the Tribunal may decide the question or may refer it to the Supreme Court for decision.



- 
- |  |    |
|--|----|
| (3) If a question with respect to a matter of law is referred to the Supreme Court by the Tribunal:  | 1  |
| (a) the Tribunal is not to make an order or a decision to which the question is relevant until the Supreme Court has decided the question, and   | 2  |
| (b) on deciding the question, the Supreme Court is to remit its decision to the Tribunal, and  | 3  |
| (c) the Tribunal is not to proceed in a manner, or make an order or a decision, that is inconsistent with the decision of the Supreme Court.   | 4  |
|  | 5  |
| (4) Any costs to the parties in proceedings arising out of the referral of a question with respect to a matter of law to the Supreme Court are not payable by the parties but are to be paid as a cost of the administration of this Act.                | 6  |
|  | 7  |
| (5) For the purposes of this section, a reference to a matter of law includes a reference to a matter relating to the jurisdiction of the Tribunal.  | 8  |
|  | 9  |
|  | 10 |
| <b>67 Appeal against decision of Tribunal with respect to matter of law</b>  | 11 |
| (1) If, in respect of any proceedings, the Tribunal decides a question with respect to a matter of law, a party in the proceedings who is dissatisfied with the decision may, subject to this section, appeal to the Supreme Court against the decision. | 12 |
|  | 13 |
|  | 14 |
| (2) An appeal is to be made in accordance with the rules of the Supreme Court. The rules of the Supreme Court may provide that an appeal (or such classes of appeal as may be specified in the rules) may be made only with the leave of the Court.      | 15 |
|  | 16 |
| (3) After deciding the question the subject of such an appeal, the Supreme Court may, unless it affirms the decision of the Tribunal on the question:  | 17 |
| (a) make such order in relation to the proceedings in which the question arose as, in its opinion, should have been made by the Tribunal, or   | 18 |
| (b) remit its decision on the question to the Tribunal and order a rehearing of the proceedings by the Tribunal.   | 19 |
|  | 20 |
| (4) If such a rehearing is held, the Tribunal is not to proceed in a manner, or make an order or a decision, that is inconsistent with the decision of the Supreme Court remitted to the Tribunal.   | 21 |
|  | 22 |
|  | 23 |
|  | 24 |
|  | 25 |
|  | 26 |
|  | 27 |
|  | 28 |
|  | 29 |
|  | 30 |
|  | 31 |
|  | 32 |
|  | 33 |
|  | 34 |
|  | 35 |
|  | 36 |
-

- (5) If a party has appealed to the Supreme Court against a decision of the Tribunal on a question with respect to a matter of law, either the Tribunal or the Supreme Court may suspend, until the appeal is determined, the operation of any order or decision made in respect of the proceedings. 1  
2  
3  
4  
5
- (6) If the Tribunal suspends the operation of an order or a decision, the Tribunal or the Supreme Court may terminate the suspension or, where the Supreme Court has suspended the operation of an order or a decision, the Supreme Court may terminate the suspension. 6  
7  
8  
9
- (7) If a rehearing is held, fresh evidence, or evidence in addition to or in substitution for the evidence on which the original decision was made, may be given on the rehearing. 10  
11  
12
- (8) A reference in this section to a matter of law includes a reference to a matter relating to the jurisdiction of the Tribunal. 13  
14
- (9) The regulations may exclude the making of an appeal under this section in such classes or description of cases as may be prescribed. 15  
16
- 68 Rehearings by Tribunal** 17
- (1) A party in any proceedings that have been heard and determined by the Tribunal (*the completed proceedings*) may, in the manner and within the time prescribed by the regulations, apply to the Chairperson to have the completed proceedings reheard by the Tribunal. 18  
19  
20  
21
- (2) The grounds on which such an application may be made are that the applicant may have suffered a substantial injustice because: 22  
23
- (a) the decision of the Tribunal in the completed proceedings was not fair and equitable, or 24  
25
- (b) the decision of the Tribunal was against the weight of evidence, or 26  
27
- (c) significant new evidence has arisen (being evidence that was not reasonably available at the time the completed proceedings were being heard). 28  
29  
30
- (3) The applicant may request that the rehearing be limited to the matters specified in the application. 31  
32
- (4) If the applicant is relying on significant new evidence as a ground for the rehearing, the applicant must establish or otherwise produce the new evidence in support of the application. 33  
34  
35

- 
- |  |                |
|--|----------------|
| (5) In deciding whether to grant or refuse the application, the Chairperson is not required to notify any other party that the application has been made and is in the process of being determined by the Chairperson. | 1<br>2<br>3    |
| (6) The Chairperson is not to grant the application unless it appears to the Chairperson that the applicant may have suffered a substantial injustice.   | 4<br>5<br>6    |
| (7) The Chairperson's decision whether to grant or refuse the application:   | 7              |
| (a) may be made solely on the basis of the matters specified in the application and without the need for any hearing or meeting, and   | 8<br>9<br>10   |
| (b) is not to be considered to be part of the Tribunal's proceedings, and  | 11<br>12       |
| (c) is final and not subject to review of any kind.  | 13             |
| (8) If the application is granted, the Chairperson is to determine:  | 14             |
| (a) the constitution of the Tribunal in a manner appropriate for the purposes of the rehearing (having regard to the circumstances of the case), and   | 15<br>16<br>17 |
| (b) the matters that are to be reheard.  | 18             |
| (9) The rehearing is to be dealt with by the Tribunal as a fresh hearing of the matters to be reheard, but it does not give rise to any further rehearing under this section.  | 19<br>20<br>21 |
| (10) Subsection (8) does not prevent the Tribunal from dealing with any matter that arises during the rehearing so long as it is a matter that is related to the completed proceedings.                                | 22<br>23<br>24 |
| (11) If, in relation to any completed proceedings, more than one application for a rehearing is granted by the Chairperson, all of the matters to be reheard are to be reheard together.                               | 25<br>26<br>27 |
| (12) A person cannot make an application under this section for a rehearing of completed proceedings if:   | 28<br>29       |
| (a) the amount claimed or disputed under the completed proceedings was more than \$25,000 (or such other amount as may be prescribed by the regulations), or   | 30<br>31<br>32 |
| (b) the person is a corporation and the matter relates to a dispute under the <i>Consumer Credit (New South Wales) Act 1995</i> .  | 33<br>34       |

- (13) The regulations may exclude the making of an application for a rehearing under this section in cases of any prescribed class or description.                      1  
2  
3

**69    Original decision to operate unless otherwise ordered**                      4

- (1) Lodgment of an appeal or application for a rehearing under this Part does not affect the operation of the decision the subject of the appeal or application or prevent the taking of action to implement the decision, except as provided by any other Act or as otherwise ordered under this section.                      5  
6  
7  
8  
9
- (2) An order staying the operation of a decision the subject of an appeal or application under this Part may be made:                      10  
11
- (a)    by the Supreme Court in connection with an appeal under section 67, or                      12  
13
- (b)    by the Chairperson in connection with an application under section 68.                      14  
15

## Part 7 Miscellaneous

### 70 Privileged documents

- (1) Nothing in this Act requires the disclosure of a document if the Tribunal or the Chairperson is satisfied that evidence of the document could not be given in proceedings before a NSW court within the meaning of the *Evidence Act 1995* by reason of the operation of any of the following provisions of that Act:

- (a) section 9 (Application of common law and equity), but only to the extent that it preserves any privilege against the adducing of evidence,
- (b) section 10 (Parliamentary privilege preserved),
- (c) Part 3.10 (Privileges) of Chapter 3.

- (2) In this section:

**disclosure** of a document includes the following:

- (a) the provision of copies of the document,
- (b) the granting of access to the document,
- (c) the disclosure of the contents of the document.

**document** includes a part of a document.

### 71 False or misleading statements

A person must not:

- (a) in any proceedings, or
- (b) in any application under this Act,

provide any information, or make any statement, to the Tribunal, Chairperson or Registrar knowing that the information or statement is false or misleading in a material respect.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

### 72 Provision of information by Tribunal

- (1) For the purposes of any investigation or disciplinary action that is being carried out under any legislation administered by the Minister, the Director-General may request the Tribunal to provide any information that:

(a)	relates to any such investigation or disciplinary action, and	1
(b)	is within the knowledge or possession of the Tribunal.	2
(2)	The Tribunal must comply with any such request unless the Chairperson is of the opinion that to do so would compromise proceedings of the Tribunal.	3 4 5
(3)	The Chairperson may, if requested by the Director-General, make available to the Department of Fair Trading any other information that is within the knowledge or possession of the Tribunal.	6 7 8
(4)	For the purposes of subsection (1), <i>disciplinary action</i> includes any prosecution or enforcement activity.	9 10
<b>73</b>	<b>Improper disclosure of information</b>	11
	A person must not disclose information obtained in exercising a function under this Act unless the disclosure is made:	12 13
(a)	with the consent of the person to whom the information relates, or	14 15
(b)	in connection with the execution or administration of this Act, or	16 17
(c)	for the purpose of any legal proceedings arising out of this Act or any report of such proceedings, or	18 19
(d)	with other legal excuse.	20
	Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.	21 22
<b>74</b>	<b>Act to bind Crown</b>	23
	This Act binds the Crown.	24
<b>75</b>	<b>Seal of Tribunal</b>	25
	The Tribunal is to have a seal and that seal is to be judicially noticed.	26
<b>76</b>	<b>Authentication of documents</b>	27
(1)	Every document requiring authentication by the Tribunal is sufficiently authenticated without the seal of the Tribunal if it is:	28 29
(a)	signed by any member or the Registrar, or	30
(b)	authenticated in a manner prescribed by the regulations.	31

- (2) Judicial notice is to be taken of the signature of the member concerned or the Registrar when appearing on a document issued by the Tribunal. 1  
2  
3

#### **77 Proof of certain matters not required** 4

In any legal proceedings, no proof is required (unless evidence to the contrary is given) of: 5  
6

- (a) the constitution of the Tribunal, or 7
- (b) any decision of the Tribunal, or 8
- (c) the appointment of, or the holding of office by, a member. 9

#### **78 Notices, service and lodgment of documents** 10

- (1) For the purposes of this Act, a notice or document may be given to a person (and a document may be served on a person): 11  
12
- (a) in the case of a natural person—by: 13
    - (i) delivering it to the person personally, or 14
    - (ii) leaving it at, or by sending it by post to, the residential or business address, or other address for service, of the person that was last known to the person giving or serving the document, or 15  
16  
17  
18
  - (b) in the case of a body corporate—by leaving it at, or by sending it by post to, the head office, a registered office or a principal office of the body corporate, or 19  
20  
21
  - (c) in the case of a Government Department—by leaving it at, or by sending it by post to, any office of that Department addressed to the head of the Government Department. 22  
23  
24
- (2) A notice or other document may be served on the Tribunal by leaving it at, or by sending it by post to (or a document that is required or permitted to be lodged with the Tribunal may be lodged at): 25  
26  
27
- (a) the office of the Registrar, or 28
  - (b) if the Registrar has more than one office, any one of those offices. 29  
30
- (3) Nothing in this section affects the operation of any provision of any law or the rules of a court authorising a document to be served in a manner not provided for by this section. 31  
32  
33

(4) The regulations may:	1
(a) provide for additional means of serving, giving or lodging any notice or document, and	2 3
(b) provide that a notice or document of a class specified by the regulations be served, given or lodged only in the prescribed manner.	4 5 6
<b>79 Return of documents after proceedings concluded</b>	7
The Chairperson may cause a document or any other object provided to the Tribunal for the purposes of any proceedings to be returned to the person by whom it was provided if:	8 9 10
(a) the proceedings have concluded, and	11
(b) the time within which an appeal from the decision of the Tribunal in the proceedings may be lodged (or the period of an extension of time for lodging the appeal) has expired with no appeal being lodged.	12 13 14 15
<b>80 Allowances and expenses of witnesses</b>	16
(1) A person who is required to appear or give evidence before the Tribunal is entitled to be paid such allowances and expenses as are ascertained in accordance with a scale of allowances and expenses prescribed by the regulations.	17 18 19 20
(2) Subject to subsection (3), the allowances and expenses are to be paid by the party at whose request a witness is summoned.	21 22
(3) The Tribunal may order that the allowances and expenses of a witness referred to in subsection (2) be paid wholly or partly by the State out of money otherwise lawfully available.	23 24 25
<b>81 Extensions of time</b>	26
(1) Despite any other provision of this or any other Act, the Tribunal may, of its own motion or on application by any person, extend the period of time for the doing of anything under any Act in respect of which the Tribunal has jurisdiction.	27 28 29 30
(2) Such an application may be made even though the relevant period of time has expired.	31 32



<b>82</b>	<b>Proceedings for offences</b>	1
(1)	Proceedings for an offence under this Act or the regulations are to be disposed of summarily before a Local Court constituted by a Magistrate sitting alone.	2 3 4
(2)	Proceedings for an offence under this Act or the regulations may be brought within the period of 12 months of the date on which the offence is alleged to have been committed.	5 6 7
<b>83</b>	<b>Protection from personal liability</b>	8
	Any thing done or omitted to be done by a member, the Registrar or a Deputy Registrar in exercising the functions conferred or imposed on the member, Registrar or Deputy Registrar by or under this or any other Act does not, if the thing was done or omitted to be done in good faith, subject the member, Registrar or Deputy Registrar personally to any action, liability, claim or demand.	9 10 11 12 13 14
<b>84</b>	<b>Annual report</b>	15
(1)	As soon as practicable after 30 June (but on or before 31 December) in each year, the Chairperson must provide the Minister with a report on the operations of the Tribunal for the period ending on 30 June in that year.	16 17 18 19
(2)	The Minister is to lay the report, or cause it to be laid, before both Houses of Parliament as soon as practicable after receiving the report.	20 21
<b>85</b>	<b>Chairperson may furnish reports</b>	22
	The Chairperson may, on behalf of the Tribunal, provide reports to the Minister or to the Director-General concerning any matter the Chairperson considers:	23 24 25
(a)	to be of importance in relation to the administration of this Act or in relation to the jurisdiction of the Tribunal or any matter falling within its jurisdiction, or	26 27 28
(b)	to be in the public interest.	29
<b>86</b>	<b>Regulations</b>	30
(1)	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	31 32 33 34

- (2) Without limiting the generality of subsection (1), the regulations may make provision for or with respect to the following:
- (a) the initiation, lapsing and withdrawal of proceedings,
  - (b) the means for, and the practice and procedure to be followed in, the enforcement and execution of decisions of the Tribunal,
  - (c) the joinder, by the Tribunal or by a party in any proceedings, of other parties,
  - (d) the circumstances in which proceedings may be heard ex parte or in which default judgments may be obtained,
  - (e) the representation of parties in proceedings,
  - (f) the awarding of costs by the Tribunal in relation to proceedings,
  - (g) any other matter relating to proceedings,
  - (h) the payment of interest on money adjudged by the Tribunal to be payable and which remains unpaid,
  - (i) the functions of the Registrar or other officers under this Act, including functions in relation to proceedings,
  - (j) records of the Tribunal and proceedings,
  - (k) mediation and neutral evaluation,
  - (l) the provision by the Tribunal of statistical information and of services,
  - (m) the form of any summons or warrant under this Act,
  - (n) the fees payable in respect of an application to the Tribunal (including the waiver or refund of any such fees).
- (3) The regulations may create offences punishable by a penalty not exceeding 10 penalty units.
- 87 Forms**
- The Minister may approve the form of any document to be used for the purposes of this Act or the regulations and that is not otherwise required or permitted to be prescribed under this Act.

---

<b>88</b>	<b>Repeal of legislation</b>	1
	The following Acts and Regulations are repealed:	2
	(a) the <i>Fair Trading Tribunal Act 1998</i> ,	3
	(b) the <i>Residential Tribunal Act 1998</i> ,	4
	(c) the <i>Fair Trading Tribunal Regulation 1999</i> ,	5
	(d) the <i>Residential Tribunal Regulation 1999</i> .	6
<b>89</b>	<b>Savings, transitional and other provisions</b>	7
	Schedule 6 has effect.	8
<b>90</b>	<b>Amendment of Acts</b>	9
	Each Act specified in Schedule 7 is amended as set out in that Schedule.	10 11
<b>91</b>	<b>Review of Act</b>	12
	(1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.	13 14 15
	(2) The review is to be undertaken as soon as possible after the period of 3 years from the commencement of section 5.	16 17
	(3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 3 years.	18 19

## Schedule 1 Divisions of the Tribunal

(Sections 4 (1) and 10)

### 1 Divisions

The Tribunal comprises the following Divisions:

- (a) the **General Division**, in which the Tribunal's jurisdiction is to be exercised in respect of:
  - (i) consumer claims under the *Consumer Claims Act 1998* (other than consumer claims that relate to motor vehicles or to matters arising under section 42A of the *Property, Stock and Business Agents Act 1941*), and
  - (ii) except as provided by paragraphs (b)–(h), all other matters in respect of which the Tribunal has jurisdiction,
- (b) the **Commercial Division**, in which the Tribunal's jurisdiction is to be exercised in respect of matters arising under the following Acts:
  - (i) the *Consumer Credit Administration Act 1995*,
  - (ii) the *Consumer Credit (New South Wales) Act 1995*,
  - (iii) the *Credit Act 1984*,
  - (iv) the *Credit (Finance Brokers) Act 1984*,
  - (v) the *Credit (Home Finance Contracts) Act 1984*,
  - (vi) the *Travel Agents Act 1986*,

and in respect of consumer claims under the *Consumer Claims Act 1998* that relate to matters arising under section 42A of the *Property, Stock and Business Agents Act 1941*,
- (c) the **Home Building Division**, in which the Tribunal's jurisdiction is to be exercised in respect of any matter arising under the *Home Building Act 1989*,
- (d) the **Motor Vehicles Division**, in which the Tribunal's jurisdiction is to be exercised in respect of consumer claims under the *Consumer Claims Act 1998* that relate to motor vehicles,
- (e) the **Residential Parks Division**, in which the Tribunal's jurisdiction is to be exercised in respect of any matter arising under:
  - (i) the *Residential Parks Act 1998*, and

- 
- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li style="margin-left: 40px;">(ii) the <i>Landlord and Tenant (Rental Bonds) Act 1977</i> that relates to a residential park,</li> <li>(f) the <b><i>Retirement Villages Division</i></b>, in which the Tribunal's jurisdiction is to be exercised in respect of any matter arising under the <i>Retirement Villages Act 1999</i>,</li> <li>(g) the <b><i>Strata and Community Schemes Division</i></b>, in which the Tribunal's jurisdiction is to be exercised in respect of matters arising under: <ul style="list-style-type: none"> <li>(i) the <i>Community Land Management Act 1989</i>, and</li> <li>(ii) the <i>Strata Schemes Management Act 1996</i>,</li> </ul> </li> <li>(h) the <b><i>Tenancy Division</i></b>, in which the Tribunal's jurisdiction is to be exercised in respect of matters arising under: <ul style="list-style-type: none"> <li>(i) the <i>Residential Tenancies Act 1987</i>, and</li> <li>(ii) the <i>Landlord and Tenant (Rental Bonds) Act 1977</i> (other than matters that relate to residential parks).</li> </ul> </li> </ul> | 1<br>2<br>3<br>4<br>5<br>6<br>7<br>8<br>9<br>10<br>11<br>12<br>13<br>14<br>15 |
|---|---|
- 
- |  |  |
|--|--|
| <p><b>2 Other provisions</b></p> <ul style="list-style-type: none"> <li>(1) An Act conferring jurisdiction on the Tribunal may provide for that jurisdiction to be exercised in any specified Division.</li> <li>(2) In case of doubt, the proper Division for dealing with any matter may be determined by the Registrar.</li> <li>(3) Matters may be transferred between Divisions in accordance with directions of the Tribunal.</li> </ul> | 16<br>17<br>18<br>19<br>20<br>21<br>22 |
|--|--|

## Schedule 2 Provisions relating to members

(Section 6 (2))

### 1 Definitions

In this Schedule:

*judicial office* means the office of:

- (a) Magistrate, or
- (b) Judge of the District Court, or
- (c) judicial member of the Industrial Relations Commission, or
- (d) Judge of the Land and Environment Court, or
- (e) Judge of the Supreme Court.

*member* does not (except in clause 10) include the Deputy Chairperson (Registry and Administration).

### 2 Terms of appointment

- (1) Subject to this Act, a member holds office for such period as is specified in the instrument of the member's appointment.
- (2) The term of an appointment must not exceed 5 years.
- (3) A member is eligible for re-appointment.

### 3 Full-time member may serve on part-time basis

- (1) The Governor may, at the request of a member appointed on a full-time basis, determine that the person may work on a part-time basis for a specified period or periods.
- (2) A person appointed on a full-time basis who was not, at the time of appointment, the holder of a judicial office must devote the whole of his or her time to the duties of the office of member, except during any period referred to in subclause (1).
- (3) Despite subclause (2), a member may:
  - (a) hold, and exercise the functions of, a judicial office or another statutory or other public office, or
  - (b) engage in any other employment, with the consent of the Chairperson.

<b>4</b>	<b>Remuneration</b>	1
(1)	A member appointed on a full-time basis is, while working on a full-time basis, entitled to be paid:	2
		3
(a)	remuneration in accordance with the <i>Statutory and Other Offices Remuneration Act 1975</i> , and	4
		5
(b)	such travelling and subsistence allowances as the Minister may from time to time determine in respect of the member.	6
		7
(2)	A member appointed on a part-time basis or working on a part-time basis is entitled to be paid:	8
		9
(a)	such remuneration as is determined by the Minister, and	10
(b)	such travelling and subsistence allowances as the Minister may from time to time determine in respect of the member.	11
		12
(3)	A member who is the holder of a judicial office is not, while receiving remuneration as such an officer, entitled to remuneration under this Act.	13
		14
		15
<b>5</b>	<b>Provisions where judicial officer is holding office as Chairperson, Deputy Chairperson (Determinations) or senior member</b>	16
		17
(1)	The appointment of a person who is the holder of a judicial office as the Chairperson, Deputy Chairperson (Determinations) or senior member, or service by a person who is the holder of a judicial office as Chairperson, Deputy Chairperson (Determinations) or senior member, does not affect:	18
		19
		20
		21
		22
(a)	the person's tenure of that judicial office, or	23
(b)	the person's rank, title, status, remuneration or other rights or privileges as the holder of that judicial office.	24
		25
(2)	The person's service as Chairperson, Deputy Chairperson (Determinations) or senior member is, for all purposes, taken to be service as the holder of that judicial office.	26
		27
		28
<b>6</b>	<b>Chairperson holding office on another tribunal</b>	29
(1)	Nothing in any Act or other law operates to disqualify:	30
(a)	a state tribunal member from also being appointed and holding office as Chairperson of the Tribunal, or	31
		32
(b)	the Chairperson of the Tribunal from also being appointed and holding office as a state tribunal member.	33
		34

- 
- |   |    |
|---|----|
| (2) However, if the Chairperson of the Tribunal is appointed to or holds office as a state tribunal member, the latter office is taken to be a part-time office only despite any provision made by or under any Act or other law:   | 1  |
|   | 2  |
|   | 3  |
|   | 4  |
| (a) requiring the holder of the office to devote the whole of his or her time to the duties of that office, or  | 5  |
|   | 6  |
| (b) prohibiting the person from engaging in employment outside the duties of that office.   | 7  |
|   | 8  |
| (3) If the Chairperson of the Tribunal also holds office as a state tribunal member, the Chairperson is not entitled to any remuneration payable in respect of that office by or under any Act. However, nothing in this clause affects any other right of the Chairperson to remuneration that is conferred or recognised by this Act. | 9  |
|   | 10 |
|   | 11 |
|   | 12 |
|   | 13 |
| (4) In this clause, <i>state tribunal member</i> means a member of any tribunal (other than the Tribunal) established by an Act of the Parliament of New South Wales.   | 14 |
|   | 15 |
|   | 16 |
| <b>7 Vacancy in office</b>  | 17 |
| (1) The office of a member becomes vacant if the member:  | 18 |
| (a) dies, or  | 19 |
| (b) completes a term of office and is not re-appointed, or  | 20 |
| (c) resigns the office by instrument in writing addressed to the Minister, or   | 21 |
|   | 22 |
| (d) retires on medical grounds, or  | 23 |
| (e) is nominated for election as a member of the Legislative Council or of the Legislative Assembly or as a member of a House of Parliament or a legislature of another State or Territory or of the Commonwealth, or   | 24 |
|   | 25 |
|   | 26 |
|   | 27 |
| (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or   | 28 |
|   | 29 |
|   | 30 |
|   | 31 |
| (g) is unavailable for duty as a member for a period of 28 consecutive days except on leave granted, in the case of the Chairperson, by the Minister, or in the case of any other member, by the Chairperson, or  | 32 |
|   | 33 |
|   | 34 |
|   | 35 |
| (h) becomes a mentally incapacitated person, or   | 36 |
-



- 
- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>(i) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or</li> <li>(j) is removed from office under this clause.</li> </ul> <p>(2) The Governor may remove a member from office:</p> <ul style="list-style-type: none"> <li>(a) for incapacity, incompetence or misbehaviour, or</li> <li>(b) if the member fails to enter into a performance agreement (as referred to in clause 1 of Schedule 3), or</li> <li>(c) if the member commits a serious or continuing breach of the member's performance agreement or a direction under clause 1 (5) of Schedule 3 in relation to the agreement, or</li> <li>(d) if the member commits a serious or continuing breach of his or her obligations to comply with a code of conduct (as referred to in clause 1 (4) of Schedule 3) or a direction under clause 1 (5) of that Schedule in relation to the code, or</li> <li>(e) if the Minister is satisfied, following a recommendation by the Peer Review Panel (as referred to in clause 2 of Schedule 3), that the member should not continue to hold office as a member.</li> </ul> <p><b>8 Acting Chairperson</b></p> <ul style="list-style-type: none"> <li>(1) The Minister may appoint the Deputy Chairperson (Determinations) or a senior member to be Acting Chairperson during the absence from duty of the Chairperson.</li> <li>(2) The Minister may make any appointment for a particular absence or for any absence that occurs from time to time.</li> <li>(3) An Acting Chairperson has the functions of the Chairperson and anything done by an Acting Chairperson in the exercise of those functions has effect as if it had been done by the Chairperson.</li> <li>(4) In this clause, <i>absence from duty</i> includes a vacancy in the office of Chairperson.</li> </ul> | <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> |
|---|--|

<b>9</b>	<b>Appointment of acting Deputy Chairperson (Determinations) or acting senior member for a period</b>	1
		2
(1)	The Minister may appoint, as an acting Deputy Chairperson (Determinations) or acting senior member of the Tribunal, a person qualified for appointment as such if satisfied that the appointment is necessary to enable the Tribunal to exercise its functions effectively during the period of the appointment.	3
		4
		5
		6
		7
(2)	The person's appointment is for the period (not exceeding 12 months) specified in the instrument of appointment.	8
		9
(3)	An acting Deputy Chairperson (Determinations) or acting senior member has the functions of, and is taken to be, Deputy Chairperson (Determinations) or senior member, as the case may be, subject to any conditions or limitations specified in the instrument of appointment.	10
		11
		12
		13
<b>10</b>	<b>Seniority</b>	14
(1)	The members have seniority according to the following order of precedence:	15
		16
(a)	the Chairperson,	17
(b)	the Deputy Chairperson (Registry and Administration) and the Deputy Chairperson (Determinations) who are equal in seniority,	18
		19
		20
(c)	senior members according to the days on which their appointments took effect or, if the appointments of 2 or more of them took effect on the same day, according to the precedence assigned to them by their instruments of appointment,	21
		22
		23
		24
		25
(d)	other members according to the days on which their appointments took effect.	26
		27
(2)	If a person is re-appointed under this Act, the person's seniority is to be determined as if there had been no break in the person's service.	28
		29
<b>11</b>	<b>Leave</b>	30
(1)	The entitlement of a member to annual and other leave is to be as stated in the instrument of the member's appointment.	31
		32
(2)	A member may be granted leave:	33
(a)	in the case of the Chairperson—by the Minister, and	34
(b)	in any other case—by the Chairperson.	35

**12 Superannuation and leave—preservation of rights**

- (1) In this clause: 1
- eligible member* means a member of the Tribunal who, immediately 2  
before holding that office, was: 3
- (a) a public servant, or 4
- (b) an officer or employee of a public authority declared by an Act 5  
or proclamation to be an authority to which this clause applies. 6
- superannuation scheme* means a scheme, fund or arrangement under 7  
which any superannuation or retirement benefits are provided and 8  
which is established by or under an Act. 9
- (2) An eligible member: 10
- (a) may continue to contribute to any superannuation scheme to 11  
which he or she was a contributor immediately before 12  
becoming an eligible member, and 13
- (b) is entitled to receive any payment, pension or gratuity accrued 14  
or accruing under the scheme, 15
- as if he or she had continued to be such a contributor during service as 16  
a member of the Tribunal. 17
- (3) Service by the eligible member as a member of the Tribunal is taken 18  
to be service as an officer in his or her previous employment for the 19  
purposes of any law under which the member continues to contribute 20  
to the scheme or by which an entitlement under the scheme is 21  
conferred. 22
- (4) The eligible member is to be regarded as an officer or employee, and 23  
the State is to be regarded as the employer, for the purposes of the 24  
scheme. 25
- (5) This clause ceases to apply to the eligible member if he or she 26  
becomes a contributor to another superannuation scheme, but the 27  
eligible member is not prevented from receiving a resignation benefit 28  
from the first superannuation scheme. 29
- (6) An eligible member retains any rights to annual leave, extended or 30  
long service leave and sick leave accrued or accruing in his or her 31  
previous employment. 32
- (7) An eligible member is not entitled to claim, under both this Act and 33  
any other Act, dual benefits of the same kind for the same period of 34  
service. 35

<b>13 Full-time member entitled to re-appointment to former employment in certain cases</b>	1
	2
A person who:	3
(a) ceases to be a full-time member because of the expiration of the period for which the person was appointed or because of resignation, and	4
	5
	6
(b) was, immediately before being appointed as a full-time member:	7
	8
(i) a public servant, or	9
(ii) an officer or employee of a public authority declared by an Act or proclamation to be an authority to which this clause applies,	10
	11
	12
is entitled to be appointed to some position in the Public Service or the service of that public authority, as the case may be, not lower in classification and salary than that which the person held immediately before being appointed as a full-time member.	13
	14
	15
	16
<b>14 Effect of other Acts</b>	17
(1) The <i>Public Sector Management Act 1988</i> (except Part 8) does not apply to the appointment of a member and the member is not, as a member, subject to that Act.	18
	19
	20
(2) If by or under any Act provision is made:	21
(a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or	22
	23
	24
(b) prohibiting the person from engaging in employment outside the duties of that office,	25
	26
the provision does not operate to disqualify the person from holding that office and also the office of a part-time member or from accepting and retaining any remuneration payable to the person under this Act as a part-time member.	27
	28
	29
	30
<b>15 Oaths</b>	31
The Governor may require oaths to be taken by the Chairperson, the Deputy Chairperson (Determinations) or a senior member of the Tribunal.	32
	33
	34

## Schedule 3 Performance management and review

(Section 9)

### 1 Members required to enter into and comply with performance agreements and code of conduct

- (1) This clause does not apply to the Deputy Chairperson (Registry and Administration).
- (2) As soon as practicable after being appointed, each member is required to enter into a performance agreement with:
  - (a) in the case of a member other than the Chairperson—the Chairperson, or
  - (b) in the case of the Chairperson—the Minister.
- (3) The performance agreement is to deal with the performance by the member of the duties of his or her office, and in particular may deal with the following matters:
  - (a) participation by the member in a performance appraisal scheme,
  - (b) the member's accountability for his or her productivity and performance.
- (4) Each member must comply with:
  - (a) the member's performance agreement, and
  - (b) the code of conduct established for members by the Chairperson.
- (5) If a member (other than the Chairperson) does not comply with the member's performance agreement or the code of conduct, the Chairperson may direct the member to take specified action to improve his or her duties so that the member will in future comply with the agreement or code.

### 2 Peer Review Panel

- (1) A Peer Review Panel is established by this Act.
- (2) The Panel is to consist of:
  - (a) the Deputy Chairperson (Registry and Administration), and
  - (b) the Deputy Chairperson (Determinations), and
  - (c) one other person appointed by the Minister.

- (3) The Panel has the following functions: 1
  - (a) to review matters relating to the members that are referred to it 2by the Chairperson, the Director-General or the Minister, and 3
  - (b) to provide advice to the Chairperson, Director-General or 4Minister on the matters that are referred to it. 5
- (4) Such matters may include: 6
  - (a) any education issues in relation to members, and 7
  - (b) any training needs for members, and 8
  - (c) the investigation of complaints, and the taking of disciplinary 9action, against members. 10
- (5) The Panel may recommend to the Minister that a member who is the 11subject of a review by the Panel should, or should not, continue to hold 12office as a member. 13
- (6) In any case where the Chairperson or the Deputy Chairperson 14(Determinations) is the member who is the subject of a review, the 15Minister is to convene a Panel in such manner as the Minister thinks 16appropriate. 17
- (7) The Deputy Chairperson (Registry and Administration) cannot be the 18subject of a review under this clause. 19

<b>Schedule 4</b>	<b>Provisions relating to assessors</b>	1
	(Section 15)	2
<b>1</b>	<b>Appointment of assessors</b>	3
(1)	The Chairperson may appoint persons to be assessors of the Tribunal.	4
(2)	The appointment of a person as an assessor is to be for such period as is specified in the instrument of appointment.	5 6
(3)	An assessor is entitled to be paid such remuneration and other allowances as may be determined by the Minister.	7 8
(4)	The Chairperson may remove an assessor from office at any time.	9
<b>2</b>	<b>Lists of persons eligible for appointment as assessors</b>	10
(1)	The Chairperson may compile a list or lists of persons considered by the Chairperson to be suitable to be appointed as assessors.	11 12
(2)	Different lists may be compiled for different types of matters or to take account of any other factors.	13 14
(3)	A person may be included in a list under this clause only if the person consents to being included in the list.	15 16
(4)	The Chairperson may amend or cancel any list compiled under this clause for any reason that the Chairperson considers appropriate.	17 18
(5)	The Chairperson is to review at least annually any list compiled under this clause.	19 20
<b>3</b>	<b>Protection from person liability</b>	21
	Any thing done or omitted to be done by an assessor under this Act does not, if the thing was done or omitted to be done in good faith for the purposes of this Act, subject the assessor personally to any action, liability, claim or demand.	22 23 24 25
<b>4</b>	<b>Effect of certain other Acts</b>	26
(1)	The provisions of the <i>Public Sector Management Act 1988</i> do not apply to or in respect of the appointment of an assessor and an assessor is not, as an assessor, subject to that Act.	27 28 29

- |  |    |
|--|----|
| (2) If by or under any Act provision is made:                            | 1  |
| (a) requiring a person who is the holder of a specified office to        | 2  |
| devote the whole of his or her time to the duties of that office,        | 3  |
| or   | 4  |
| (b) prohibiting a person from engaging in employment outside the         | 5  |
| duties of that office,   | 6  |
| that provision does not operate to disqualify the person from holding    | 7  |
| that office and also from being appointed as an assessor or, subject to  | 8  |
| subclause (3), from accepting and retaining any remuneration payable     | 9  |
| to the person under this Act as an assessor.                             | 10 |
| (3) Subclause (2) does not operate to authorise an officer of a court to | 11 |
| accept or retain any remuneration payable to the officer as an assessor. | 12 |



## **Schedule 5 Provisions relating to mediators and neutral evaluators**

(Section 58)

- |   |    |
|---|----|
| <b>1 Appointment of mediators and neutral evaluators</b>  | 1  |
|   | 2  |
|   | 3  |
|   | 4  |
| (1) The appointment of a person as a mediator or neutral evaluator is to be for such period as is specified in the instrument of appointment.                                       | 5  |
|   | 6  |
| (2) A mediator or neutral evaluator is entitled to be paid such remuneration and other allowances as may be determined by the Minister.   | 7  |
|   | 8  |
|   | 9  |
| (3) The Chairperson may remove a mediator or neutral evaluator from office at any time.   | 10 |
|   | 11 |
| <b>2 Lists of persons eligible for appointment as mediators or neutral evaluators</b>   | 12 |
|   | 13 |
| (1) The Chairperson may compile a list or lists of persons considered by the Chairperson to be suitable to be appointed as mediators or neutral evaluators.                         | 14 |
|   | 15 |
|   | 16 |
| (2) Different lists may be compiled for different types of matters or to take account of any other factors.   | 17 |
|   | 18 |
| (3) A person may be included in a list under this clause only if the person consents to being included in the list.   | 19 |
|   | 20 |
| (4) The Chairperson may amend or cancel any list compiled under this clause for any reason that the Chairperson considers appropriate.  | 21 |
|   | 22 |
| (5) The Chairperson is to review at least annually any list compiled under this clause.   | 23 |
|   | 24 |
| <b>3 Protection from personal liability</b>   | 25 |
| Any thing done or omitted to be done by a mediator or neutral evaluator does not subject the mediator or neutral evaluator personally to any action, liability, claim or demand if: | 26 |
|   | 27 |
|   | 28 |
| (a) the thing was done or omitted to be done in good faith for the purposes of a mediation session or neutral evaluation session under this Act, and                                | 29 |
|   | 30 |
|   | 31 |

- (b) when the subject-matter of the mediation or neutral evaluation was referred for mediation or neutral evaluation, the mediator's or neutral evaluator's name was included in a list compiled under this Schedule. 1  
2  
3  
4

**4 Effect of certain other Acts** 5

- (1) The provisions of the *Public Sector Management Act 1988* do not apply to or in respect of the appointment of a mediator or neutral evaluator and a mediator or neutral evaluator is not, as a mediator or neutral evaluator, subject to that Act. 6  
7  
8  
9
- (2) If by or under any Act provision is made: 10
  - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or 11  
12  
13
  - (b) prohibiting a person from engaging in employment outside the duties of that office, 14  
15
- that provision does not operate to disqualify the person from holding that office and also from being appointed under this Act as a mediator or neutral evaluator or, subject to subclause (3), from accepting and retaining any remuneration payable to the person under this Act as a mediator or neutral evaluator so engaged. 16  
17  
18  
19  
20
- (3) Subclause (2) does not operate to authorise an officer of a court to accept or retain any remuneration payable to the officer as a mediator or neutral evaluator. 21  
22  
23

<b>Schedule 6</b>	<b>Savings, transitional and other provisions</b>	1
	(Section 89)	2
<b>Part 1</b>	<b>Preliminary</b>	3
<b>1</b>	<b>Regulations</b>	4
(1)	The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.	5 6
(2)	Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later date.	7 8
(3)	To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:	9 10 11
(a)	to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	12 13 14
(b)	to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	15 16 17
<b>Part 2</b>	<b>Provisions consequent on enactment of this Act</b>	18
<b>2</b>	<b>Definitions</b>	19
	In this Part:	20
	<i>final closure date</i> means the day occurring 8 months after the relevant date.	21 22
	<i>former Tribunal</i> means:	23
(a)	the Fair Trading Tribunal established by the <i>Fair Trading Tribunal Act 1998</i> , or	24 25
(b)	the Residential Tribunal established by the <i>Residential Tribunal Act 1998</i> .	26 27
	<i>relevant date</i> means the day on which section 5 commences.	28

<b>3</b>	<b>Phasing-out and abolition of former Tribunals</b>	1
(1)	On and from the relevant date:	2
(a)	no application may be made to bring any matter before a former Tribunal, and	3
(b)	a former Tribunal continues to exist, and any person holding office as a member of the former Tribunal concerned immediately before that date continues to hold office, only for the purpose of the exercise by that Tribunal of its functions under clause 6.	4
(2)	A former Tribunal is abolished:	5
(a)	when the last of its members ceases, in accordance with an order under clause 5, to hold office, or	6
(b)	on the final closure date,	7
	whichever is earlier.	8
<b>4</b>	<b>Chairpersons of former Tribunals cease to hold office</b>	9
(1)	The person holding office as Chairperson of the Fair Trading Tribunal or as Chairperson of the Residential Tribunal:	10
(a)	ceases to hold office as the Chairperson of the Tribunal concerned on the date of assent to this Act, and	11
(b)	is not entitled to any compensation by reason of ceasing to hold office.	12
(2)	Despite anything in the <i>Fair Trading Tribunal Act 1998</i> or the <i>Residential Tribunal Act 1998</i> , the Minister may appoint any person as the Acting Chairperson of the Fair Trading Tribunal or the Residential Tribunal (including as the Acting Chairperson of both those Tribunals at the same time).	13
<b>5</b>	<b>Members of former Tribunals</b>	14
(1)	The Minister may, by order published in the Gazette, declare that the member or members of a former Tribunal who are specified in the order cease to hold office from the date specified in the order. Any such member of a former Tribunal is not entitled to any compensation by reason of ceasing to hold office, but is eligible (if otherwise qualified) to be appointed as a member of the Consumer, Trader and Tenancy Tribunal.	15

- 
- (2) A member of a former Tribunal who is holding office immediately before the final closure date ceases to hold office on that date. Any such member is not entitled to any compensation by reason of ceasing to hold office, but is eligible (if otherwise qualified) to be appointed as a member of the Consumer, Trader and Tenancy Tribunal.
- 6 Pending proceedings**
- (1) Proceedings in a former Tribunal (including any proceedings in a former Tribunal that are the subject of an appeal to the Supreme Court) that:
- (a) were instituted before the relevant date, and
- (b) have not been finally determined before that date,
- may be continued and determined as if this Act had not been enacted, and for that purpose the provisions of any Act that would have applied to or in respect of the proceedings had this Act not been enacted continue to apply.
- (2) Subclause (1) ceases to have effect on the final closure date.
- (3) An order made under any other Act by a former Tribunal, being an order:
- (a) having effect immediately before the relevant date, or
- (b) made after that date in order to determine proceedings under this clause,
- is taken to be an order made by the Consumer, Trader and Tenancy Tribunal under the corresponding provision of this Act and may be enforced accordingly.
- 7 Pending proceedings after final closure date**
- (1) If proceedings were instituted before the relevant date but have not commenced to be heard by a former Tribunal before the final closure date, the proceedings are taken to have been duly instituted in the Consumer, Trader and Tenancy Tribunal.
- (2) If a former Tribunal had commenced to hear (but had not finally determined) a matter before the final closure date, the Consumer, Trader and Tenancy Tribunal is to continue to hear and determine the matter.

- (3) For the purposes of subclauses (1) and (2): 1
- (a) the Consumer, Trader and Tenancy Tribunal has and may 2  
exercise all the functions that the relevant former Tribunal had 3  
immediately before its abolition, and 4
- (b) the provisions of any Act, statutory rule or other law that would 5  
have applied to or in respect of the proceedings had this Act not 6  
been enacted continue to apply. 7
- (4) For the purposes of proceedings heard under subclause (2), the 8  
Consumer, Trader and Tenancy Tribunal may have regard to any 9  
record of the proceedings before the relevant former Tribunal, 10  
including a record of any evidence taken in the proceedings. 11
- 8 Pending applications for rehearings 12**
- An application for the rehearing of a matter by a former Tribunal that 13  
was made before the relevant date is, if the application has not been 14  
dealt with by that date, to be dealt with in accordance with this Act as 15  
if the application had been made under this Act. 16
- 9 References to former Tribunals 17**
- A reference in another Act, in an instrument made under an Act or in 18  
any other document to either of the former Tribunals (including any 19  
reference that is to be read as, or otherwise treated as, a reference to 20  
either of the former Tribunals) to be read as a reference to the 21  
Consumer, Trader and Tenancy Tribunal. 22

**Schedule 7 Amendment of Acts**

1

(Section 90)

2

**7.1 Community Land Management Act 1989 No 202**

3

**[1] Section 3 Definitions**

4

Omit the definition of *Tribunal* from section 3 (1). Insert instead:

5

*Tribunal* means the Consumer, Trader and Tenancy Tribunal  
established by the *Consumer, Trader and Tenancy Tribunal  
Act 2001*.

6

7

8

**[2] Section 13A How can an association enforce the by-laws?**

9

Omit “Residential” from the note.

10

**[3] Section 75 Service of copy of order**

11

Omit “certified” from section 75 (2).

12

**[4] Section 91A Proceedings before Tribunal**

13

Omit “*Residential Tribunal Act 1998*” from section 91A (1).

14

Insert instead “*Consumer, Trader and Tenancy Tribunal Act 2001*”.

15

**7.2 Consumer Claims Act 1998 No 162**

16

**[1] Section 3 Definitions**

17

Omit the definition of *Tribunal* from section 3 (1). Insert instead:

18

*Tribunal* means the Consumer, Trader and Tenancy Tribunal  
established by the *Consumer, Trader and Tenancy Tribunal  
Act 2001*.

19

20

21

<b>[2]    Section 14 Limitation on Tribunal’s jurisdiction to make orders</b>	1
Insert after section 14 (2):	2
(3)    Subsections (1) and (2) do not apply in relation to a consumer claim arising from the supply of a new motor vehicle that is used substantially for private purposes within the meaning of the <i>Motor Vehicles Taxation Act 1988</i> .	3 4 5 6
(4)    For the purposes of subsection (3):	7
<i>new motor vehicle</i> means a motor vehicle that is not a second-hand motor vehicle within the meaning of the <i>Motor Dealers Act 1974</i> .	8 9 10
 <b>7.3    Consumer Credit Administration Act 1995 No 69</b>	 11
 <b>[1]    Section 3 Definitions</b>	 12
Omit the definition of <i>Tribunal</i> from section 3 (1). Insert instead:	13
<i>Tribunal</i> means the Consumer, Trader and Tenancy Tribunal established by the <i>Consumer, Trader and Tenancy Tribunal Act 2001</i> .	14 15 16
 <b>[2]    Section 28 Minister may order inquiry</b>	 17
Omit “section 75 of the <i>Fair Trading Tribunal Act 1998</i> ” from section 28 (8).	18 19
Insert instead “section 83 of the <i>Consumer, Trader and Tenancy Tribunal Act 2001</i> ”.	20 21
 <b>[3]    Sections 28 (9) and 36 (2)</b>	 22
Omit “ <i>Fair Trading Tribunal Act 1998</i> ” wherever occurring.	23
Insert instead “ <i>Consumer, Trader and Tenancy Tribunal Act 2001</i> ”.	24
 <b>[4]    Section 45 Secrecy</b>	 25
Omit “section 19 of the <i>Fair Trading Tribunal Act 1998</i> “ from section 45 (1) (g).	26 27
Insert instead “section 19 of the <i>Consumer, Trader and Tenancy Tribunal Act 2001</i> ”.	28 29



<b>7.4</b>	<b>Contracts Review Act 1980 No 16</b>	1
<b>[1]</b>	<b>Section 4 Definitions</b>	2
	Omit “Fair Trading Tribunal” wherever occurring from paragraphs (d) and (e) of the definition of <i>Court</i> in section 4 (1).	3
	Insert instead “Tribunal”.	4
<b>[2]</b>	<b>Section 4 (1), definition of “Fair Trading Tribunal”</b>	5
	Omit the definition. Insert instead in alphabetical order:	6
	<i>Tribunal</i> means the Consumer, Trader and Tenancy Tribunal established by the <i>Consumer, Trader and Tenancy Tribunal Act 2001</i> .	7
		8
		9
		10
<b>7.5</b>	<b>Credit Act 1984 No 94</b>	11
<b>[1]</b>	<b>Section 5 Definitions</b>	12
	Omit the definition of <i>Tribunal</i> from section 5 (1). Insert instead:	13
	<i>Tribunal</i> means the Consumer, Trader and Tenancy Tribunal established by the <i>Consumer, Trader and Tenancy Tribunal Act 2001</i> .	14
		15
		16
<b>[2]</b>	<b>Section 86 General order varying civil penalty</b>	17
	Omit “ <i>Fair Trading Tribunal Act 1998</i> ” from section 86 (5).	18
	Insert instead “ <i>Consumer, Trader and Tenancy Tribunal Act 2001</i> ”.	19
<b>7.6</b>	<b>Credit (Finance Brokers) Act 1984 No 96</b>	20
	<b>Section 4 Definitions</b>	21
	Omit the definition of <i>Tribunal</i> from section 4 (1). Insert instead:	22
	<i>Tribunal</i> means the Consumer, Trader and Tenancy Tribunal established by the <i>Consumer, Trader and Tenancy Tribunal Act 2001</i> .	23
		24
		25

<b>7.7    Credit (Home Finance Contracts) Act 1984 No 97</b>	1
<b>Section 4 Definitions</b>	2
Omit the definition of <i>Tribunal</i> . Insert instead:	3
<i>Tribunal</i> means the Consumer, Trader and Tenancy Tribunal	4
established by the <i>Consumer, Trader and Tenancy Tribunal</i>	5
<i>Act 2001</i> .	6
<b>7.8    Electricity Supply Act 1995 No 94</b>	7
<b>Section 96A Review of certain decisions under electricity industry</b>	8
<b>ombudsman scheme</b>	9
Omit section 96A (4). Insert instead:	10
(4) This section does not affect the jurisdiction of the Consumer,	11
Trader and Tenancy Tribunal established by the <i>Consumer,</i>	12
<i>Trader and Tenancy Tribunal Act 2001</i> .	13
<b>7.9    Fair Trading Act 1987 No 68</b>	14
<b>Section 4 Definitions</b>	15
Omit the definition of <i>Tribunal</i> from section 4 (1). Insert instead:	16
<i>Tribunal</i> means the Consumer, Trader and Tenancy Tribunal	17
established by the <i>Consumer, Trader and Tenancy Tribunal</i>	18
<i>Act 2001</i> .	19

<b>7.10 Home Building Act 1989 No 147</b>	1
<b>[1] Section 3 Definitions</b>	2
Omit the definition of <i>Tribunal</i> from section 3 (1). Insert instead:	3
<i>Tribunal</i> means (except in Part 4A) the Consumer, Trader and Tenancy Tribunal established by the <i>Consumer, Trader and Tenancy Tribunal Act 2001</i> .	4 5 6
<b>[2] Section 48D Tribunal may attempt to resolve building disputes (as inserted by Schedule 4 to the Home Building Legislation Amendment Act 2001)</b>	7 8 9
Omit “ <i>Fair Trading Tribunal Act 1998</i> ” from section 48D (6).	10
Insert instead “ <i>Consumer, Trader and Tenancy Tribunal Act 2001</i> ”.	11
<b>[3] Section 48HA</b>	12
Insert after section 48H (as inserted by Schedule 4 to the <i>Home Building Legislation Amendment Act 2001</i> ):	13 14
<b>48HA Protection from personal liability</b>	15
Any thing done or omitted to be done by an independent expert under this Division does not, if the thing was done or omitted to be done in good faith for the purposes of this Division, subject the expert personally to any action, liability, claim or demand.	16 17 18 19 20
<b>[4] Section 48K Jurisdiction of Tribunal in relation to building claims (as inserted by Schedule 4 to the Home Building Legislation Amendment Act 2001)</b>	21 22 23
Omit “section 22 of the <i>Fair Trading Tribunal Act 1998</i> ” from section 48K (9).	24 25
Insert instead “section 22 of the <i>Consumer, Trader and Tenancy Tribunal Act 2001</i> ”.	26 27

---

<b>[5]    Section 48L Tribunal to be chiefly responsible for resolving building claims (as inserted by Schedule 4 to the Home Building Legislation Amendment Act 2001)</b>	1 2 3
Omit “section 23 of the <i>Fair Trading Tribunal Act 1998</i> ” from section 48L (4).	4 5
Insert instead “section 23 of the <i>Consumer, Trader and Tenancy Tribunal Act 2001</i> ”.	6 7
<b>[6]    Part 5, heading (as inserted by Schedule 4 to the Home Building Legislation Amendment Act 2001)</b>	8 9
Omit “ <b>Fair Trading</b> ”.	10
<b>7.11    Landlord and Tenant Act 1899 No 18</b>	11
<b>        Section 3 Recovery of land may be refused in cases of retaliatory eviction</b>	12 13
Omit “Residential Tribunal” wherever occurring.	14
Insert instead “Consumer, Trader and Tenancy Tribunal”.	15
<b>7.12    Landlord and Tenant (Rental Bonds) Act 1977 No 44</b>	16
<b>[1]    Section 4 Definitions</b>	17
Omit the definition of <i>Tribunal</i> from section 4 (1). Insert instead:	18
<i>Tribunal</i> means the Consumer, Trader and Tenancy Tribunal established by the <i>Consumer, Trader and Tenancy Tribunal Act 2001</i> .	19 20 21
<b>[2]    Section 20 Rental Bond Interest Account</b>	22
Omit “, the <i>Residential Tribunal Act 1998</i> ” wherever occurring from section 20 (2A).	23 24

<b>[3] Section 20 (2AB)</b>	1
Insert after section 20 (2A):	2
(2AB) There is payable from the Rental Bond Interest Account such	3
amounts, as are agreed annually by the Minister, the Minister	4
administering the <i>Property, Stock and Business Agents</i>	5
<i>Act 1941</i> and the Minister administering the <i>Consumer, Trader</i>	6
<i>and Tenancy Tribunal Act 2001</i> , for the payment of half the	7
costs and expenses incurred (in the year ending 30 June next	8
succeeding the year in which such an agreement is made) in the	9
administration of the <i>Consumer, Trader and Tenancy Tribunal</i>	10
<i>Act 2001</i> , but only to the extent to which those costs and	11
expenses relate to the exercise of the Tribunal's jurisdiction in	12
relation to matters arising under the following Acts:	13
(a) the <i>Community Land Management Act 1989</i> ,	14
(b) the <i>Residential Parks Act 1998</i> ,	15
(c) the <i>Residential Tenancies Act 1987</i> ,	16
(d) the <i>Retirement Villages Act 1999</i> ,	17
(e) the <i>Strata Schemes Management Act 1996</i> .	18
<b>[4] Section 20 (2B)</b>	19
Omit the subsection. Insert instead:	20
(2B) Despite subsections (2A) and (2AB), there is payable from the	21
Rental Bond Interest Account for the purposes set out in those	22
subsections such additional amounts as the Ministers referred	23
to in those subsections may at any time agree.	24
<b>7.13 Motor Dealers Act 1974 No 52</b>	25
<b>Section 4 Definitions</b>	26
Omit the definition of <i>Tribunal</i> from section 4 (1). Insert instead:	27
<i>Tribunal</i> means the Consumer, Trader and Tenancy Tribunal	28
established by the <i>Consumer, Trader and Tenancy Tribunal</i>	29
<i>Act 2001</i> .	30

<b>7.14    Motor Vehicle Repairs Act 1980 No 71</b>	1
<b>Section 4 Definitions</b>	2
Omit the definition of <i>Tribunal</i> from section 4 (1). Insert instead:	3
<i>Tribunal</i> means the Consumer, Trader and Tenancy Tribunal	4
established by the <i>Consumer, Trader and Tenancy Tribunal</i>	5
<i>Act 2001</i> .	6
<b>7.15    Property, Stock and Business Agents Act 1941 No 28</b>	7
<b>[1]    Section 3 Definitions</b>	8
Omit the definition of <i>Tribunal</i> from section 3 (1). Insert instead:	9
<i>Tribunal</i> means the Consumer, Trader and Tenancy Tribunal	10
established by the <i>Consumer, Trader and Tenancy Tribunal</i>	11
<i>Act 2001</i> .	12
<b>[2]    Section 63E Application of money for purposes of certain Acts</b>	13
Omit “, the <i>Residential Tribunal Act 1998</i> ” wherever occurring from	14
section 63E (1).	15
<b>[3]    Section 63E (1A)</b>	16
Insert after section 63E (1):	17
(1A) In addition to the purposes set out in section 63D, such	18
contributions from the Statutory Interest Account as are agreed	19
annually by the Minister, the Minister administering the	20
<i>Landlord and Tenant (Rental Bonds) Act 1977</i> and the	21
Minister administering the <i>Consumer, Trader and Tenancy</i>	22
<i>Tribunal Act 2001</i> are to be paid for half the costs and	23
expenses incurred (in the year ending 30 June next succeeding	24
the year in which such an agreement is made) in the	25
administration of the <i>Consumer, Trader and Tenancy Tribunal</i>	26
<i>Act 2001</i> , but only to the extent to which those costs and	27
expenses relate to the exercise of the Tribunal’s jurisdiction in	28
relation to matters arising under the following Acts:	29

---

(a)	the <i>Community Land Management Act 1989</i> ,	1
(b)	the <i>Residential Parks Act 1998</i> ,	2
(c)	the <i>Residential Tenancies Act 1987</i> ,	3
(d)	the <i>Retirement Villages Act 1999</i> ,	4
(e)	the <i>Strata Schemes Management Act 1996</i> .	5
<b>[4]</b>	<b>Section 63E (2)</b>	6
	Omit the subsection. Insert instead:	7
(2)	Despite subsections (1) and (1A), there is payable from the Statutory Interest Account for the purposes set out in those subsections such additional contributions as the Ministers referred to in those subsections may at any time agree.	8 9 10 11
<b>7.16</b>	<b>Residential Parks Act 1998 No 142</b>	12
<b>[1]</b>	<b>Section 3 Definitions</b>	13
	Omit the definition of <i>Tribunal</i> from section 3 (1). Insert instead:	14
	<i>Tribunal</i> means the Consumer, Trader and Tenancy Tribunal established by the <i>Consumer, Trader and Tenancy Tribunal Act 2001</i> .	15 16 17
<b>[2]</b>	<b>Section 91 Tribunal may refer certain matters for alternative dispute resolution</b>	18 19
	Omit “ <i>Residential Tribunal Act 1998</i> ” from section 91 (4).	20
	Insert instead “ <i>Consumer, Trader and Tenancy Tribunal Act 2001</i> ”.	21
<b>7.17</b>	<b>Residential Tenancies Act 1987 No 26</b>	22
<b>[1]</b>	<b>Long title</b>	23
	Omit “Residential Tribunal”.	24
	Insert instead “Consumer, Trader and Tenancy Tribunal”.	25

---

---

<b>[2]    Section 3 Definitions</b>	1
Omit the definition of <i>Tribunal</i> from section 3 (1). Insert instead:	2
<i>Tribunal</i> means the Consumer, Trader and Tenancy Tribunal	3
established by the <i>Consumer, Trader and Tenancy Tribunal</i>	4
<i>Act 2001</i> .	5
 <b>7.18   Retirement Villages Act 1999 No 81</b>	 6
 <b>[1]    Section 4 Definitions</b>	 7
Omit the definition of <i>Fair Trading Tribunal</i> from section 4 (1).	8
 <b>[2]    Section 4 (1), definition of “Tribunal”</b>	 9
Omit the definition. Insert instead:	10
<i>Tribunal</i> means the Consumer, Trader and Tenancy Tribunal	11
established by the <i>Consumer, Trader and Tenancy Tribunal</i>	12
<i>Act 2001</i> .	13
 <b>[3]    Part 8, Division 2</b>	 14
Omit “Residential” from the note immediately following the heading to the	15
Division.	16
 <b>[4]    Section 122 Disputes between operator and resident</b>	 17
Omit “Residential” from the note to section 122 (1).	18
 <b>[5]    Section 123 Jurisdiction of Tribunal</b>	 19
Omit “Fair Trading” wherever occurring.	20
 <b>[6]    Section 124 Compliance with orders of Fair Trading Tribunal</b>	 21
Omit the section.	22



<b>[7] Section 125 Informal resolution of disputes</b>	1
Omit the note to the section. Insert instead:	2
<b>Note.</b> Part 5 (Alternative dispute resolution) of the <i>Consumer, Trader and Tenancy Tribunal Act 2001</i> provides for conciliation and mediation. Section 54 of that Act requires the Consumer, Trader and Tenancy Tribunal, before making an order to determine a matter, to use its best endeavours to bring the parties to a settlement that is acceptable to all the parties.	3 4 5 6 7 8
<b>[8] Part 8, Division 3, heading</b>	9
Omit “ <b>Residential</b> ”. Insert instead “ <b>Consumer, Trader and Tenancy</b> ”.	10
<b>[9] Section 126 Jurisdiction</b>	11
Omit the note.	12
<b>[10] Section 128 Order of Tribunal</b>	13
Omit section 128 (1) (i) and (j).	14
<b>[11] Section 188 Definition</b>	15
Omit paragraph (b) of the definition of <i>judicial body</i> .	16
<b>7.19 Statutory and Other Offices Remuneration Act 1975 (1976 No 4)</b>	17
<b>Schedule 2 Public Offices</b>	18
Omit the following from Part 1:	19
Chairperson of the Residential Tenancies Tribunal (not being the holder of a judicial office) appointed on a full-time basis and working on a full-time basis	20 21 22
Member of the Residential Tenancies Tribunal (not being the holder of a judicial office) appointed on a full-time basis and working on a full-time basis	23 24 25
Chairperson of the Fair Trading Tribunal (not being a judicial officer) appointed on a full-time basis and working on a full-time basis	26 27 28

Member of the Fair Trading Tribunal (not being a judicial officer) appointed on a full-time basis and working on a full-time basis	1 2 3
Insert instead at the end of Part 1:	4
Chairperson of the Consumer, Trader and Tenancy Tribunal appointed on a full-time basis and working on a full-time basis	5 6
Member of the Consumer, Trader and Tenancy Tribunal (other than the Deputy Chairperson (Registry and Administration)) appointed on a full-time basis and working on a full-time basis	7 8 9
<b>7.20    Strata Schemes Management Act 1996 No 138</b>	10
<b>[1]    Section 174 Copy of order to be served</b>	11
Omit “certified by the Registrar to be a true copy” from section 174 (1).	12
Insert instead “of an Adjudicator under this Part”.	13
<b>[2]    Section 195 Copy of order to be served</b>	14
Omit “the order certified by the Registrar to be a true copy” from section 195 (2).	15 16
Insert instead “any such order”.	17
<b>[3]    Section 210 Time at which order takes effect</b>	18
Omit “, certified by the Registrar to be a true copy,” from section 210 (1).	19
<b>[4]    Section 222 Proceedings before Tribunal</b>	20
Omit “ <i>Residential Tribunal Act 1998</i> ” from section 222 (1).	21
Insert instead “ <i>Consumer, Trader and Tenancy Tribunal Act 2001</i> ”.	22
<b>[5]    Section 222 (2)</b>	23
Omit “(a)”.	24

---

<b>[6] Dictionary</b>	1
Omit the definition of <i>Tribunal</i> . Insert instead:	2
<i>Tribunal</i> means the Consumer, Trader and Tenancy Tribunal	3
established by the <i>Consumer, Trader and Tenancy Tribunal</i>	4
<i>Act 2001</i> .	5
<b>[7] The whole Act (except Schedule 4 and the Dictionary)</b>	6
Omit “Residential Tribunal” wherever occurring.	7
Insert instead “Tribunal”.	8
<b>7.21 Sydney Water Act 1994 No 88</b>	9
<b>Section 58 Consumer claims</b>	10
Omit “Fair Trading Tribunal constituted”.	11
Insert instead “Consumer, Trader and Tenancy Tribunal as conferred”.	12
<b>7.22 Travel Agents Act 1986 No 5</b>	13
<b>[1] Section 54 Secrecy</b>	14
Omit “section 19 of the <i>Fair Trading Tribunal Act 1998</i> ” from section 54	15
(1) (g).	16
Insert instead “section 19 of the <i>Consumer, Trader and Tenancy Tribunal</i>	17
<i>Act 2001</i> ”.	18
<b>[2] Section 54 (2)</b>	19
Omit “ <i>Fair Trading Tribunal Act 1998</i> ”.	20
Insert instead “ <i>Consumer, Trader and Tenancy Tribunal Act 2001</i> ”.	21

<b>[3]    Section 57 Regulations</b>	1
Omit “Fair Trading Tribunal established by the <i>Fair Trading Tribunal Act 1998</i> ” from section 57 (2) (d).	2
	3
Insert instead “Consumer, Trader and Tenancy Tribunal established by the <i>Consumer, Trader and Tenancy Tribunal Act 2001</i> ”.	4
	5