

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Consumer, Trader and Tenancy Tribunal Act 2001*:

- (a) to include additional requirements as to the qualifications of members of the Consumer, Trader and Tenancy Tribunal (***the Tribunal***), and
- (b) to clarify that the powers of the Chairperson of the Tribunal (***the Chairperson***) extend to giving procedural directions with respect to classes of proceedings, and
- (c) to set out the circumstances in which the Registrar of the Tribunal (***the Registrar***) may exercise functions of a member of the Tribunal or of the Tribunal and to provide additional circumstances in which a Deputy Registrar may exercise functions of the Registrar, and
- (d) to remove a power to apprehend witnesses, and
- (e) to limit the period within which proceedings may be recommenced if an order of the Tribunal is not complied with, and
- (f) to clarify the status of reserved decisions, and
- (g) to increase the time (from 7 to 28 days) within which a statement of reasons for a decision must be given, and
- (h) to limit applications for a rehearing of completed proceedings if the amount claimed or disputed is more than the amount prescribed by the regulations and to provide that, if an application is refused, a further application may only be made if significant new evidence suggests a substantial injustice to one or more parties to the proceedings has occurred, and
- (i) to require sound recordings of proceedings of the Tribunal to be made and kept, and
- (j) to establish the Social Housing Division of the Tribunal, and
- (k) to provide that the remuneration of part-time members of the Tribunal is to be determined in the same manner as full-time members, and
- (l) to establish the Professional Practice and Review Committee to replace the Peer Review Panel and to provide for the membership, functions and procedures of that Committee, and
- (m) to replace and update certain references to the Director-General and clarify certain provisions.

Outline of provisions

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 on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Consumer, Trader and Tenancy Tribunal Act 2001* set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced.

Schedule 1 Amendments

Schedule 1 [1] inserts a definition of ***Commissioner for Fair Trading*** into the *Consumer, Trader and Tenancy Tribunal Act 2001* (***the Principal Act***) and updates the definition of ***Director-General*** in that Act.

Schedule 1 [2] provides that a person cannot be appointed as Chairperson or Deputy Chairperson (Determinations) of the Tribunal unless the person is an Australian lawyer.

Schedule 1 [3] provides that the Minister for Fair Trading (***the Minister***), in determining whether a person has qualifications and skills to be appointed as a member of the Tribunal, is to have regard to whether the person has ability or experience in alternative dispute resolution procedures.

Schedule 1 [4] clarifies that the Chairperson has power to give procedural directions to members of the Tribunal with respect to classes of proceedings.

Schedule 1 [5] replaces a number of references to the Director-General of the Department of Commerce with references to the Commissioner for Fair Trading within the Department of Commerce.

Schedule 1 [6] provides that the Registrar may exercise any prescribed function of a member of the Tribunal or of the Tribunal if the Registrar is authorised by the Chairperson to exercise that function.

Schedule 1 [7] provides that a Deputy Registrar of the Tribunal may exercise the functions of the Registrar as directed by the Chairperson.

Schedule 1 [8] omits a section that provided for the issuing of a warrant for the apprehension of a witness who had been summoned to attend before the Tribunal.

Schedule 1 [9] limits the period within which proceedings may be recommenced for failure to comply with an order. Any such proceedings must now be recommenced within 12 months after the end of the period specified by the Tribunal for compliance with the order.

Schedule 1 [10] clarifies that a reserved decision of the Tribunal is still a decision of the Tribunal and so other provisions of the Principal Act apply to such a decision in the same way as they apply to any other decision of the Tribunal.

Schedule 1 [11] extends, from 7 to 28 days, the period within which a statement of reasons for a decision of the Tribunal must be provided.

Schedule 1 [12] provides that if an application for a rehearing of completed proceedings has been refused, a second application for a rehearing may be made only if the application is made within the time prescribed by the regulations and if the Chairperson is satisfied that significant new evidence has arisen since the application was refused and that evidence suggests a substantial injustice to one or more parties to the proceedings has occurred.

Schedule 1 [13] provides that a person cannot make an application for a rehearing of completed proceedings under section 68 of the Principal Act if the amount claimed or disputed is more than the amount prescribed by the regulations.

Schedule 1 [14] provides that the Tribunal must ensure that, as far as is reasonably practicable, sound recordings of all proceedings of the Tribunal are made and kept.

Schedule 1 [18] establishes the Social Housing Division of the Tribunal. **Schedule 1 [15]–[17]** make consequential amendments.

Schedule 1 [19] and [20] provide for the determination of remuneration of part-time members of the Tribunal in the same manner as full-time members.

Schedule 1 [23] omits a provision establishing the Peer Review Panel, establishes instead the Professional Practice and Review Committee and sets out the procedures for the Committee. The Committee comprises the Commissioner for Fair Trading, the Chairperson, the Deputy Chairperson (Registry and Administration), the Deputy Chairperson (Determinations) and 2 persons appointed by the Minister. The Committee has the functions of reviewing and providing advice on matters that are referred to it by the Minister, the Commissioner for Fair Trading, the Chairperson or any other person prescribed by the regulations. Those matters may relate to the education, training or professional development of members, the performance or management of members, complaints against members and remedial or disciplinary action to be taken in relation to any such complaint, trends in complaints or performance and any other matter prescribed by the regulations. **Schedule 1 [21] and [22]** make consequential amendments.

Schedule 1 [24] enables savings and transitional regulations to be made as a consequence of the enactment of the proposed Act. **Schedule 1 [25]** makes a consequential amendment.

Schedule 1 [26] inserts a number of savings and transitional provisions into the Principal Act as a consequence of the amendments made by the proposed Act.