

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

R. E. WARD,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 19 March, 1974.*

## New South Wales



ANNO VICESIMO TERTIO

**ELIZABETHÆ II REGINÆ**

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**Act No.           , 1974.**

An Act to provide for the constitution of consumer claims tribunals and to define their jurisdiction and powers; and for purposes connected therewith.

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

### PART I.

#### PRELIMINARY.

**1.** This Act may be cited as the "Consumer Claims Short title. Tribunals Act, 1974".

**2.**



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2. (1) This section and section 1 shall commence on the date of assent to this Act. Commence-  
ment.

(2) Except as provided in subsection (1), this Act shall commence upon such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. This Act is divided as follows :—

Division  
of Act.

PART I.—PRELIMINARY—ss. 1–4.

PART II.—CONSUMER CLAIMS TRIBUNALS—ss. 5–12.

10 PART III.—CLAIMS—ss. 13–16.

PART IV.—JURISDICTION AND POWERS OF TRIBUNALS  
—ss. 17–26.

PART V.—HEARINGS—ss. 27–33.

PART VI.—MISCELLANEOUS—ss. 34–42.

15 4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

“claimant” means a person who has referred his claim, being a consumer claim, to a consumer claims tribunal;

20 “consumer” means a person, not being a corporation—

(a) who buys or hires goods otherwise than for re-sale or letting on hire or than in the course of, or for the purposes of, a trade or business carried on by him, whether alone or in partnership with one or more other persons; or

(b)



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5 (b) for whom services are rendered for fee or  
reward otherwise than in the course of, or  
for the purposes of, a trade or business  
carried on by him, whether alone or in  
partnership with one or more other persons;

10 “consumer claim” means a claim by a person for the  
payment of money or the performance of work or  
for the payment of money and the performance of  
work, being a claim arising out of a contract for  
the supply of goods or the provision of services or  
for the supply of goods and the provision of services  
between that person as a consumer and a person  
who in relation to those goods or services, or those  
goods and services, is a trader;

15 “consumer claims tribunal” means a consumer claims  
tribunal constituted under this Act;

“contract” means an oral or written contract;

“goods” includes anything the subject of trade,  
manufacture or merchandise;

20 “referee” means a person for the time being holding  
office under this Act as a referee of consumer claims  
tribunals;

25 “registrar” means the person for the time being holding  
office under this Act as the registrar of consumer  
claims tribunals and includes any person for the  
time being acting in that office;

“registry” means the registry of consumer claims  
tribunals established and maintained under this  
Act;

“regulations”



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“regulations” means regulations made under this Act;

“respondent” means a trader against whom a consumer claim referred to a consumer claims tribunal has been made;

5 “senior referee” means the person for the time being holding office under this Act as the senior referee of consumer claims tribunals;

“services” includes the rights or benefits to be provided under a contract for—

10 (a) the performance of work (otherwise than under a contract of service);

(b) the provision of, or the use and enjoyment of, facilities for amusement, entertainment, recreation or instruction; or

15 (c) the conferring of rights or privileges for which remuneration is payable in the form of a royalty, tribute, levy or similar exaction;

20 “trader” means a person who in the field of trade or commerce carries on a business of supplying goods or providing services or who holds himself out as carrying on such a business.

(2) For the purposes of this Act, a consumer claim shall be deemed not to have been referred to a consumer claims tribunal unless the claim has been referred to a consumer claims tribunal in accordance with section 13.



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PART II.

CONSUMER CLAIMS TRIBUNALS.

5. (1) A consumer claims tribunal shall be constituted by a referee sitting alone.

Constitution  
of consumer  
claims  
tribunal.

5 (2) Where two or more persons hold office as referees at the same time the senior referee shall determine which referee shall constitute a tribunal for the purpose of any proceeding.

6. (1) The Governor may appoint persons to be referees of consumer claims tribunals and, where two or more persons hold office as referees at the same time, one of them shall by the instrument of his appointment or by a subsequent instrument executed by the Governor be appointed to be the senior referee.

Appoint-  
ment of  
referees.

15 (2) A referee shall devote the whole of his time to the duties of his office and shall be paid such remuneration and expenses as the Governor may from time to time determine in respect of him.

20 (3) A referee shall, subject to this Act, hold office as a referee for such term not exceeding seven years as may be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time.

25 (4) Any such re-appointment shall be for such term not exceeding seven years as may be specified in the instrument of re-appointment,

(5)



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5 (5) The Governor may appoint a person to act in the office of a referee during the absence of that referee from his office through illness or other cause and the person so appointed shall while so acting be deemed to be a referee and shall have the immunities, powers, authorities, duties and functions of a referee and be entitled to remuneration and expenses as a referee.

10 (6) Where the person absent as described in subsection (5) is the senior referee, the Governor may appoint any person appointed under that subsection or another referee to act as senior referee during the absence and the person so appointed shall while so acting have the immunities, powers, authorities, duties and functions of the senior referee and be entitled to remuneration and expenses as the senior referee.

15 (7) A person who is of or above the age of seventy-two years shall not be appointed as a referee or be appointed under subsection (5).

20 (8) The provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment of a referee, a senior referee or a person appointed under subsection (5) but the provisions of that Act and the regulations thereunder (except in so far as they are inconsistent with any of the provisions of this Act) apply to and in respect of any such appointee as if he had been appointed pursuant to the provisions of that Act.

7. (1) A referee or person appointed under section 6 (5) shall be deemed to have vacated his office—  
Casual vacancy.

(a) if he dies;

30 (b) if he engages in any paid employment outside the duties of his office;

(c)



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- (c) if he absents himself from duty for a period exceeding fourteen consecutive days except on leave granted by the Minister (which leave the Minister is hereby authorised to grant);
- 5 (d) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration or expenses as a referee, or of his estate, for their benefit;
- 10 (e) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- 15 (f) if he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or longer, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be
- 20 a felony or misdemeanour so punishable;
- (g) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts the resignation;
- (h) if he is removed from office by the Governor; or
- 25 (i) on the day on which he attains the age of seventy-two years.

(2) The Governor may, for any cause which to him seems sufficient, remove a referee or person appointed under section 6 (5) from office.

30 **8.** (1) In this section, "superannuation scheme" means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

(2) Preservation of certain rights of referees previously public servants, etc.



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(2) Subject to subsection (3) and to the terms of his appointment, where a referee was, immediately before his appointment as a referee—

- (a) an officer of the Public Service; or
- 5 (b) a contributor to a superannuation scheme,  
he—
- (c) shall retain any rights accrued or accruing to him as such an officer or contributor;
- 10 (d) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as a referee; and
- (e) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,  
as if he had continued to be such an officer or contributor
- 15 during his service as a referee, and—
- (f) his service as a referee shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or
- 20 by which that entitlement is conferred; and
- (g) he shall be deemed to be an officer or employee and the Minister shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this
- 25 subsection.

(3) A referee who, but for this subsection, would be entitled under subsection (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme shall not be so entitled upon his becoming

30 (whether upon his appointment as a referee or at any later time while he holds office as a referee) a contributor to any other superannuation scheme, and the provisions of subsection (2) (g) cease to apply to or in respect of him and the Minister in any case where he becomes a contributor to such

35 another superannuation scheme.

(4)



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(4) Subsection (3) does not prevent the payment to a referee upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of resignation, to be an officer  
5 or employee for the purposes of that scheme.

(5) A referee shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

9. A referee who was, immediately before his appointment as a referee, an officer of the Public Service and who ceases to be a referee, otherwise than pursuant to section 7 (1) (paragraph (g) excepted) or section 7 (2), shall, if he is under the age of sixty years, be entitled to be appointed to some office in the Public Service not lower in classification  
10 and salary than that which he held immediately before his appointment as a referee. Referee entitled to re-appointment to Public Service in certain cases.

10. Sittings of tribunals shall be held at such times and places as the senior referee, or, if only one person for the time being holds office as a referee, the referee from time to time  
20 determines. Venue.

11. (1) There shall be established and maintained a registry of consumer claims tribunals in which all records of consumer claims tribunals shall be kept. Registry.

(2) A registrar of consumer claims tribunals and  
25 such other persons as may be required for the proper functioning of the registry shall be appointed under and subject to the Public Service Act, 1902.

12. (1) The record of a consumer claims tribunal in respect of a claim referred to it shall consist of—  
30 (a) that claim as lodged by the claimant; Records of consumer claims tribunals.  
(b) the notation of the nature of the issues in dispute as determined and recorded by the tribunal during the hearing of the claim; and  
(c) the order, if any, made by the tribunal.

(2)



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*Consumer Claims Tribunals.*

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(2) Every such record may be inspected free of charge by—

(a) the parties to the claim; and

(b) the Commissioner for Consumer Affairs,

5 and shall be available for production before a court or judge for the purpose of any proceedings before the court or judge.

(3) Notes made by a referee in the course of the hearing of a claim, other than the notation and order referred to in subsection (1), shall not form part of the record of the  
10 tribunal.

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PART III.

CLAIMS.

13. (1) A person may refer his claim, being a consumer claim, to a tribunal by lodging the claim in the prescribed  
15 form with, and paying the prescribed fee to, the registrar or any clerk of petty sessions.

Reference  
of claims  
to  
consumer  
claims  
tribunal.

(2) It shall be the duty of the registrar and of every clerk of petty sessions to give his assistance to a person who seeks it in completing the prescribed claim form.

20 (3) A clerk of petty sessions with whom a completed claim form is lodged shall as soon as practicable send the form or, if so required by the regulations, a copy of it to the registrar by post.



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*Consumer Claims Tribunals.*

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**14. (1) The registrar—**Notice  
of claim  
and  
proceeding.

5 (a) shall cause notice of the consumer claim and its particulars to be given, as soon as practicable, to the respondent and to every person who appears from the claim form to have a sufficient interest in a resolution of the dispute to which the claim relates; and

10 (b) shall arrange with the senior referee or, if only one person for the time being holds office as referee, the referee a time and place for the initial proceeding of a tribunal in relation to the claim and shall cause notice of that time and place to be given in writing to the claimant and respondent and to every other person to whom notice of the claim is  
15 given.

(2) Where a tribunal to which a consumer claim has been referred is of the opinion that a person has a sufficient interest in a resolution of the dispute to which the claim relates but has not been given notice of the claim under  
20 subsection (1) (a), the tribunal may direct the registrar to cause notice of the claim and its particulars to be given, as soon as practicable, to that person and the registrar shall cause notice to be given in accordance with the direction.

**15. Every person to whom notice of a consumer claim**  
25 is given under section 14 shall be taken to be a party to the proceeding that relates to the claim and every person who satisfies a consumer claims tribunal to which a consumer claim has been referred that he has a sufficient interest in a resolution of the dispute to which the claim relates shall be  
30 entitled to be joined as a party to the proceeding.

Parties  
to proceed-  
ings.

**16. A claimant may at any time withdraw his consumer**  
claim whether or not a consumer claims tribunal has entered  
upon a hearing of the claim.

Withdrawal  
of claim.

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**PART**



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*Consumer Claims Tribunals.*

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PART IV.

JURISDICTION AND POWERS OF TRIBUNALS.

17. Subject to this Act, a consumer claims tribunal has jurisdiction to hear and determine any consumer claim referred to it. Jurisdiction.

18. A consumer claims tribunal has jurisdiction in respect of a consumer claim arising from a contract whether the contract was made before or after the commencement of this Act but does not have jurisdiction in respect of such a claim if the contract was made earlier than two years before the day on which the claim was referred to a tribunal. No jurisdiction if contract more than two years old.

19. (1) A court has no jurisdiction in respect of any issue in dispute in a consumer claim which has been referred to a consumer claims tribunal and has not been withdrawn. Exclusion of other jurisdictions.

15 (2) Where proceedings for the determination of any issue were commenced in a court before a consumer claim in which that issue is in dispute was referred to a consumer claims tribunal and those proceedings have not been withdrawn, nothing in subsection (1) prevents that court from having jurisdiction in respect of that issue and the tribunal on the application of any party to those proceedings who is a party to the proceeding before the tribunal, shall make an order dismissing the claim.

25 (3) For the purposes of this section, an issue is in dispute in a consumer claim referred to a consumer claims tribunal only if the existence of the dispute was shown in the claim referred to that tribunal or was recorded in the record made by that tribunal in accordance with section 12 (1) (b).

20. An order of a tribunal shall be final and binding on all parties to the proceeding in which the order is made and no appeal shall lie in respect of such an order. Order of tribunal to be final.

21.



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**21. No—**

- (a) judgment or order in the nature of prohibition, certiorari or other prerogative writ; or

Immunity from judicial supervision.

- (b) declaratory judgment or order,

5 shall be given or made in respect of a proceeding taken or to be taken by or before a consumer claims tribunal, being a proceeding that relates to a consumer claim referred to that tribunal, or in respect of any order of such a tribunal unless the court before which the judgment or order is sought is  
10 satisfied that the tribunal has or had no jurisdiction to take the proceeding or that there has occurred therein a denial of natural justice to any party to the proceeding.

**22. (1)** A consumer claims tribunal shall not make an order in respect of a consumer claim referred to it until it has  
15 brought, or has used its best endeavours to bring, the parties to the claim to a settlement acceptable to all of them.

Tribunal to attempt to conciliate.

(2) Where such a settlement is made the consumer claims tribunal shall, at the request of the claimant, make an order under section 23 that gives effect to the terms of the  
20 settlement.

**23. (1)** Subject to this Act, a consumer claims tribunal may make an order in any proceeding before it of the kind referred to in any of the following paragraphs but shall make  
no other order :—

Orders of consumer claims tribunal.

- 25 (a) an order that requires a party to the proceeding, other than the claimant, to pay money to a person specified in the order within such time as may be specified in the order;
- 30 (b) an order that requires a party to the proceeding, other than the claimant, to perform such work or take such other steps as the order specifies to rectify a defect in goods or services to which the consumer claim in the proceeding relates within such time as may be specified in the order;

(c)



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- 5 (c) an order that requires a party to the proceeding, other than the claimant, to pay money as referred to in paragraph (a) and to perform work or take steps as referred to in paragraph (b) within such time as may be specified in the order;
- 10 (d) an order that requires a party to the proceeding, other than the claimant, to do any thing referred to in paragraph (b) within such time as may be specified in the order and in default of his complying with that order to pay money to a person specified in the order; or
- (e) an order that dismisses the claim to which the proceeding relates.

15 (2) In exercising its powers under subsection (1) (a), (b), (c) or (d) a consumer claims tribunal shall make such an order as is, in its opinion, fair and equitable to all the parties to the proceeding before it.

(3) Subsection (2) does not apply where a consumer claims tribunal makes an order giving effect to the terms of a  
20 settlement.

24. (1) In this section, "work order" means an order made under section 23 (1) (b) or (c) that requires a party to a proceeding before a consumer claims tribunal to perform work or take other steps as referred to in section 23 (1) (b) but does not include an order made under section 23 (1) (d). Enforce-  
ment of  
orders to  
rectify  
defects.

(2) A work order shall not be enforceable except in accordance with this section.

30 (3) A tribunal making a work order may at the time of making the order or at any time thereafter give leave to the person in whose favour the order is made to renew the reference of the claim in the proceeding if the order is not complied with.

(4)



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(4) The renewal of such a reference may be effected by the person in whose favour the work order was made lodging a notification in the prescribed form that the order has not been complied with and the provisions of Part III apply to and in respect of the notification as if it were a consumer claim.

(5) Upon renewal of a reference the tribunal may make any order that it is empowered to make under section 23 (1) (a), (b), (c) or (d) or may refuse to make any order.

10 **25.** (1) Except as provided by subsection (2), the person to whom payment is to be made under an order made by a consumer claims tribunal requiring the payment of money to that person may enforce the order by filing, free of charge, with the registrar of a court of petty sessions (other than a  
15 court of petty sessions specified in an order made under section 77 (3) of the Courts of Petty Sessions (Civil Claims) Act, 1970)—

- (a) a copy of the order certified by the registrar of consumer claims tribunals to be a true copy; and
- 20 (b) the affidavit of the person filing the order as to the amount unpaid under the order and, where the order is to take effect upon any default, as to the making of that default,

and thereupon the order shall be deemed to be a judgment  
25 of that court for the amount specified in the affidavit as being unpaid.

(2) Where, under subsection (1), a person has filed a copy of the order with a registrar of a court of petty sessions, any second or subsequent filing of a copy of that order with  
30 the registrar of that or any other court of petty sessions shall be of no effect.



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**26.** (1) In this section, "prescribed amount" means— Limit of  
amount  
of order.  
(a) except as provided in paragraph (b), the amount of  
\$500; or

5 (b) where another amount is prescribed, that other  
amount.

(2) An order of a consumer claims tribunal made in  
a proceeding before that tribunal shall, if it orders the payment  
by one person of an amount exceeding the prescribed amount,  
be valid and effective as an order requiring the payment of the  
10 prescribed amount and otherwise shall be of no effect.

(3) An order of a consumer claims tribunal made in  
a proceeding before that tribunal shall, if it orders the payment  
by two or more persons of amounts the sum of which exceeds  
the prescribed amount, be valid and effective as an order  
15 requiring the payment by each of those persons of an amount  
that bears to the prescribed amount the same proportion as  
the amount ordered to be paid by that person bears to that  
sum and shall otherwise be of no effect.

(4) An order made on a consumer claim and an  
20 order made on the renewal of a reference of such a claim in  
accordance with section 24 shall, for the purposes of this  
section, be deemed to be one order.

(5) For the purposes of subsections (2) and (3), an  
order of a consumer claims tribunal which orders the payment  
25 by two or more persons jointly of any amount (whether or not  
it orders the payment by any other person of any amount)  
shall be deemed to be an order of such a tribunal which orders  
the payment by one person of that amount.

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PART



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**PART V.**

**HEARINGS.**

**27.** (1) A consumer claims tribunal shall, at all times throughout the course of a proceeding, be constituted by the same referee.

Con-  
tinuity of  
consumer  
claims  
tribunal.

(2) If before an order is made in a proceeding before a consumer claims tribunal the proceeding is interrupted by the death or incapacity of the referee who constitutes the tribunal, or by vacation of his office, and the claimant notifies the registrar that he desires to proceed with the consumer claim, the registrar shall arrange for a fresh proceeding in relation to the claim to be commenced before another referee.

**28.** A tribunal may, at any stage of a proceeding before it, make such amendment of the consumer claim to which the proceeding relates as it thinks fit either at the request of the claimant or of its own motion with the approval of the claimant.

Amend-  
ment of  
claim.

**29.** (1) A consumer claims tribunal may from time to time adjourn a proceeding before it to such times and places and for such purposes as it considers necessary or desirable.

Adjourn-  
ment of  
pro-  
ceeding.

(2) The registrar shall cause to be given to any party to a proceeding that has adjourned who is not present or represented at the time when the proceeding is adjourned a notice of the time and place to which the proceeding is adjourned.

**30.** (1) Each party to a proceeding before a consumer claims tribunal shall have the carriage of his own case.

Presenta-  
tion of  
cases.



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(2) A party to a proceeding before a consumer claims tribunal or a person who applies to be made a party to such a proceeding shall not be entitled to be represented by an agent unless it appears to the tribunal that an agent should  
5 be permitted to that party as a matter of necessity and the tribunal so approves.

(3) Subsection (2) does not prevent an officer within the meaning of the Companies Act, 1961, of a corporation from representing that corporation in a proceeding  
10 before a tribunal.

(4) A consumer claims tribunal shall not approve of a party to a proceeding before it being represented by an agent who practises as a barrister or solicitor or as an advocate for fee or reward unless—

- 15 (a) all parties to the proceeding agree; and  
(b) the tribunal is satisfied that the parties, other than the party who applies for approval of an agent, or any of them will not be thereby unfairly disadvantaged.

20 (5) Where apart from this subsection it appears to a consumer claims tribunal that it should allow an agent to represent a party to a proceeding before it the tribunal—

- (a) shall not approve of the proposed agent so doing unless it is satisfied that the proposed agent has  
25 sufficient personal knowledge of the issue in dispute to enable him to represent the party effectively and is vested with sufficient authority to bind the party; and  
(b) may subject its approval to such conditions as it  
30 considers reasonable to ensure that any other party to the proceeding is not unfairly disadvantaged by the agent appearing before the tribunal and, where it does so, the entitlement of the agent to represent the party shall be subject to his compliance with  
35 those conditions.

(6)



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(6) Contravention of any provision of this section shall not invalidate any proceeding before a consumer claims tribunal in which the contravention occurs or any order made therein.

5     **31.** (1) Every proceeding before a consumer claims tribunal shall be taken in private. Taking of evidence before consumer claims tribunal.

(2) The evidence material to a proceeding before a consumer claims tribunal—

(a) may be given orally or in writing; and

10    (b) shall be given upon oath.

(3) For the purposes of subsection (2) (b), a referee who constitutes a tribunal is empowered to administer an oath.

(4) A tribunal is not bound by the rules or practice as to evidence but subject to subsection (2) (b) may inform  
15 itself of any matter in such manner as it thinks fit.

**32.** (1) Subject to this section, where the case of any party to a proceeding before a consumer claims tribunal is not presented to the tribunal, the issues in dispute in the proceeding shall be resolved by the tribunal on such evidence as is  
20 otherwise adduced before it and an order made by the tribunal therein shall be lawful and as effective as if the party whose case was not presented had been fully heard. Tribunal to act on evidence available.

(2) Where an issue in dispute has been resolved in the absence of any party to the proceeding, a referee, on  
25 application made to the registrar within seven days after the party receives notice of the order made on the consumer claim which gave rise to the dispute, may, if it appears to him that there was sufficient reason for the party's absence, order that the claim be re-heard.

(3)



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(3) Upon an order being made for a re-hearing—

(a) the registrar shall notify all parties to the proceeding that related to the consumer claim of the making of the order and of the time and place appointed for the re-hearing; and

(b) the order of the consumer claims tribunal made upon the first hearing shall thereupon cease to have effect.

(4) If the party on whose application a re-hearing is ordered does not appear at the time and place for the re-hearing or upon any adjournment of the proceeding therein, the consumer claims tribunal if it thinks fit and without re-hearing or further re-hearing the consumer claim, may direct that the order made upon the first hearing of the claim be restored and that order shall, notwithstanding subsection (3) (b), be thereby restored to full force and effect and be deemed to have been of full force and effect at all times since the time of its making.

33. Costs shall not be allowed to or against any party to a proceeding before a consumer claims tribunal. No costs allowable.

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PART VI.

MISCELLANEOUS.

34. Subject to this Act and the regulations, every consumer claims tribunal shall have control of its own procedures and in the exercise of that control shall have regard to natural justice.

35.



*Consumer Claims Tribunals.*

35. (1) A person shall not—

Contempt.

(a) wilfully insult—

(i) a referee during his sitting as a consumer claims tribunal or while he is on his way to or from such a sitting; or

(ii) any person during his attendance at a sitting of a consumer claims tribunal or while he is on his way to or from such a sitting;

(b) wilfully misbehave at a sitting of a consumer claims tribunal;

(c) wilfully and without lawful excuse interrupt the proceeding of a consumer claims tribunal;

(d) unlawfully assault or wilfully obstruct a person in attendance at a consumer claims tribunal; or

(e) without lawful excuse disobey a lawful direction (not being an order referred to in section 23) of a consumer claims tribunal given to him during a sitting of the tribunal.

Penalty : \$500 or imprisonment for 6 months.

(2) A consumer claims tribunal may by oral order direct any person who does anything referred to in subsection (1) to remove himself from the sitting of the tribunal and a person to whom such direction is given shall comply with the direction.

Penalty : \$500 for a contravention of this subsection.

36. The provisions of this Act have effect notwithstanding any stipulation to the contrary and no contract or agreement made or entered into before or after the commencement of this Act operates to annul, vary or exclude any of the provisions of this Act.

Contract-  
ing out  
pro-  
hibited.

37.



*Consumer Claims Tribunals.*

37. Where, by or under this Act, the registrar is required to cause any notice or other document to be given to any person, the posting of the notice or document by pre-paid mail to that person at his usual or last known address shall  
5 be deemed to be sufficient service.

Mode  
of  
giving  
notice.

38. (1) A referee shall from time to time report upon—  
10 (a) all matters arising out of consumer claims the subject of proceedings before the consumer claims tribunal constituted by him, and any matters reported to him, where he is the senior referee, under subsection (2), being in either case matters that he considers of importance as regards the relationship of consumer and trader;  
15 (b) all matters relevant to the administration of this Act or to the practices and procedures of consumer claims tribunals that in his opinion should be brought to the notice of the Minister.

Reports  
by  
referees.

(2) A referee shall so report—  
20 (a) where any other person holds the office of senior referee, to that other person; and  
(b) in every other case, to the Minister.

39. The registrar shall cause to be published, in such manner as the Minister from time to time directs, such particulars in relation to references to consumer claims tribunals  
25 as the Minister specifies in the direction.

Publica-  
tion of  
particulars  
of  
reference.

40. No proceedings shall be taken against the registrar, any referee, any claimant or any other person on account of any proceeding taken, any publication made, or anything done, under the authority of this Act or the regulations or  
30 taken, made or done bona fide and purportedly under the authority of this Act or the regulations or on account of any omission made bona fide in respect of the administration of this Act or the regulations.

Protection  
for  
things  
done  
under  
Act.



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*Consumer Claims Tribunals.*

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**41.** (1) Proceedings for an offence against this Act or the regulations may— Proceed-  
ings.

- (a) be taken and prosecuted by any person acting with the authority in writing of the Minister;
- 5 (b) be disposed of summarily by an industrial magistrate appointed under the Industrial Arbitration Act, 1940, or a court of petty sessions held before a stipendiary magistrate sitting alone.

(2) In a prosecution for any such an offence, an 01  
15 authority to prosecute, purporting to have been signed by the Minister, shall be evidence of the authority without proof of the Minister's signature.

(3) The provisions of the Industrial Arbitration Act, 1940, and the regulations made under that Act, relating 21  
15 to proceedings before an industrial magistrate and to appeals from an industrial magistrate to the Industrial Commission of New South Wales shall apply to proceedings before an industrial magistrate or a court of petty sessions held before a stipendiary magistrate for offences against this Act and the  
20 regulations as if the proceedings were proceedings under that Act.

(4) In proceedings for an offence against this Act or the regulations, the informant may conduct his case himself, or by his counsel or attorney, or by an agent 21  
25 authorised by him in writing, or by any officer of the Public Service.

**42.** (1) The Governor may make regulations not Regula-  
tions.  
inconsistent with this Act for or with respect to—

- (a) forms to be used for the purposes of this Act;
- 30 (b) fees to be paid under this Act;
- (c) the practice and procedure of consumer claims tribunals and the enforcement of orders of consumer claims tribunals;

(d)



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*Consumer Claims Tribunals.*

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- (d) the issue of summonses requiring parties to a proceeding before a consumer claims tribunal, or other persons, to give evidence before, or produce evidence to, the tribunal;
- 5 (e) the practice and procedure of the registrar and the powers, functions and duties of the registrar and other persons employed in the registry; and
- (f) any matter which by this Act is required or permitted to be prescribed or which is necessary or
- 10 convenient to be prescribed for carrying out or giving effect to this Act.

(2) A regulation may impose a penalty not exceeding \$200 for an offence against the regulation.

(3) A regulation may make provisions which differ  
15 in their application according to such factors as are specified in the regulation.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974

[20c]

No. , 1974.

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## A BILL

To provide for the constitution of consumer claims tribunals and to define their jurisdiction and powers; and for purposes connected therewith.

[MR WILLIS—26 *February*, 1974.]

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

### PART I.

#### PRELIMINARY.

1. This Act may be cited as the "Consumer Claims Short title.  
Tribunals Act, 1974".

2.



*Consumer Claims Tribunals.*

2. (1) This section and section 1 shall commence on the date of assent to this Act. Commence-  
ment.

(2) Except as provided in subsection (1), this Act shall commence upon such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. This Act is divided as follows :—

Division  
of Act.

PART I.—PRELIMINARY—ss. 1–4.

PART II.—CONSUMER CLAIMS TRIBUNALS—ss. 5–12.

10 PART III.—CLAIMS—ss. 13–16.

PART IV.—JURISDICTION AND POWERS OF TRIBUNALS  
—ss. 17–26.

PART V.—HEARINGS—ss. 27–33.

PART VI.—MISCELLANEOUS—ss. 34–42.

15 4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpreta-  
tion.

“claimant” means a person who has referred his claim, being a consumer claim, to a consumer claims tribunal;

20 “consumer” means a person, not being a corporation—

(a) who buys or hires goods otherwise than for re-sale or letting on hire or than in the course of, or for the purposes of, a trade or business carried on by him, whether alone or in partnership with one or more other persons; or

(b)

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*Consumer Claims Tribunals.*

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5 (b) for whom services are rendered for fee or reward otherwise than in the course of, or for the purposes of, a trade or business carried on by him, whether alone or in partnership with one or more other persons;

10 "consumer claim" means a claim by a person for the payment of money or the performance of work or for the payment of money and the performance of work, being a claim arising out of a contract for the supply of goods or the provision of services or for the supply of goods and the provision of services between that person as a consumer and a person who in relation to those goods or services, or those goods and services, is a trader;

15 "consumer claims tribunal" means a consumer claims tribunal constituted under this Act;

"contract" means an oral or written contract;

"goods" includes anything the subject of trade, manufacture or merchandise;

20 "referee" means a person for the time being holding office under this Act as a referee of consumer claims tribunals;

25 "registrar" means the person for the time being holding office under this Act as the registrar of consumer claims tribunals and includes any person for the time being acting in that office;

"registry" means the registry of consumer claims tribunals established and maintained under this Act;

"regulations"



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*Consumer Claims Tribunals.*

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“regulations” means regulations made under this Act;

“respondent” means a trader against whom a consumer claim referred to a consumer claims tribunal has been made;

5 “senior referee” means the person for the time being holding office under this Act as the senior referee of consumer claims tribunals;

“services” includes the rights or benefits to be provided under a contract for—

10 (a) the performance of work (otherwise than under a contract of service);

(b) the provision of, or the use and enjoyment of, facilities for amusement, entertainment, recreation or instruction; or

15 (c) the conferring of rights or privileges for which remuneration is payable in the form of a royalty, tribute, levy or similar exaction;

20 “trader” means a person who in the field of trade or commerce carries on a business of supplying goods or providing services or who holds himself out as carrying on such a business.

(2) For the purposes of this Act, a consumer claim shall be deemed not to have been referred to a consumer  
25 claims tribunal unless the claim has been referred to a consumer claims tribunal in accordance with section 13.

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PART

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*Consumer Claims Tribunals.*

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**PART II.**

**CONSUMER CLAIMS TRIBUNALS.**

5. (1) A consumer claims tribunal shall be constituted by a referee sitting alone. Constitution of consumer claims tribunal.

5 (2) Where two or more persons hold office as referees at the same time the senior referee shall determine which referee shall constitute a tribunal for the purpose of any proceeding.

6. (1) The Governor may appoint persons to be referees Appointment of referees.  
10 of consumer claims tribunals and, where two or more persons hold office as referees at the same time, one of them shall by the instrument of his appointment or by a subsequent instrument executed by the Governor be appointed to be the senior referee.

15 (2) A referee shall devote the whole of his time to the duties of his office and shall be paid such remuneration and expenses as the Governor may from time to time determine in respect of him.

(3) A referee shall, subject to this Act, hold office  
20 as a referee for such term not exceeding seven years as may be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time.

(4) Any such re-appointment shall be for such term  
25 not exceeding seven years as may be specified in the instrument of re-appointment.

(5)



*Consumer Claims Tribunals.*

(5) The Governor may appoint a person to act in the office of a referee during the absence of that referee from his office through illness or other cause and the person so appointed shall while so acting be deemed to be a referee and shall have the immunities, powers, authorities, duties and functions of a referee and be entitled to remuneration and expenses as a referee.

(6) Where the person absent as described in subsection (5) is the senior referee, the Governor may appoint any person appointed under that subsection or another referee to act as senior referee during the absence and the person so appointed shall while so acting have the immunities, powers, authorities, duties and functions of the senior referee and be entitled to remuneration and expenses as the senior referee.

(7) A person who is of or above the age of seventy-two years shall not be appointed as a referee or be appointed under subsection (5).

(8) The provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment of a referee, a senior referee or a person appointed under subsection (5) but the provisions of that Act and the regulations thereunder (except in so far as they are inconsistent with any of the provisions of this Act) apply to and in respect of any such appointee as if he had been appointed pursuant to the provisions of that Act.

7. (1) A referee or person appointed under section 6 (5) shall be deemed to have vacated his office— Casual vacancy.

(a) if he dies;

(b) if he engages in any paid employment outside the duties of his office;

(c)

*Consumer Claims Tribunals.*

- (c) if he absents himself from duty for a period exceeding fourteen consecutive days except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) ;
- 5 (d) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration or expenses as a referee, or of his estate, for their benefit ;
- 10 (e) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act ;
- 15 (f) if he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or longer, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be
- 20 a felony or misdemeanour so punishable ;
- (g) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts the resignation ;
- (h) if he is removed from office by the Governor ; or
- 25 (i) on the day on which he attains the age of seventy-two years.

(2) The Governor may, for any cause which to him seems sufficient, remove a referee or person appointed under section 6 (5) from office.

30 **8.** (1) In this section, "superannuation scheme" means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Preservation of certain rights of referees previously public servants, etc.

(2)



*Consumer Claims Tribunals.*

(2) Subject to subsection (3) and to the terms of his appointment, where a referee was, immediately before his appointment as a referee—

- (a) an officer of the Public Service ; or
- 5 (b) a contributor to a superannuation scheme,  
he—
- (c) shall retain any rights accrued or accruing to him as such an officer or contributor ;
- 10 (d) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as a referee ; and
- (e) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,
- as if he had continued to be such an officer or contributor
- 15 during his service as a referee, and—
- (f) his service as a referee shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or
- 20 by which that entitlement is conferred ; and
- (g) he shall be deemed to be an officer or employee and the Minister shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this
- 25 subsection.

(3) A referee who, but for this subsection, would be entitled under subsection (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme shall not be so entitled upon his becoming

30 (whether upon his appointment as a referee or at any later time while he holds office as a referee) a contributor to any other superannuation scheme, and the provisions of subsection (2) (g) cease to apply to or in respect of him and the Minister in any case where he becomes a contributor to such

35 another superannuation scheme.

(4)

*Consumer Claims Tribunals.*

(4) Subsection (3) does not prevent the payment to a referee upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of resignation, to be an officer or employee for the purposes of that scheme.

(5) A referee shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

9. A referee who was, immediately before his appointment as a referee, an officer of the Public Service and who ceases to be a referee, otherwise than pursuant to section 7 (1) (paragraph (g) excepted) or section 7 (2), shall, if he is under the age of sixty years, be entitled to be appointed to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment as a referee.

Referee entitled to re-appointment to Public Service in certain cases.

10. Sittings of tribunals shall be held at such times and places as the senior referee, or, if only one person for the time being holds office as a referee, the referee from time to time determines.

Venue.

11. (1) There shall be established and maintained a registry of consumer claims tribunals in which all records of consumer claims tribunals shall be kept.

Registry.

(2) A registrar of consumer claims tribunals and such other persons as may be required for the proper functioning of the registry shall be appointed under and subject to the Public Service Act, 1902.

12. (1) The record of a consumer claims tribunal in respect of a claim referred to it shall consist of—

Records of consumer claims tribunals.

- (a) that claim as lodged by the claimant;
- (b) the notation of the nature of the issues in dispute as determined and recorded by the tribunal during the hearing of the claim; and
- (c) the order, if any, made by the tribunal.

(2)



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*Consumer Claims Tribunals.*

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(2) Every such record may be inspected free of charge by—

(a) the parties to the claim; and

(b) the Commissioner for Consumer Affairs,

5 and shall be available for production before a court or judge for the purpose of any proceedings before the court or judge.

(3) Notes made by a referee in the course of the hearing of a claim, other than the notation and order referred to in subsection (1), shall not form part of the record of the  
10 tribunal.

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PART III.

CLAIMS.

13. (1) A person may refer his claim, being a consumer claim, to a tribunal by lodging the claim in the prescribed  
15 form with, and paying the prescribed fee to, the registrar or any clerk of petty sessions.

Reference  
of claims  
to  
consumer  
claims  
tribunal.

(2) It shall be the duty of the registrar and of every clerk of petty sessions to give his assistance to a person who seeks it in completing the prescribed claim form.

20 (3) A clerk of petty sessions with whom a completed claim form is lodged shall as soon as practicable send the form or, if so required by the regulations, a copy of it to the registrar by post.

*Consumer Claims Tribunals.***14.** (1) The registrar—Notice  
of claim  
and  
proceeding.

5 (a) shall cause notice of the consumer claim and its particulars to be given, as soon as practicable, to the respondent and to every person who appears from the claim form to have a sufficient interest in a resolution of the dispute to which the claim relates; and

10 (b) shall arrange with the senior referee or, if only one person for the time being holds office as referee, the referee a time and place for the initial proceeding of a tribunal in relation to the claim and shall cause notice of that time and place to be given in writing to the claimant and respondent and to every other person to whom notice of the claim is  
15 given.

(2) Where a tribunal to which a consumer claim has been referred is of the opinion that a person has a sufficient interest in a resolution of the dispute to which the claim relates but has not been given notice of the claim under  
20 subsection (1) (a), the tribunal may direct the registrar to cause notice of the claim and its particulars to be given, as soon as practicable, to that person and the registrar shall cause notice to be given in accordance with the direction.

**15.** Every person to whom notice of a consumer claim  
25 is given under section 14 shall be taken to be a party to the proceeding that relates to the claim and every person who satisfies a consumer claims tribunal to which a consumer claim has been referred that he has a sufficient interest in a resolution of the dispute to which the claim relates shall be  
30 entitled to be joined as a party to the proceeding.

Parties  
to proceed-  
ings.

**16.** A claimant may at any time withdraw his consumer  
claim whether or not a consumer claims tribunal has entered  
upon a hearing of the claim. Withdrawal  
of claim.

PART



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*Consumer Claims Tribunals.*

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**PART IV.**

**JURISDICTION AND POWERS OF TRIBUNALS.**

17. Subject to this Act, a consumer claims tribunal has jurisdiction to hear and determine any consumer claim referred to it.

Juris-  
diction.

18. A consumer claims tribunal has jurisdiction in respect of a consumer claim arising from a contract whether the contract was made before or after the commencement of this Act but does not have jurisdiction in respect of such a claim if the contract was made earlier than two years before the day on which the claim was referred to a tribunal.

No jurisdic-  
tion if  
contract  
more than  
two years  
old.

19. (1) A court has no jurisdiction in respect of any issue in dispute in a consumer claim which has been referred to a consumer claims tribunal and has not been withdrawn.

Exclusion  
of other  
juris-  
dictions.

15 (2) Where proceedings for the determination of any issue were commenced in a court before a consumer claim in which that issue is in dispute was referred to a consumer claims tribunal and those proceedings have not been withdrawn, nothing in subsection (1) prevents that court from  
20 having jurisdiction in respect of that issue and the tribunal on the application of any party to those proceedings who is a party to the proceeding before the tribunal, shall make an order dismissing the claim.

(3) For the purposes of this section, an issue is  
25 in dispute in a consumer claim referred to a consumer claims tribunal only if the existence of the dispute was shown in the claim referred to that tribunal or was recorded in the record made by that tribunal in accordance with section 12 (1) (b).

20. An order of a tribunal shall be final and binding on  
30 all parties to the proceeding in which the order is made and no appeal shall lie in respect of such an order.

Order of  
tribunal  
to be  
final.

**21.**

*Consumer Claims Tribunals.*

**21. No—**

Immunity  
from  
judicial  
super-  
vision.

- (a) judgment or order in the nature of prohibition, certiorari or other prerogative writ; or
  - (b) declaratory judgment or order,
- 5 shall be given or made in respect of a proceeding taken or to be taken by or before a consumer claims tribunal, being a proceeding that relates to a consumer claim referred to that tribunal, or in respect of any order of such a tribunal unless the court before which the judgment or order is sought is
- 10 satisfied that the tribunal has or had no jurisdiction to take the proceeding or that there has occurred therein a denial of natural justice to any party to the proceeding.

- 22. (1)** A consumer claims tribunal shall not make an order in respect of a consumer claim referred to it until it has brought, or has used its best endeavours to bring, the parties to the claim to a settlement acceptable to all of them.

Tribunal to  
attempt to  
conciliate.

- (2) Where such a settlement is made the consumer claims tribunal shall, at the request of the claimant, make an order under section 23 that gives effect to the terms of the
- 20 settlement.

- 23. (1)** Subject to this Act, a consumer claims tribunal may make an order in any proceeding before it of the kind referred to in any of the following paragraphs but shall make no other order :—

Orders of  
consumer  
claims  
tribunal.

- 25 (a) an order that requires a party to the proceeding, other than the claimant, to pay money to a person specified in the order within such time as may be specified in the order ;
- 30 (b) an order that requires a party to the proceeding, other than the claimant, to perform such work or take such other steps as the order specifies to rectify a defect in goods or services to which the consumer claim in the proceeding relates within such time as may be specified in the order ;

(c)



*Consumer Claims Tribunals.*

- 5 (c) an order that requires a party to the proceeding, other than the claimant, to pay money as referred to in paragraph (a) and to perform work or take steps as referred to in paragraph (b) within such time as may be specified in the order ;
- 10 (d) an order that requires a party to the proceeding, other than the claimant, to do any thing referred to in paragraph (b) within such time as may be specified in the order and in default of his complying with that order to pay money to a person specified in the order ; or
- (e) an order that dismisses the claim to which the proceeding relates.

15 (2) In exercising its powers under subsection (1) (a), (b), (c) or (d) a consumer claims tribunal shall make such an order as is, in its opinion, fair and equitable to all the parties to the proceeding before it.

(3) Subsection (2) does not apply where a consumer claims tribunal makes an order giving effect to the terms of a  
20 settlement.

24. (1) In this section, "work order" means an order made under section 23 (1) (b) or (c) that requires a party to a proceeding before a consumer claims tribunal to perform work or take other steps as referred to in section 23 (1) (b) but does not include an order made under section 23 (1) (d). Enforce-  
ment of  
orders to  
rectify  
defects.

(2) A work order shall not be enforceable except in accordance with this section.

30 (3) A tribunal making a work order may at the time of making the order or at any time thereafter give leave to the person in whose favour the order is made to renew the reference of the claim in the proceeding if the order is not complied with.

(4)

*Consumer Claims Tribunals.*

(4) The renewal of such a reference may be effected by the person in whose favour the work order was made lodging a notification in the prescribed form that the order has not been complied with and the provisions of Part III  
5 apply to and in respect of the notification as if it were a consumer claim.

(5) Upon renewal of a reference the tribunal may make any order that it is empowered to make under section 23 (1) (a), (b), (c) or (d) or may refuse to make any order.

10 **25.** (1) Except as provided by subsection (2), the person to whom payment is to be made under an order made by a consumer claims tribunal requiring the payment of money to that person may enforce the order by filing, free of charge, with the registrar of a court of petty sessions (other than a  
15 court of petty sessions specified in an order made under section 77 (3) of the Courts of Petty Sessions (Civil Claims) Act, 1970)—

- (a) a copy of the order certified by the registrar of consumer claims tribunals to be a true copy; and
- 20 (b) the affidavit of the person filing the order as to the amount unpaid under the order and, where the order is to take effect upon any default, as to the making of that default, and thereupon the order shall be  
25 deemed to be a judgment of that court for the amount specified in the affidavit as being unpaid.

(2) Where, under subsection (1), a person has filed a copy of the order with a registrar of a court of petty sessions, any second or subsequent filing of a copy of that order with the registrar of that or any other court of petty sessions shall  
30 be of no effect.



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*Consumer Claims Tribunals.*

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26. (1) In this section, "prescribed amount" means— Limit of  
amount  
of order.

(a) except as provided in paragraph (b), the amount of \$500; or

5 (b) where another amount is prescribed, that other amount.

(2) An order of a consumer claims tribunal made in a proceeding before that tribunal shall, if it orders the payment by one person of an amount exceeding the prescribed amount, be valid and effective as an order requiring the payment of the  
10 prescribed amount and otherwise shall be of no effect.

(3) An order of a consumer claims tribunal made in a proceeding before that tribunal shall, if it orders the payment by two or more persons of amounts the sum of which exceeds the prescribed amount, be valid and effective as an order  
15 requiring the payment by each of those persons of an amount that bears to the prescribed amount the same proportion as the amount ordered to be paid by that person bears to that sum and shall otherwise be of no effect.

(4) An order made on a consumer claim and an  
20 order made on the renewal of a reference of such a claim in accordance with section 24 shall, for the purposes of this section, be deemed to be one order.

(5) For the purposes of subsections (2) and (3), an order of a consumer claims tribunal which orders the payment  
25 by two or more persons jointly of any amount (whether or not it orders the payment by any other person of any amount) shall be deemed to be an order of such a tribunal which orders the payment by one person of that amount.

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PART

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*Consumer Claims Tribunals.*

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**PART V.**

**HEARINGS.**

27. (1) A consumer claims tribunal shall, at all times  
 throughout the course of a proceeding, be constituted by the  
 5 same referee. Con-  
tinuity of  
consumer  
claims  
tribunal.

(2) If before an order is made in a proceeding before  
 a consumer claims tribunal the proceeding is interrupted by  
 the death or incapacity of the referee who constitutes the  
 tribunal, or by vacation of his office, and the claimant notifies  
 10 the registrar that he desires to proceed with the consumer  
 claim, the registrar shall arrange for a fresh proceeding in  
 relation to the claim to be commenced before another referee.

28. A tribunal may, at any stage of a proceeding before it,  
 make such amendment of the consumer claim to which the  
 15 proceeding relates as it thinks fit either at the request of the  
 claimant or of its own motion with the approval of the  
 claimant. Amend-  
ment of  
claim.

29. (1) A consumer claims tribunal may from time to  
 time adjourn a proceeding before it to such times and places  
 20 and for such purposes as it considers necessary or desirable. Adjourn-  
ment of  
pro-  
ceeding.

(2) The registrar shall cause to be given to any party  
 to a proceeding that has adjourned who is not present or  
 represented at the time when the proceeding is adjourned a  
 notice of the time and place to which the proceeding is  
 25 adjourned.

30. (1) Each party to a proceeding before a consumer  
 claims tribunal shall have the carriage of his own case. Presenta-  
tion of  
cases.



*Consumer Claims Tribunals.*

(2) A party to a proceeding before a consumer claims tribunal or a person who applies to be made a party to such a proceeding shall not be entitled to be represented by an agent unless it appears to the tribunal that an agent should  
5 be permitted to that party as a matter of necessity and the tribunal so approves.

(3) Subsection (2) does not prevent an officer within the meaning of the Companies Act, 1961, of a corporation from representing that corporation in a proceeding  
10 before a tribunal.

(4) A consumer claims tribunal shall not approve of a party to a proceeding before it being represented by an agent who practises as a barrister or solicitor or as an advocate for fee or reward unless—

- 15 (a) all parties to the proceeding agree; and
- (b) the tribunal is satisfied that the parties, other than the party who applies for approval of an agent, or any of them will not be thereby unfairly disadvantaged.

(5) Where apart from this subsection it appears to a consumer claims tribunal that it should allow an agent to represent a party to a proceeding before it the tribunal—

- 25 (a) shall not approve of the proposed agent so doing unless it is satisfied that the proposed agent has sufficient personal knowledge of the issue in dispute to enable him to represent the party effectively and is vested with sufficient authority to bind the party; and
- 30 (b) may subject its approval to such conditions as it considers reasonable to ensure that any other party to the proceeding is not unfairly disadvantaged by the agent appearing before the tribunal and, where it does so, the entitlement of the agent to represent the party shall be subject to his compliance with  
35 those conditions.

(6)

*Consumer Claims Tribunals.*

(6) Contravention of any provision of this section shall not invalidate any proceeding before a consumer claims tribunal in which the contravention occurs or any order made therein.

5     **31.** (1) Every proceeding before a consumer claims tribunal shall be taken in private. Taking of evidence before consumer claims tribunal.

(2) The evidence material to a proceeding before a consumer claims tribunal—

(a) may be given orally or in writing; and

10     (b) shall be given upon oath.

(3) For the purposes of subsection (2) (b), a referee who constitutes a tribunal is empowered to administer an oath.

(4) A tribunal is not bound by the rules or practice as to evidence but subject to subsection (2) (b) may inform  
15 itself of any matter in such manner as it thinks fit.

**32.** (1) Subject to this section, where the case of any party to a proceeding before a consumer claims tribunal is not presented to the tribunal, the issues in dispute in the proceeding shall be resolved by the tribunal on such evidence as is  
20 otherwise adduced before it and an order made by the tribunal therein shall be lawful and as effective as if the party whose case was not presented had been fully heard. Tribunal to act on evidence available.

(2) Where an issue in dispute has been resolved in the absence of any party to the proceeding, a referee, on  
25 application made to the registrar within seven days after the party receives notice of the order made on the consumer claim which gave rise to the dispute, may, if it appears to him that there was sufficient reason for the party's absence, order that the claim be re-heard.

(3)



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*Consumer Claims Tribunals.*

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(3) Upon an order being made for a re-hearing—

- 5 (a) the registrar shall notify all parties to the proceeding that related to the consumer claim of the making of the order and of the time and place appointed for the re-hearing; and
- (b) the order of the consumer claims tribunal made upon the first hearing shall thereupon cease to have effect.

10 (4) If the party on whose application a re-hearing is ordered does not appear at the time and place for the re-hearing or upon any adjournment of the proceeding therein, the consumer claims tribunal if it thinks fit and without re-hearing or further re-hearing the consumer claim, may direct that the order made upon the first hearing of the claim

15 be restored and that order shall, notwithstanding subsection (3) (b), be thereby restored to full force and effect and be deemed to have been of full force and effect at all times since the time of its making.

20 33. Costs shall not be allowed to or against any party to a proceeding before a consumer claims tribunal. No costs allowable.

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PART VI.

MISCELLANEOUS.

25 34. Subject to this Act and the regulations, every consumer claims tribunal shall have control of its own procedures and in the exercise of that control shall have regard to natural justice. Control of procedures.

35.

*Consumer Claims Tribunals.*

**35. (1) A person shall not—**

Contempt.

(a) wilfully insult—

5

(i) a referee during his sitting as a consumer claims tribunal or while he is on his way to or from such a sitting; or

(ii) any person during his attendance at a sitting of a consumer claims tribunal or while he is on his way to or from such a sitting;

10

(b) wilfully misbehave at a sitting of a consumer claims tribunal;

(c) wilfully and without lawful excuse interrupt the proceeding of a consumer claims tribunal;

(d) unlawfully assault or wilfully obstruct a person in attendance at a consumer claims tribunal; or

15

(e) without lawful excuse disobey a lawful direction (not being an order referred to in section 23) of a consumer claims tribunal given to him during a sitting of the tribunal.

Penalty : \$500 or imprisonment for 6 months.

20

(2) A consumer claims tribunal may by oral order direct any person who does anything referred to in subsection (1) to remove himself from the sitting of the tribunal and a person to whom such direction is given shall comply with the direction.

25

Penalty : \$500 for a contravention of this subsection.

**36.** The provisions of this Act have effect notwithstanding any stipulation to the contrary and no contract or agreement made or entered into before or after the commencement of this Act operates to annul, vary or exclude any of the provisions of this Act.

Contract-  
ing out  
pro-  
hibited.

**37.**



*Consumer Claims Tribunals.*

37. Where, by or under this Act, the registrar is required to cause any notice or other document to be given to any person, the posting of the notice or document by pre-paid mail to that person at his usual or last known address shall  
5 be deemed to be sufficient service.

Mode  
of  
giving  
notice.

38. (1) A referee shall from time to time report upon—

Reports  
by  
referees.

(a) all matters arising out of consumer claims the subject of proceedings before the consumer claims tribunal constituted by him, and any matters  
10 reported to him, where he is the senior referee, under subsection (2), being in either case matters that he considers of importance as regards the relationship of consumer and trader;

(b) all matters relevant to the administration of this  
15 Act or to the practices and procedures of consumer claims tribunals that in his opinion should be brought to the notice of the Minister.

(2) A referee shall so report—

(a) where any other person holds the office of senior  
20 referee, to that other person; and

(b) in every other case, to the Minister.

39. The registrar shall cause to be published, in such manner as the Minister from time to time directs, such particulars in relation to references to consumer claims tribunals  
25 as the Minister specifies in the direction.

Publica-  
tion of  
particulars  
of  
reference.

40. No proceedings shall be taken against the registrar, any referee, any claimant or any other person on account of any proceeding taken, any publication made, or anything  
30 taken, made or done bona fide and purportedly under the authority of this Act or the regulations or on account of any omission made bona fide in respect of the administration of this Act or the regulations.

Protection  
for  
things  
done  
under  
Act.

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*Consumer Claims Tribunals.*

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**41.** (1) Proceedings for an offence against this Act or the regulations may— Proceed-  
ings.

- (a) be taken and prosecuted by any person acting with the authority in writing of the Minister;
- 5 (b) be disposed of summarily by an industrial magistrate appointed under the Industrial Arbitration Act, 1940, or a court of petty sessions held before a stipendiary magistrate sitting alone.

(2) In a prosecution for any such an offence, an authority to prosecute, purporting to have been signed by the Minister, shall be evidence of the authority without proof of the Minister's signature.

(3) The provisions of the Industrial Arbitration Act, 1940, and the regulations made under that Act, relating to proceedings before an industrial magistrate and to appeals from an industrial magistrate to the Industrial Commission of New South Wales shall apply to proceedings before an industrial magistrate or a court of petty sessions held before a stipendiary magistrate for offences against this Act and the regulations as if the proceedings were proceedings under that Act.

(4) In proceedings for an offence against this Act or the regulations, the informant may conduct his case himself, or by his counsel or attorney, or by an agent authorised by him in writing, or by any officer of the Public Service.

**42.** (1) The Governor may make regulations not inconsistent with this Act for or with respect to— Regula-  
tions.

- (a) forms to be used for the purposes of this Act;
- 30 (b) fees to be paid under this Act;
- (c) the practice and procedure of consumer claims tribunals and the enforcement of orders of consumer claims tribunals;

(d)



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*Consumer Claims Tribunals.*

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- (d) the issue of summonses requiring parties to a proceeding before a consumer claims tribunal, or other persons, to give evidence before, or produce evidence to, the tribunal;
- 5 (e) the practice and procedure of the registrar and the powers, functions and duties of the registrar and other persons employed in the registry; and
- 10 (f) any matter which by this Act is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A regulation may impose a penalty not exceeding \$200 for an offence against the regulation.

(3) A regulation may make provisions which differ  
15 in their application according to such factors as are specified in the regulation.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974  
[20c]

## CONSUMER CLAIMS TRIBUNALS BILL, 1974

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### EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to make provision for the constitution of consumer claims tribunals, each of which is to be constituted by a referee appointed by the Governor;
- (b) to confer on consumer claims tribunals jurisdiction to hear and determine claims arising out of contracts between consumers and traders;
- (c) to enable any person who has a sufficient interest in a resolution of a dispute to which a claim relates to be made a party to the proceeding before the tribunal dealing with the claim;
- (d) to empower a consumer claims tribunal to make an order in respect of a claim referred to it, being an order that requires—
  - (i) the payment of money by a specified party to a specified person;
  - (ii) the performance of work or the carrying out of other steps by a specified party;
  - (iii) the payment of money and the performance of work or the carrying out of steps, as referred to in subparagraphs (i) and (ii); and
  - (iv) the payment of money by a specified party in default of his complying with a work order referred to in subparagraph (ii);
- (e) to provide that an order for the payment of money shall not have effect to the extent that it is for an amount in excess of \$500;
- (f) to exempt consumer claims tribunals from judicial supervision except for want of jurisdiction or where there has occurred a denial of natural justice;
- (g) to deprive courts of jurisdiction to determine matters arising out of a claim which has been referred to a consumer claims tribunal;
- (h) to prevent a party to a proceeding before a consumer claims tribunal from being represented by a barrister, solicitor or paid advocate, except where all parties agree and the tribunal is satisfied that no unfair disadvantage will ensue to any other party, and to restrict representation by any other agent of a party;
- (i) to make provision with respect to the manner in which a proceeding before a consumer claims tribunal shall be conducted;
- (j) to prohibit the allowance of costs to or against any party to a proceeding before a consumer claims tribunal;
- (k) to make other provisions of a minor or ancillary character.





No. , 1974.

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## A BILL

To provide for the constitution of consumer claims tribunals and to define their jurisdiction and powers; and for purposes connected therewith.

[MR WILLIS—26 February, 1974.]

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

### PART I.

#### PRELIMINARY.

1. This Act may be cited as the "Consumer Claims Short Tribunals Act, 1974".

2.



*Consumer Claims Tribunals.*

2. (1) This section and section 1 shall commence on the date of assent to this Act. Commence-  
ment.

(2) Except as provided in subsection (1), this Act shall commence upon such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. This Act is divided as follows :—

Division  
of Act.

PART I.—PRELIMINARY—ss. 1-4.

PART II.—CONSUMER CLAIMS TRIBUNALS—ss. 5-12.

10 PART III.—CLAIMS—ss. 13-16.

PART IV.—JURISDICTION AND POWERS OF TRIBUNALS  
—ss. 17-26.

PART V.—HEARINGS—ss. 27-33.

PART VI.—MISCELLANEOUS—ss. 34-42.

15 4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpreta-  
tion.

“claimant” means a person who has referred his claim, being a consumer claim, to a consumer claims tribunal;

20 “consumer” means a person, not being a corporation—

(a) who buys or hires goods otherwise than for re-sale or letting on hire or than in the course of, or for the purposes of, a trade or business carried on by him, whether alone or in partnership with one or more other persons; or

(b)

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*Consumer Claims Tribunals.*

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5 (b) for whom services are rendered for fee or  
reward otherwise than in the course of, or  
for the purposes of, a trade or business  
carried on by him, whether alone or in  
partnership with one or more other persons;

10 "consumer claim" means a claim by a person for the  
payment of money or the performance of work or  
for the payment of money and the performance of  
work, being a claim arising out of a contract for  
the supply of goods or the provision of services or  
for the supply of goods and the provision of services  
between that person as a consumer and a person  
who in relation to those goods or services, or those  
goods and services, is a trader;

15 "consumer claims tribunal" means a consumer claims  
tribunal constituted under this Act;

"contract" means an oral or written contract;

"goods" includes anything the subject of trade,  
manufacture or merchandise;

20 "referee" means a person for the time being holding  
office under this Act as a referee of consumer claims  
tribunals;

25 "registrar" means the person for the time being holding  
office under this Act as the registrar of consumer  
claims tribunals and includes any person for the  
time being acting in that office;

"registry" means the registry of consumer claims  
tribunals established and maintained under this  
Act;

"regulations"



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*Consumer Claims Tribunals.*

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“regulations” means regulations made under this Act;

“respondent” means a trader against whom a consumer claim referred to a consumer claims tribunal has been made;

5 “senior referee” means the person for the time being holding office under this Act as the senior referee of consumer claims tribunals;

“services” includes the rights or benefits to be provided under a contract for—

10 (a) the performance of work (otherwise than under a contract of service);

(b) the provision of, or the use and enjoyment of, facilities for amusement, entertainment, recreation or instruction; or

15 (c) the conferring of rights or privileges for which remuneration is payable in the form of a royalty, tribute, levy or similar exaction;

20 “trader” means a person who in the field of trade or commerce carries on a business of supplying goods or providing services or who holds himself out as carrying on such a business.

(2) For the purposes of this Act, a consumer claim shall be deemed not to have been referred to a consumer  
25 claims tribunal unless the claim has been referred to a consumer claims tribunal in accordance with section 13.

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PART

*Consumer Claims Tribunals.*

**PART II.**

**CONSUMER CLAIMS TRIBUNALS.**

5. (1) A consumer claims tribunal shall be constituted by a referee sitting alone. Constitution of consumer claims tribunal.
- 5 (2) Where two or more persons hold office as referees at the same time the senior referee shall determine which referee shall constitute a tribunal for the purpose of any proceeding.
- 10 6. (1) The Governor may appoint persons to be referees of consumer claims tribunals and, where two or more persons hold office as referees at the same time, one of them shall by the instrument of his appointment or by a subsequent instrument executed by the Governor be appointed to be the senior referee. Appointment of referees.
- 15 (2) A referee shall devote the whole of his time to the duties of his office and shall be paid such remuneration and expenses as the Governor may from time to time determine in respect of him.
- 20 (3) A referee shall, subject to this Act, hold office as a referee for such term not exceeding seven years as may be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time.
- 25 (4) Any such re-appointment shall be for such term not exceeding seven years as may be specified in the instrument of re-appointment.



*Consumer Claims Tribunals.*

(5) The Governor may appoint a person to act in the office of a referee during the absence of that referee from his office through illness or other cause and the person so appointed shall while so acting be deemed to be a referee and shall have the immunities, powers, authorities, duties and functions of a referee and be entitled to remuneration and expenses as a referee.

(6) Where the person absent as described in subsection (5) is the senior referee, the Governor may appoint any person appointed under that subsection or another referee to act as senior referee during the absence and the person so appointed shall while so acting have the immunities, powers, authorities, duties and functions of the senior referee and be entitled to remuneration and expenses as the senior referee.

(7) A person who is of or above the age of seventy-two years shall not be appointed as a referee or be appointed under subsection (5).

(8) The provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment of a referee, a senior referee or a person appointed under subsection (5) but the provisions of that Act and the regulations thereunder (except in so far as they are inconsistent with any of the provisions of this Act) apply to and in respect of any such appointee as if he had been appointed pursuant to the provisions of that Act.

7. (1) A referee or person appointed under section 6 (5) shall be deemed to have vacated his office—  
Casual vacancy.

(a) if he dies;

(b) if he engages in any paid employment outside the duties of his office;

(c)

*Consumer Claims Tribunals.*

- (c) if he absents himself from duty for a period exceeding fourteen consecutive days except on leave granted by the Minister (which leave the Minister is hereby authorised to grant);
- 5 (d) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration or expenses as a referee, or of his estate, for their benefit;
- 10 (e) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- 15 (f) if he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or longer, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be
- 20 a felony or misdemeanour so punishable;
- (g) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts the resignation;
- (h) if he is removed from office by the Governor; or
- 25 (i) on the day on which he attains the age of seventy-two years.

(2) The Governor may, for any cause which to him seems sufficient, remove a referee or person appointed under section 6 (5) from office.

- 30 8. (1) In this section, "superannuation scheme" means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Preservation of certain rights of referees previously public servants, etc.

(2)



*Consumer Claims Tribunals.*

(2) Subject to subsection (3) and to the terms of his appointment, where a referee was, immediately before his appointment as a referee—

- (a) an officer of the Public Service; or
- 5 (b) a contributor to a superannuation scheme,  
he—
- (c) shall retain any rights accrued or accruing to him as such an officer or contributor;
- 10 (d) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as a referee; and
- (e) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,  
as if he had continued to be such an officer or contributor
- 15 during his service as a referee, and—
- (f) his service as a referee shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or
- 20 by which that entitlement is conferred; and
- (g) he shall be deemed to be an officer or employee and the Minister shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this
- 25 subsection.

(3) A referee who, but for this subsection, would be entitled under subsection (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme shall not be so entitled upon his becoming

30 (whether upon his appointment as a referee or at any later time while he holds office as a referee) a contributor to any other superannuation scheme, and the provisions of subsection (2) (g) cease to apply to or in respect of him and the Minister in any case where he becomes a contributor to such

35 another superannuation scheme.

(4)

*Consumer Claims Tribunals.*

(4) Subsection (3) does not prevent the payment to a referee upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of resignation, to be an officer or employee for the purposes of that scheme.

(5) A referee shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

9. A referee who was, immediately before his appointment as a referee, an officer of the Public Service and who ceases to be a referee, otherwise than pursuant to section 7 (1) (paragraph (g) excepted) or section 7 (2), shall, if he is under the age of sixty years, be entitled to be appointed to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment as a referee.

Referee entitled to re-appointment to Public Service in certain cases.

10. Sitings of tribunals shall be held at such times and places as the senior referee, or, if only one person for the time being holds office as a referee, the referee from time to time determines.

11. (1) There shall be established and maintained a registry of consumer claims tribunals in which all records of consumer claims tribunals shall be kept.

(2) A registrar of consumer claims tribunals and such other persons as may be required for the proper functioning of the registry shall be appointed under and subject to the Public Service Act, 1902.

12. (1) The record of a consumer claims tribunal in respect of a claim referred to it shall consist of—

(a) that claim as lodged by the claimant;

(b) the notation of the nature of the issues in dispute as determined and recorded by the tribunal during the hearing of the claim; and

(c) the order, if any, made by the tribunal.

Records of consumer claims tribunals.

(2)



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*Consumer Claims Tribunals.*

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(2) Every such record may be inspected free of charge by—

(a) the parties to the claim; and

(b) the Commissioner for Consumer Affairs,

5 and shall be available for production before a court or judge for the purpose of any proceedings before the court or judge.

(3) Notes made by a referee in the course of the hearing of a claim, other than the notation and order referred to in subsection (1), shall not form part of the record of the  
10 tribunal.

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PART III.

CLAIMS.

13. (1) A person may refer his claim, being a consumer claim, to a tribunal by lodging the claim in the prescribed  
15 form with, and paying the prescribed fee to, the registrar or any clerk of petty sessions.

Reference  
of claims  
to  
consumer  
claims  
tribunal.

(2) It shall be the duty of the registrar and of every clerk of petty sessions to give his assistance to a person who seeks it in completing the prescribed claim form.

20 (3) A clerk of petty sessions with whom a completed claim form is lodged shall as soon as practicable send the form or, if so required by the regulations, a copy of it to the registrar by post.

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*Consumer Claims Tribunals.*

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**14. (1) The registrar—**Notice  
of claim  
and  
proceeding.

5 (a) shall cause notice of the consumer claim and its particulars to be given, as soon as practicable, to the respondent and to every person who appears from the claim form to have a sufficient interest in a resolution of the dispute to which the claim relates; and

10 (b) shall arrange with the senior referee or, if only one person for the time being holds office as referee, the referee a time and place for the initial proceeding of a tribunal in relation to the claim and shall cause notice of that time and place to be given in writing to the claimant and respondent and to every other person to whom notice of the claim is  
15 given.

(2) Where a tribunal to which a consumer claim has been referred is of the opinion that a person has a sufficient interest in a resolution of the dispute to which the claim relates but has not been given notice of the claim under  
20 subsection (1) (a), the tribunal may direct the registrar to cause notice of the claim and its particulars to be given, as soon as practicable, to that person and the registrar shall cause notice to be given in accordance with the direction.

**15. Every person to whom notice of a consumer claim**  
25 is given under section 14 shall be taken to be a party to the proceeding that relates to the claim and every person who satisfies a consumer claims tribunal to which a consumer claim has been referred that he has a sufficient interest in a resolution of the dispute to which the claim relates shall be  
30 entitled to be joined as a party to the proceeding.

Parties  
to proceed-  
ings.

**16. A claimant may at any time withdraw his consumer**  
claim whether or not a consumer claims tribunal has entered  
upon a hearing of the claim.

Withdrawal  
of claim.

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**PART**



*Consumer Claims Tribunals.*

PART IV.

JURISDICTION AND POWERS OF TRIBUNALS.

17. Subject to this Act, a consumer claims tribunal has jurisdiction to hear and determine any consumer claim referred to it. Juris-  
diction.

18. A consumer claims tribunal has jurisdiction in respect of a consumer claim arising from a contract whether the contract was made before or after the commencement of this Act but does not have jurisdiction in respect of such a claim if the contract was made earlier than two years before the day on which the claim was referred to a tribunal. No jurisdic-  
tion if  
contract  
more than  
two years  
old.

19. (1) A court has no jurisdiction in respect of any issue in dispute in a consumer claim which has been referred to a consumer claims tribunal and has not been withdrawn. Exclusion  
of other  
juris-  
dictions.

15 (2) Where proceedings for the determination of any issue were commenced in a court before a consumer claim in which that issue is in dispute was referred to a consumer claims tribunal and those proceedings have not been withdrawn, nothing in subsection (1) prevents that court from having jurisdiction in respect of that issue and the tribunal on the application of any party to those proceedings who is a party to the proceeding before the tribunal, shall make an order dismissing the claim.

25 (3) For the purposes of this section, an issue is in dispute in a consumer claim referred to a consumer claims tribunal only if the existence of the dispute was shown in the claim referred to that tribunal or was recorded in the record made by that tribunal in accordance with section 12 (1) (b).

20. An order of a tribunal shall be final and binding on all parties to the proceeding in which the order is made and no appeal shall lie in respect of such an order. Order of  
tribunal  
to be  
final.

21.

*Consumer Claims Tribunals.*

**21. No—**

- (a) judgment or order in the nature of prohibition, certiorari or other prerogative writ; or

Immunity from judicial supervision.

- (b) declaratory judgment or order,

5 shall be given or made in respect of a proceeding taken or to be taken by or before a consumer claims tribunal, being a proceeding that relates to a consumer claim referred to that tribunal, or in respect of any order of such a tribunal unless the court before which the judgment or order is sought is  
10 satisfied that the tribunal has or had no jurisdiction to take the proceeding or that there has occurred therein a denial of natural justice to any party to the proceeding.

**22.** (1) A consumer claims tribunal shall not make an order in respect of a consumer claim referred to it until it has  
15 brought, or has used its best endeavours to bring, the parties to the claim to a settlement acceptable to all of them.

Tribunal to attempt to conciliate.

(2) Where such a settlement is made the consumer claims tribunal shall, at the request of the claimant, make an order under section 23 that gives effect to the terms of the  
20 settlement.

**23.** (1) Subject to this Act, a consumer claims tribunal may make an order in any proceeding before it of the kind referred to in any of the following paragraphs but shall make no other order :—

Orders of consumer claims tribunal.

- 25 (a) an order that requires a party to the proceeding, other than the claimant, to pay money to a person specified in the order within such time as may be specified in the order;
- 30 (b) an order that requires a party to the proceeding, other than the claimant, to perform such work or take such other steps as the order specifies to rectify a defect in goods or services to which the consumer claim in the proceeding relates within such time as may be specified in the order;

(c)



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*Consumer Claims Tribunals.*

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- 5 (c) an order that requires a party to the proceeding, other than the claimant, to pay money as referred to in paragraph (a) and to perform work or take steps as referred to in paragraph (b) within such time as may be specified in the order ;
- 10 (d) an order that requires a party to the proceeding, other than the claimant, to do any thing referred to in paragraph (b) within such time as may be specified in the order and in default of his complying with that order to pay money to a person specified in the order ; or
- (e) an order that dismisses the claim to which the proceeding relates.

15 (2) In exercising its powers under subsection (1) (a), (b), (c) or (d) a consumer claims tribunal shall make such an order as is, in its opinion, fair and equitable to all the parties to the proceeding before it.

(3) Subsection (2) does not apply where a consumer claims tribunal makes an order giving effect to the terms of a  
20 settlement.

24. (1) In this section, "work order" means an order made under section 23 (1) (b) or (c) that requires a party to a proceeding before a consumer claims tribunal to perform work or take other steps as referred to in section 23 (1) (b) but does not include an order made under section 23 (1) (d). Enforcement of orders to rectify defects.

25

(2) A work order shall not be enforceable except in accordance with this section.

(3) A tribunal making a work order may at the time of making the order or at any time thereafter give leave to  
30 the person in whose favour the order is made to renew the reference of the claim in the proceeding if the order is not complied with.

(4)



*Consumer Claims Tribunals.*

(4) The renewal of such a reference may be effected by the person in whose favour the work order was made lodging a notification in the prescribed form that the order has not been complied with and the provisions of Part III apply to and in respect of the notification as if it were a consumer claim.

(5) Upon renewal of a reference the tribunal may make any order that it is empowered to make under section 23 (1) (a), (b), (c) or (d) or may refuse to make any order.

10 **25.** (1) Except as provided by subsection (2), the person to whom payment is to be made under an order made by a consumer claims tribunal requiring the payment of money to that person may enforce the order by filing, free of charge, with the registrar of a court of petty sessions (other than a  
15 court of petty sessions specified in an order made under section 77 (3) of the Courts of Petty Sessions (Civil Claims) Act, 1970)—

(a) a copy of the order certified by the registrar of consumer claims tribunals to be a true copy; and

20 (b) the affidavit of the person filing the order as to the amount unpaid under the order and, where the order is to take effect upon any default, as to the making of that default, and thereupon the order shall be  
25 deemed to be a judgment of that court for the amount specified in the affidavit as being unpaid.

(2) Where, under subsection (1), a person has filed a copy of the order with a registrar of a court of petty sessions, any second or subsequent filing of a copy of that order with the registrar of that or any other court of petty sessions shall  
30 be of no effect.



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*Consumer Claims Tribunals.*

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26. (1) In this section, "prescribed amount" means— Limit of  
amount  
of order.

(a) except as provided in paragraph (b), the amount of \$500; or

5 (b) where another amount is prescribed, that other amount.

(2) An order of a consumer claims tribunal made in a proceeding before that tribunal shall, if it orders the payment by one person of an amount exceeding the prescribed amount, be valid and effective as an order requiring the payment of the  
10 prescribed amount and otherwise shall be of no effect.

(3) An order of a consumer claims tribunal made in a proceeding before that tribunal shall, if it orders the payment by two or more persons of amounts the sum of which exceeds the prescribed amount, be valid and effective as an order  
15 requiring the payment by each of those persons of an amount that bears to the prescribed amount the same proportion as the amount ordered to be paid by that person bears to that sum and shall otherwise be of no effect.

(4) An order made on a consumer claim and an  
20 order made on the renewal of a reference of such a claim in accordance with section 24 shall, for the purposes of this section, be deemed to be one order.

(5) For the purposes of subsections (2) and (3), an order of a consumer claims tribunal which orders the payment  
25 by two or more persons jointly of any amount (whether or not it orders the payment by any other person of any amount) shall be deemed to be an order of such a tribunal which orders the payment by one person of that amount.

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PART



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*Consumer Claims Tribunals.*

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PART V.

HEARINGS.

27. (1) A consumer claims tribunal shall, at all times  
throughout the course of a proceeding, be constituted by the  
5 same referee. Con-  
tinuity of  
consumer  
claims  
tribunal.

(2) If before an order is made in a proceeding before  
a consumer claims tribunal the proceeding is interrupted by  
the death or incapacity of the referee who constitutes the  
tribunal, or by vacation of his office, and the claimant notifies  
10 the registrar that he desires to proceed with the consumer  
claim, the registrar shall arrange for a fresh proceeding in  
relation to the claim to be commenced before another referee.

28. A tribunal may, at any stage of a proceeding before it,  
make such amendment of the consumer claim to which the  
15 proceeding relates as it thinks fit either at the request of the  
claimant or of its own motion with the approval of the  
claimant. Amend-  
ment of  
claim.

29. (1) A consumer claims tribunal may from time to time  
adjourn a proceeding before it to such times and places  
20 and for such purposes as it considers necessary or desirable. Adjourn-  
ment of  
pro-  
ceeding.

(2) The registrar shall cause to be given to any party  
to a proceeding that has adjourned who is not present or  
represented at the time when the proceeding is adjourned a  
notice of the time and place to which the proceeding is  
25 adjourned.

30. (1) Each party to a proceeding before a consumer  
claims tribunal shall have the carriage of his own case. Presenta-  
tion of  
cases.



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*Consumer Claims Tribunals.*

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(2) A party to a proceeding before a consumer claims tribunal or a person who applies to be made a party to such a proceeding shall not be entitled to be represented by an agent unless it appears to the tribunal that an agent should  
5 be permitted to that party as a matter of necessity and the tribunal so approves.

(3) Subsection (2) does not prevent an officer within the meaning of the Companies Act, 1961, of a corporation from representing that corporation in a proceeding  
10 before a tribunal.

(4) A consumer claims tribunal shall not approve of a party to a proceeding before it being represented by an agent who practises as a barrister or solicitor or as an advocate for fee or reward unless—

- 15 (a) all parties to the proceeding agree; and  
(b) the tribunal is satisfied that the parties, other than the party who applies for approval of an agent, or any of them will not be thereby unfairly disadvantaged.

20 (5) Where apart from this subsection it appears to a consumer claims tribunal that it should allow an agent to represent a party to a proceeding before it the tribunal—

- (a) shall not approve of the proposed agent so doing unless it is satisfied that the proposed agent has  
25 sufficient personal knowledge of the issue in dispute to enable him to represent the party effectively and is vested with sufficient authority to bind the party; and  
(b) may subject its approval to such conditions as it  
30 considers reasonable to ensure that any other party to the proceeding is not unfairly disadvantaged by the agent appearing before the tribunal and, where it does so, the entitlement of the agent to represent the party shall be subject to his compliance with  
35 those conditions.

(6)

*Consumer Claims Tribunals.*

(6) Contravention of any provision of this section shall not invalidate any proceeding before a consumer claims tribunal in which the contravention occurs or any order made therein.

5 **31.** (1) Every proceeding before a consumer claims tribunal shall be taken in private. Taking of evidence before consumer claims tribunal.

(2) The evidence material to a proceeding before a consumer claims tribunal—

(a) may be given orally or in writing; and

10 (b) shall be given upon oath.

(3) For the purposes of subsection (2) (b), a referee who constitutes a tribunal is empowered to administer an oath.

(4) A tribunal is not bound by the rules or practice as to evidence but subject to subsection (2) (b) may inform  
15 itself of any matter in such manner as it thinks fit.

**32.** (1) Subject to this section, where the case of any party to a proceeding before a consumer claims tribunal is not presented to the tribunal, the issues in dispute in the proceeding shall be resolved by the tribunal on such evidence as is  
20 otherwise adduced before it and an order made by the tribunal therein shall be lawful and as effective as if the party whose case was not presented had been fully heard. Tribunal to act on evidence available.

(2) Where an issue in dispute has been resolved in the absence of any party to the proceeding, a referee, on  
25 application made to the registrar within seven days after the party receives notice of the order made on the consumer claim which gave rise to the dispute, may, if it appears to him that there was sufficient reason for the party's absence, order that the claim be re-heard.

(3)



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*Consumer Claims Tribunals.*

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(3) Upon an order being made for a re-hearing—

- 5 (a) the registrar shall notify all parties to the proceeding that related to the consumer claim of the making of the order and of the time and place appointed for the re-hearing; and
- (b) the order of the consumer claims tribunal made upon the first hearing shall thereupon cease to have effect.

10 (4) If the party on whose application a re-hearing is ordered does not appear at the time and place for the re-hearing or upon any adjournment of the proceeding therein, the consumer claims tribunal if it thinks fit and without re-hearing or further re-hearing the consumer claim, may direct that the order made upon the first hearing of the claim  
 15 be restored and that order shall, notwithstanding subsection (3) (b), be thereby restored to full force and effect and be deemed to have been of full force and effect at all times since the time of its making.

20 33. Costs shall not be allowed to or against any party to a proceeding before a consumer claims tribunal. No costs allowable.

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PART VI.

MISCELLANEOUS.

25 34. Subject to this Act and the regulations, every consumer claims tribunal shall have control of its own procedures and in the exercise of that control shall have regard to natural justice. Control of procedures.

35.



*Consumer Claims Tribunals.*

**35.** (1) A person shall not—

Contempt.

(a) wilfully insult—

5

(i) a referee during his sitting as a consumer claims tribunal or while he is on his way to or from such a sitting; or

(ii) any person during his attendance at a sitting of a consumer claims tribunal or while he is on his way to or from such a sitting;

10

(b) wilfully misbehave at a sitting of a consumer claims tribunal;

(c) wilfully and without lawful excuse interrupt the proceeding of a consumer claims tribunal;

(d) unlawfully assault or wilfully obstruct a person in attendance at a consumer claims tribunal; or

15

(e) without lawful excuse disobey a lawful direction (not being an order referred to in section 23) of a consumer claims tribunal given to him during a sitting of the tribunal.

Penalty : \$500 or imprisonment for 6 months.

20

(2) A consumer claims tribunal may by oral order direct any person who does anything referred to in subsection (1) to remove himself from the sitting of the tribunal and a person to whom such direction is given shall comply with the direction.

25 Penalty : \$500 for a contravention of this subsection.

**36.** The provisions of this Act have effect notwithstanding any stipulation to the contrary and no contract or agreement made or entered into before or after the commencement of this Act operates to annul, vary or exclude any of the provisions of this Act.

Contract-  
ing out  
pro-  
hibited.

37.



*Consumer Claims Tribunals.*

37. Where, by or under this Act, the registrar is required to cause any notice or other document to be given to any person, the posting of the notice or document by pre-paid mail to that person at his usual or last known address shall  
5 be deemed to be sufficient service.

Mode  
of  
giving  
notice.

38. (1) A referee shall from time to time report upon—  
10 (a) all matters arising out of consumer claims the subject of proceedings before the consumer claims tribunal constituted by him, and any matters reported to him, where he is the senior referee, under subsection (2), being in either case matters that he considers of importance as regards the relationship of consumer and trader;  
15 (b) all matters relevant to the administration of this Act or to the practices and procedures of consumer claims tribunals that in his opinion should be brought to the notice of the Minister.

Reports  
by  
referees.

(2) A referee shall so report—  
20 (a) where any other person holds the office of senior referee, to that other person; and  
(b) in every other case, to the Minister.

39. The registrar shall cause to be published, in such manner as the Minister from time to time directs, such particulars in relation to references to consumer claims tribunals  
25 as the Minister specifies in the direction.

Publica-  
tion of  
particulars  
of  
reference.

40. No proceedings shall be taken against the registrar, any referee, any claimant or any other person on account of any proceeding taken, any publication made, or anything done, under the authority of this Act or the regulations or  
30 taken, made or done bona fide and purportedly under the authority of this Act or the regulations or on account of any omission made bona fide in respect of the administration of this Act or the regulations.

Protection  
for  
things  
done  
under  
Act.

*Consumer Claims Tribunals.*

41. (1) Proceedings for an offence against this Act or the regulations may— Proceed-  
ings.

- (a) be taken and prosecuted by any person acting with the authority in writing of the Minister;
- 5 (b) be disposed of summarily by an industrial magistrate appointed under the Industrial Arbitration Act, 1940, or a court of petty sessions held before a stipendiary magistrate sitting alone.

(2) In a prosecution for any such an offence, an authority to prosecute, purporting to have been signed by the Minister, shall be evidence of the authority without proof of the Minister's signature.

(3) The provisions of the Industrial Arbitration Act, 1940, and the regulations made under that Act, relating to proceedings before an industrial magistrate and to appeals from an industrial magistrate to the Industrial Commission of New South Wales shall apply to proceedings before an industrial magistrate or a court of petty sessions held before a stipendiary magistrate for offences against this Act and the regulations as if the proceedings were proceedings under that Act.

(4) In proceedings for an offence against this Act or the regulations, the informant may conduct his case himself, or by his counsel or attorney, or by an agent authorised by him in writing, or by any officer of the Public Service.

42. (1) The Governor may make regulations not inconsistent with this Act for or with respect to— Regula-  
tions.

- (a) forms to be used for the purposes of this Act;
- 30 (b) fees to be paid under this Act;
- (c) the practice and procedure of consumer claims tribunals and the enforcement of orders of consumer claims tribunals;

(d)



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*Consumer Claims Tribunals.*

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- (d) the issue of summonses requiring parties to a proceeding before a consumer claims tribunal, or other persons, to give evidence before, or produce evidence to, the tribunal;
- 5 (e) the practice and procedure of the registrar and the powers, functions and duties of the registrar and other persons employed in the registry; and
- (f) any matter which by this Act is required or permitted to be prescribed or which is necessary or  
10 convenient to be prescribed for carrying out or giving effect to this Act.

(2) A regulation may impose a penalty not exceeding \$200 for an offence against the regulation.

(3) A regulation may make provisions which differ  
15 in their application according to such factors as are specified in the regulation.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974

CONSUMER CLAIMS TRIBUNALS ACT, 1974.

Reprinted under the Acts Reprinting Act, 1972.

[Certified 27th August, 1975.]

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

\*\*\*\*\*

Act No. 16, 1974.

An Act to provide for the constitution of consumer claims tribunals and to define their jurisdiction and powers; and for purposes connected therewith. [Assented to, 10th April, 1974.]

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

PART I.

PRELIMINARY.

1. This Act may be cited as the "Consumer Claims Tribunals Act, 1974".

Short  
title.

2.



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*Consumer Claims Tribunals.*


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**Commence-  
ment.**

2. (1) This section and section 1 shall commence on the date of assent to this Act.

\*(2) Except as provided in subsection (1), this Act shall commence upon such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

**Division  
of Act.**

3. This Act is divided as follows:—

PART I.—PRELIMINARY—ss. 1-4.

PART II.—CONSUMER CLAIMS TRIBUNALS—ss. 5-12.

PART III.—CLAIMS—ss. 13-16.

PART IV.—JURISDICTION AND POWERS OF TRIBUNALS—ss. 17-26.

PART V.—HEARINGS—ss. 27-33.

PART VI.—MISCELLANEOUS—ss. 34-42.

**Interpre-  
tation.**

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“claimant” means a person who has referred his claim, being a consumer claim, to a consumer claims tribunal;

“consumer” means a person, not being a corporation—

- (a) who buys or hires goods otherwise than for re-sale or letting on hire or than in the course of, or for the purposes of, a trade or business carried on by him, whether alone or in partnership with one or more other persons; or

(b)

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\* Date of commencement, 6th August, 1974. See Gazette No. 92 of 2nd August, 1974, p. 2957.

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*Consumer Claims Tribunals.*

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- (b) for whom services are rendered for fee or reward otherwise than in the course of, or for the purposes of, a trade or business carried on by him, whether alone or in partnership with one or more other persons;

“consumer claim” means a claim by a person for the payment of money or the performance of work or for the payment of money and the performance of work, being a claim arising out of a contract for the supply of goods or the provision of services or for the supply of goods and the provision of services between that person as a consumer and a person who in relation to those goods or services, or those goods and services, is a trader;

“consumer claims tribunal” means a consumer claims tribunal constituted under this Act;

“contract” means an oral or written contract;

“goods” includes anything the subject of trade, manufacture or merchandise;

“referee” means a person for the time being holding office under this Act as a referee of consumer claims tribunals;

“registrar” means the person for the time being holding office under this Act as the registrar of consumer claims tribunals and includes any person for the time being acting in that office;

“registry” means the registry of consumer claims tribunals established and maintained under this Act;

“regulations”



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*Consumer Claims Tribunals.*

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“regulations” means regulations made under this Act;

“respondent” means a trader against whom a consumer claim referred to a consumer claims tribunal has been made;

“senior referee” means the person for the time being holding office under this Act as the senior referee of consumer claims tribunals;

“services” includes the rights or benefits to be provided under a contract for—

- (a) the performance of work (otherwise than under a contract of service);
- (b) the provision of, or the use and enjoyment of, facilities for amusement, entertainment, recreation or instruction; or
- (c) the conferring of rights or privileges for which remuneration is payable in the form of a royalty, tribute, levy or similar exaction;

“trader” means a person who in the field of trade or commerce carries on a business of supplying goods or providing services or who holds himself out as carrying on such a business.

(2) For the purposes of this Act, a consumer claim shall be deemed not to have been referred to a consumer claims tribunal unless the claim has been referred to a consumer claims tribunal in accordance with section 13.

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*Consumer Claims Tribunals.*

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**PART II.**

**CONSUMER CLAIMS TRIBUNALS.**

5. (1) A consumer claims tribunal shall be constituted by a referee sitting alone.

Constitution  
of consumer  
claims  
tribunal.

(2) Where two or more persons hold office as referees at the same time the senior referee shall determine which referee shall constitute a tribunal for the purpose of any proceeding.

6. (1) The Governor may appoint persons to be referees of consumer claims tribunals and, where two or more persons hold office as referees at the same time, one of them shall by the instrument of his appointment or by a subsequent instrument executed by the Governor be appointed to be the senior referee.

Appoint-  
ment of  
referees.

(2) A referee shall devote the whole of his time to the duties of his office and shall be paid such remuneration and expenses as the Governor may from time to time determine in respect of him.

(3) A referee shall, subject to this Act, hold office as a referee for such term not exceeding seven years as may be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time.

(4) Any such re-appointment shall be for such term not exceeding seven years as may be specified in the instrument of re-appointment.

(5)



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*Consumer Claims Tribunals.*

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(5) The Governor may appoint a person to act in the office of a referee during the absence of that referee from his office through illness or other cause and the person so appointed shall while so acting be deemed to be a referee and shall have the immunities, powers, authorities, duties and functions of a referee and be entitled to remuneration and expenses as a referee.

(6) Where the person absent as described in subsection (5) is the senior referee, the Governor may appoint any person appointed under that subsection or another referee to act as senior referee during the absence and the person so appointed shall while so acting have the immunities, powers, authorities, duties and functions of the senior referee and be entitled to remuneration and expenses as the senior referee.

(7) A person who is of or above the age of seventy-two years shall not be appointed as a referee or be appointed under subsection (5).

(8) The provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment of a referee, a senior referee or a person appointed under subsection (5) but the provisions of that Act and the regulations thereunder (except in so far as they are inconsistent with any of the provisions of this Act) apply to and in respect of any such appointee as if he had been appointed pursuant to the provisions of that Act.

Casual  
vacancy.

7. (1) A referee or person appointed under section 6 (5) shall be deemed to have vacated his office—

(a) if he dies;

(b) if he engages in any paid employment outside the duties of his office;

(c)

*Consumer Claims Tribunals.*

- (c) if he absents himself from duty for a period exceeding fourteen consecutive days except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) ;
- (d) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration or expenses as a referee, or of his estate, for their benefit ;
- (e) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (f) if he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or longer, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;
- (g) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts the resignation;
- (h) if he is removed from office by the Governor; or
- (i) on the day on which he attains the age of seventy-two years.

(2) The Governor may, for any cause which to him seems sufficient, remove a referee or person appointed under section 6 (5) from office.

8. (1) In this section, "superannuation scheme" means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Preservation of certain rights of referees previously public servants, etc.

(2)



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*Consumer Claims Tribunals.*

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(2) Subject to subsection (3) and to the terms of his appointment, where a referee was, immediately before his appointment as a referee—

- (a) an officer of the Public Service; or
- (b) a contributor to a superannuation scheme,  
he—
- (c) shall retain any rights accrued or accruing to him as such an officer or contributor;
- (d) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as a referee; and
- (e) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,  
as if he had continued to be such an officer or contributor during his service as a referee, and—
- (f) his service as a referee shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and
- (g) he shall be deemed to be an officer or employee and the Minister shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this subsection.

(3) A referee who, but for this subsection, would be entitled under subsection (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme shall not be so entitled upon his becoming (whether upon his appointment as a referee or at any later time while he holds office as a referee) a contributor to any other superannuation scheme, and the provisions of subsection (2) (g) cease to apply to or in respect of him and the Minister in any case where he becomes a contributor to such another superannuation scheme.

*Consumer Claims Tribunals.*

(4) Subsection (3) does not prevent the payment to a referee upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of resignation, to be an officer or employee for the purposes of that scheme.

(5) A referee shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

9. A referee who was, immediately before his appointment as a referee, an officer of the Public Service and who ceases to be a referee, otherwise than pursuant to section 7 (1) (paragraph (g) excepted) or section 7 (2), shall, if he is under the age of sixty years, be entitled to be appointed to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment as a referee.

Referee entitled to re-appointment to Public Service in certain cases.

10. Sittings of tribunals shall be held at such times and places as the senior referee, or, if only one person for the time being holds office as a referee, the referee from time to time determines.

Venue.

11. (1) There shall be established and maintained a registry of consumer claims tribunals in which all records of consumer claims tribunals shall be kept.

Registry.

(2) A registrar of consumer claims tribunals and such other persons as may be required for the proper functioning of the registry shall be appointed under and subject to the Public Service Act, 1902.

12. (1) The record of a consumer claims tribunal in respect of a claim referred to it shall consist of—

Records of consumer claims tribunals.

- (a) that claim as lodged by the claimant;
- (b) the notation of the nature of the issues in dispute as determined and recorded by the tribunal during the hearing of the claim; and
- (c) the order, if any, made by the tribunal.

(2)



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*Consumer Claims Tribunals.*

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(2) Every such record may be inspected free of charge by—

(a) the parties to the claim; and

(b) the Commissioner for Consumer Affairs,  
and shall be available for production before a court or judge for the purpose of any proceedings before the court or judge.

(3) Notes made by a referee in the course of the hearing of a claim, other than the notation and order referred to in subsection (1), shall not form part of the record of the tribunal.

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PART III.

CLAIMS.

Reference  
of claims  
to  
consumer  
claims  
tribunal.

13. (1) A person may refer his claim, being a consumer claim, to a tribunal by lodging the claim in the prescribed form with, and paying the prescribed fee to, the registrar or any clerk of petty sessions.

(2) It shall be the duty of the registrar and of every clerk of petty sessions to give his assistance to a person who seeks it in completing the prescribed claim form.

(3) A clerk of petty sessions with whom a completed claim form is lodged shall as soon as practicable send the form or, if so required by the regulations, a copy of it to the registrar by post.

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*Consumer Claims Tribunals.*

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**14. (1) The registrar—**

Notice  
of claim  
and  
proceeding.

- (a) shall cause notice of the consumer claim and its particulars to be given, as soon as practicable, to the respondent and to every person who appears from the claim form to have a sufficient interest in a resolution of the dispute to which the claim relates; and
- (b) shall arrange with the senior referee or, if only one person for the time being holds office as referee, the referee a time and place for the initial proceeding of a tribunal in relation to the claim and shall cause notice of that time and place to be given in writing to the claimant and respondent and to every other person to whom notice of the claim is given.

(2) Where a tribunal to which a consumer claim has been referred is of the opinion that a person has a sufficient interest in a resolution of the dispute to which the claim relates but has not been given notice of the claim under subsection (1) (a), the tribunal may direct the registrar to cause notice of the claim and its particulars to be given, as soon as practicable, to that person and the registrar shall cause notice to be given in accordance with the direction.

**15.** Every person to whom notice of a consumer claim is given under section 14 shall be taken to be a party to the proceeding that relates to the claim and every person who satisfies a consumer claims tribunal to which a consumer claim has been referred that he has a sufficient interest in a resolution of the dispute to which the claim relates shall be entitled to be joined as a party to the proceeding.

Parties  
to pro-  
ceedings.

**16.** A claimant may at any time withdraw his consumer claim whether or not a consumer claims tribunal has entered upon a hearing of the claim.

Withdrawal  
of claim.



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*Consumer Claims Tribunals.*


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**PART IV.****JURISDICTION AND POWERS OF TRIBUNALS.**

Juris-  
diction.

**17.** Subject to this Act, a consumer claims tribunal has jurisdiction to hear and determine any consumer claim referred to it.

No juris-  
diction if  
contract  
more than  
two years  
old.

**18.** A consumer claims tribunal has jurisdiction in respect of a consumer claim arising from a contract whether the contract was made before or after the commencement of this Act but does not have jurisdiction in respect of such a claim if the contract was made earlier than two years before the day on which the claim was referred to a tribunal.

Exclusion  
of other  
juris-  
dictions.

**19.** (1) A court has no jurisdiction in respect of any issue in dispute in a consumer claim which has been referred to a consumer claims tribunal and has not been withdrawn.

(2) Where proceedings for the determination of any issue were commenced in a court before a consumer claim in which that issue is in dispute was referred to a consumer claims tribunal and those proceedings have not been withdrawn, nothing in subsection (1) prevents that court from having jurisdiction in respect of that issue and the tribunal on the application of any party to those proceedings who is a party to the proceeding before the tribunal, shall make an order dismissing the claim.

(3) For the purposes of this section, an issue is in dispute in a consumer claim referred to a consumer claims tribunal only if the existence of the dispute was shown in the claim referred to that tribunal or was recorded in the record made by that tribunal in accordance with section 12 (1) (b).

Order of  
tribunal  
to be  
final.

**20.** An order of a tribunal shall be final and binding on all parties to the proceeding in which the order is made and no appeal shall lie in respect of such an order.

**21.**

*Consumer Claims Tribunals.***21. No—**

- (a) judgment or order in the nature of prohibition, certiorari or other prerogative writ; or
- (b) declaratory judgment or order,

Immunity  
from  
judicial  
super-  
vision.

shall be given or made in respect of a proceeding taken or to be taken by or before a consumer claims tribunal, being a proceeding that relates to a consumer claim referred to that tribunal, or in respect of any order of such a tribunal unless the court before which the judgment or order is sought is satisfied that the tribunal has or had no jurisdiction to take the proceeding or that there has occurred therein a denial of natural justice to any party to the proceeding.

**22.** (1) A consumer claims tribunal shall not make an order in respect of a consumer claim referred to it until it has brought, or has used its best endeavours to bring, the parties to the claim to a settlement acceptable to all of them.

Tribunal to  
attempt to  
conciliate.

(2) Where such a settlement is made the consumer claims tribunal shall, at the request of the claimant, make an order under section 23 that gives effect to the terms of the settlement.

**23.** (1) Subject to this Act, a consumer claims tribunal may make an order in any proceeding before it of the kind referred to in any of the following paragraphs but shall make no other order :—

Orders of  
consumer  
claims  
tribunal.

- (a) an order that requires a party to the proceeding, other than the claimant, to pay money to a person specified in the order within such time as may be specified in the order;
- (b) an order that requires a party to the proceeding, other than the claimant, to perform such work or take such other steps as the order specifies to rectify a defect in goods or services to which the consumer claim in the proceeding relates within such time as may be specified in the order;

(c)



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*Consumer Claims Tribunals.*

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- (c) an order that requires a party to the proceeding, other than the claimant, to pay money as referred to in paragraph (a) and to perform work or take steps as referred to in paragraph (b) within such time as may be specified in the order;
- (d) an order that requires a party to the proceeding, other than the claimant, to do any thing referred to in paragraph (b) within such time as may be specified in the order and in default of his complying with that order to pay money to a person specified in the order; or
- (e) an order that dismisses the claim to which the proceeding relates.

(2) In exercising its powers under subsection (1) (a), (b), (c) or (d) a consumer claims tribunal shall make such an order as is, in its opinion, fair and equitable to all the parties to the proceeding before it.

(3) Subsection (2) does not apply where a consumer claims tribunal makes an order giving effect to the terms of a settlement.

Enforce-  
ment of  
orders to  
rectify  
defects.

24. (1) In this section, "work order" means an order made under section 23 (1) (b) or (c) that requires a party to a proceeding before a consumer claims tribunal to perform work or take other steps as referred to in section 23 (1) (b) but does not include an order made under section 23 (1) (d).

(2) A work order shall not be enforceable except in accordance with this section.

(3) A tribunal making a work order may at the time of making the order or at any time thereafter give leave to the person in whose favour the order is made to renew the reference of the claim in the proceeding if the order is not complied with.

(4)

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*Consumer Claims Tribunals.*

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(4) The renewal of such a reference may be effected by the person in whose favour the work order was made lodging a notification in the prescribed form that the order has not been complied with and the provisions of Part III apply to and in respect of the notification as if it were a consumer claim.

(5) Upon renewal of a reference the tribunal may make any order that it is empowered to make under section 23 (1) (a), (b), (c) or (d) or may refuse to make any order.

**25.** (1) Except as provided by subsection (2), the person to whom payment is to be made under an order made by a consumer claims tribunal requiring the payment of money to that person may enforce the order by filing, free of charge, with the registrar of a court of petty sessions (other than a court of petty sessions specified in an order made under section 77 (3) of the Courts of Petty Sessions (Civil Claims) Act, 1970)—

Enforce-  
ment of  
orders to  
pay money.

- (a) a copy of the order certified by the registrar of consumer claims tribunals to be a true copy; and
- (b) the affidavit of the person filing the order as to the amount unpaid under the order and, where the order is to take effect upon any default, as to the making of that default,

and thereupon the order shall be deemed to be a judgment of that court for the amount specified in the affidavit as being unpaid.

(2) Where, under subsection (1), a person has filed a copy of the order with a registrar of a court of petty sessions, any second or subsequent filing of a copy of that order with the registrar of that or any other court of petty sessions shall be of no effect.



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*Consumer Claims Tribunals.*

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Limit of  
amount  
of order.

26. (1) In this section, "prescribed amount" means—

- (a) except as provided in paragraph (b), the amount of \$500; or
- (b) where another amount is prescribed, that other amount.

(2) An order of a consumer claims tribunal made in a proceeding before that tribunal shall, if it orders the payment by one person of an amount exceeding the prescribed amount, be valid and effective as an order requiring the payment of the prescribed amount and otherwise shall be of no effect.

(3) An order of a consumer claims tribunal made in a proceeding before that tribunal shall, if it orders the payment by two or more persons of amounts the sum of which exceeds the prescribed amount, be valid and effective as an order requiring the payment by each of those persons of an amount that bears to the prescribed amount the same proportion as the amount ordered to be paid by that person bears to that sum and shall otherwise be of no effect.

(4) An order made on a consumer claim and an order made on the renewal of a reference of such a claim in accordance with section 24 shall, for the purposes of this section, be deemed to be one order.

(5) For the purposes of subsections (2) and (3), an order of a consumer claims tribunal which orders the payment by two or more persons jointly of any amount (whether or not it orders the payment by any other person of any amount) shall be deemed to be an order of such a tribunal which orders the payment by one person of that amount.

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PART

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*Consumer Claims Tribunals.*

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PART V.

HEARINGS.

**27.** (1) A consumer claims tribunal shall, at all times throughout the course of a proceeding, be constituted by the same referee. Continuity of consumer claims tribunal.

(2) If before an order is made in a proceeding before a consumer claims tribunal the proceeding is interrupted by the death or incapacity of the referee who constitutes the tribunal, or by vacation of his office, and the claimant notifies the registrar that he desires to proceed with the consumer claim, the registrar shall arrange for a fresh proceeding in relation to the claim to be commenced before another referee.

**28.** A tribunal may, at any stage of a proceeding before it, make such amendment of the consumer claim to which the proceeding relates as it thinks fit either at the request of the claimant or of its own motion with the approval of the claimant. Amendment of claim.

**29.** (1) A consumer claims tribunal may from time to time adjourn a proceeding before it to such times and places and for such purposes as it considers necessary or desirable. Adjournment of proceeding.

(2) The registrar shall cause to be given to any party to a proceeding that has adjourned who is not present or represented at the time when the proceeding is adjourned a notice of the time and place to which the proceeding is adjourned.

**30.** (1) Each party to a proceeding before a consumer claims tribunal shall have the carriage of his own case. Presentation of cases.

(2)

B



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*Consumer Claims Tribunals.*

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(2) A party to a proceeding before a consumer claims tribunal or a person who applies to be made a party to such a proceeding shall not be entitled to be represented by an agent unless it appears to the tribunal that an agent should be permitted to that party as a matter of necessity and the tribunal so approves.

(3) Subsection (2) does not prevent an officer within the meaning of the Companies Act, 1961, of a corporation from representing that corporation in a proceeding before a tribunal.

(4) A consumer claims tribunal shall not approve of a party to a proceeding before it being represented by an agent who practises as a barrister or solicitor or as an advocate for fee or reward unless—

- (a) all parties to the proceeding agree; and
- (b) the tribunal is satisfied that the parties, other than the party who applies for approval of an agent, or any of them will not be thereby unfairly disadvantaged.

(5) Where apart from this subsection it appears to a consumer claims tribunal that it should allow an agent to represent a party to a proceeding before it the tribunal—

- (a) shall not approve of the proposed agent so doing unless it is satisfied that the proposed agent has sufficient personal knowledge of the issue in dispute to enable him to represent the party effectively and is vested with sufficient authority to bind the party; and
- (b) may subject its approval to such conditions as it considers reasonable to ensure that any other party to the proceeding is not unfairly disadvantaged by the agent appearing before the tribunal and, where it does so, the entitlement of the agent to represent the party shall be subject to his compliance with those conditions.

(6)

*Consumer Claims Tribunals.*

(6) Contravention of any provision of this section shall not invalidate any proceeding before a consumer claims tribunal in which the contravention occurs or any order made therein.

**31.** (1) Every proceeding before a consumer claims tribunal shall be taken in private. Taking of evidence before consumer claims tribunal.

(2) The evidence material to a proceeding before a consumer claims tribunal—

(a) may be given orally or in writing; and

(b) shall be given upon oath.

(3) For the purposes of subsection (2) (b), a referee who constitutes a tribunal is empowered to administer an oath.

(4) A tribunal is not bound by the rules or practice as to evidence but subject to subsection (2) (b) may inform itself of any matter in such manner as it thinks fit.

**32.** (1) Subject to this section, where the case of any party to a proceeding before a consumer claims tribunal is not presented to the tribunal, the issues in dispute in the proceeding shall be resolved by the tribunal on such evidence as is otherwise adduced before it and an order made by the tribunal therein shall be lawful and as effective as if the party whose case was not presented had been fully heard. Tribunal to act on evidence available.

(2) Where an issue in dispute has been resolved in the absence of any party to the proceeding, a referee, on application made to the registrar within seven days after the party receives notice of the order made on the consumer claim which gave rise to the dispute, may, if it appears to him that there was sufficient reason for the party's absence, order that the claim be re-heard.

(3)



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*Consumer Claims Tribunals.*

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(3) Upon an order being made for a re-hearing—

- (a) the registrar shall notify all parties to the proceeding that related to the consumer claim of the making of the order and of the time and place appointed for the re-hearing; and
- (b) the order of the consumer claims tribunal made upon the first hearing shall thereupon cease to have effect.

(4) If the party on whose application a re-hearing is ordered does not appear at the time and place for the re-hearing or upon any adjournment of the proceeding therein, the consumer claims tribunal if it thinks fit and without re-hearing or further re-hearing the consumer claim, may direct that the order made upon the first hearing of the claim be restored and that order shall, notwithstanding subsection (3) (b), be thereby restored to full force and effect and be deemed to have been of full force and effect at all times since the time of its making.

**No costs  
allowable.**

**33.** Costs shall not be allowed to or against any party to a proceeding before a consumer claims tribunal.

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**PART VI.**

**MISCELLANEOUS.**

**Control of  
procedures.**

**34.** Subject to this Act and the regulations, every consumer claims tribunal shall have control of its own procedures and in the exercise of that control shall have regard to natural justice.

**35.**

*Consumer Claims Tribunals.***35.** (1) A person shall not—

Contempt.

(a) wilfully insult—

- (i) a referee during his sitting as a consumer claims tribunal or while he is on his way to or from such a sitting; or
- (ii) any person during his attendance at a sitting of a consumer claims tribunal or while he is on his way to or from such a sitting;

(b) wilfully misbehave at a sitting of a consumer claims tribunal;

(c) wilfully and without lawful excuse interrupt the proceeding of a consumer claims tribunal;

(d) unlawfully assault or wilfully obstruct a person in attendance at a consumer claims tribunal; or

(e) without lawful excuse disobey a lawful direction (not being an order referred to in section 23) of a consumer claims tribunal given to him during a sitting of the tribunal.

Penalty : \$500 or imprisonment for 6 months.

(2) A consumer claims tribunal may by oral order direct any person who does anything referred to in subsection (1) to remove himself from the sitting of the tribunal and a person to whom such direction is given shall comply with the direction.

Penalty : \$500 for a contravention of this subsection.

**36.** The provisions of this Act have effect notwithstanding any stipulation to the contrary and no contract or agreement made or entered into before or after the commencement of this Act operates to annul, vary or exclude any of the provisions of this Act.

**37.**



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*Consumer Claims Tribunals.*

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Mode  
of  
giving  
notice.

**37.** Where, by or under this Act, the registrar is required to cause any notice or other document to be given to any person, the posting of the notice or document by pre-paid mail to that person at his usual or last known address shall be deemed to be sufficient service.

Reports  
by  
referees.

**38.** (1) A referee shall from time to time report upon—

(a) all matters arising out of consumer claims the subject of proceedings before the consumer claims tribunal constituted by him, and any matters reported to him, where he is the senior referee, under subsection (2), being in either case matters that he considers of importance as regards the relationship of consumer and trader;

(b) all matters relevant to the administration of this Act or to the practices and procedures of consumer claims tribunals that in his opinion should be brought to the notice of the Minister.

(2) A referee shall so report—

(a) where any other person holds the office of senior referee, to that other person; and

(b) in every other case, to the Minister.

Publica-  
tion of  
particulars  
of  
reference.

**39.** The registrar shall cause to be published, in such manner as the Minister from time to time directs, such particulars in relation to references to consumer claims tribunals as the Minister specifies in the direction.

Protection  
for  
things  
done  
under  
Act.

**40.** No proceedings shall be taken against the registrar, any referee, any claimant or any other person on account of any proceeding taken, any publication made, or anything done, under the authority of this Act or the regulations or taken, made or done bona fide and purportedly under the authority of this Act or the regulations or on account of any omission made bona fide in respect of the administration of this Act or the regulations.

*Consumer Claims Tribunals.*

**41.** (1) Proceedings for an offence against this Act or the regulations may— Proceedings.

- (a) be taken and prosecuted by any person acting with the authority in writing of the Minister;
- (b) be disposed of summarily by an industrial magistrate appointed under the Industrial Arbitration Act, 1940, or a court of petty sessions held before a stipendiary magistrate sitting alone.

(2) In a prosecution for any such an offence, an authority to prosecute, purporting to have been signed by the Minister, shall be evidence of the authority without proof of the Minister's signature.

(3) The provisions of the Industrial Arbitration Act, 1940, and the regulations made under that Act, relating to proceedings before an industrial magistrate and to appeals from an industrial magistrate to the Industrial Commission of New South Wales shall apply to proceedings before an industrial magistrate or a court of petty sessions held before a stipendiary magistrate for offences against this Act and the regulations as if the proceedings were proceedings under that Act.

(4) In proceedings for an offence against this Act or the regulations, the informant may conduct his case himself, or by his counsel or attorney, or by an agent authorised by him in writing, or by any officer of the Public Service.

**42.** (1) The Governor may make regulations not inconsistent with this Act for or with respect to— Regulations.

- (a) forms to be used for the purposes of this Act;
- (b) fees to be paid under this Act;
- (c) the practice and procedure of consumer claims tribunals and the enforcement of orders of consumer claims tribunals;

(d)



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*Consumer Claims Tribunals.*

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- (d) the issue of summonses requiring parties to a proceeding before a consumer claims tribunal, or other persons, to give evidence before, or produce evidence to, the tribunal;
- (e) the practice and procedure of the registrar and the powers, functions and duties of the registrar and other persons employed in the registry; and
- (f) any matter which by this Act is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A regulation may impose a penalty not exceeding \$200 for an offence against the regulation.

(3) A regulation may make provisions which differ in their application according to such factors as are specified in the regulation.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1975

*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

**R. E. WARD,**  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 26 March, 1974.*

## **New South Wales**



ANNO VICESIMO TERTIO

**ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

**Act No. 16, 1974.**

An Act to provide for the constitution of consumer claims tribunals and to define their jurisdiction and powers; and for purposes connected therewith.  
[Assented to, 10th April, 1974.]

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

### **PART I.**

#### **PRELIMINARY.**

**1.** This Act may be cited as the "Consumer Claims Short title. Tribunals Act, 1974".

**2.**

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

**J. H. BROWN,**  
*Chairman of Committees of the Legislative Assembly.*



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*Consumer Claims Tribunals.*

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Commence-  
ment.

2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence upon such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Division  
of Act.

3. This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1–4.

PART II.—CONSUMER CLAIMS TRIBUNALS—ss. 5–12.

PART III.—CLAIMS—ss. 13–16.

PART IV.—JURISDICTION AND POWERS OF TRIBUNALS  
—ss. 17–26.

PART V.—HEARINGS—ss. 27–33.

PART VI.—MISCELLANEOUS—ss. 34–42.

Interpreta-  
tion.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“claimant” means a person who has referred his claim, being a consumer claim, to a consumer claims tribunal;

“consumer” means a person, not being a corporation—

- (a) who buys or hires goods otherwise than for re-sale or letting on hire or than in the course of, or for the purposes of, a trade or business carried on by him, whether alone or in partnership with one or more other persons; or

(b)

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*Consumer Claims Tribunals.*

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- (b) for whom services are rendered for fee or reward otherwise than in the course of, or for the purposes of, a trade or business carried on by him, whether alone or in partnership with one or more other persons;

“consumer claim” means a claim by a person for the payment of money or the performance of work or for the payment of money and the performance of work, being a claim arising out of a contract for the supply of goods or the provision of services or for the supply of goods and the provision of services between that person as a consumer and a person who in relation to those goods or services, or those goods and services, is a trader;

“consumer claims tribunal” means a consumer claims tribunal constituted under this Act;

“contract” means an oral or written contract;

“goods” includes anything the subject of trade, manufacture or merchandise;

“referee” means a person for the time being holding office under this Act as a referee of consumer claims tribunals;

“registrar” means the person for the time being holding office under this Act as the registrar of consumer claims tribunals and includes any person for the time being acting in that office;

“registry” means the registry of consumer claims tribunals established and maintained under this Act;

“regulations”



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*Consumer Claims Tribunals.*

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“regulations” means regulations made under this Act;

“respondent” means a trader against whom a consumer claim referred to a consumer claims tribunal has been made;

“senior referee” means the person for the time being holding office under this Act as the senior referee of consumer claims tribunals;

“services” includes the rights or benefits to be provided under a contract for—

- (a) the performance of work (otherwise than under a contract of service);
- (b) the provision of, or the use and enjoyment of, facilities for amusement, entertainment, recreation or instruction; or
- (c) the conferring of rights or privileges for which remuneration is payable in the form of a royalty, tribute, levy or similar exaction;

“trader” means a person who in the field of trade or commerce carries on a business of supplying goods or providing services or who holds himself out as carrying on such a business.

(2) For the purposes of this Act, a consumer claim shall be deemed not to have been referred to a consumer claims tribunal unless the claim has been referred to a consumer claims tribunal in accordance with section 13.

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PART

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*Consumer Claims Tribunals.*

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PART II.

CONSUMER CLAIMS TRIBUNALS.

5. (1) A consumer claims tribunal shall be constituted by a referee sitting alone.

Constitution  
of consumer  
claims  
tribunal.

(2) Where two or more persons hold office as referees at the same time the senior referee shall determine which referee shall constitute a tribunal for the purpose of any proceeding.

6. (1) The Governor may appoint persons to be referees of consumer claims tribunals and, where two or more persons hold office as referees at the same time, one of them shall by the instrument of his appointment or by a subsequent instrument executed by the Governor be appointed to be the senior referee.

Appoint-  
ment of  
referees.

(2) A referee shall devote the whole of his time to the duties of his office and shall be paid such remuneration and expenses as the Governor may from time to time determine in respect of him.

(3) A referee shall, subject to this Act, hold office as a referee for such term not exceeding seven years as may be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time.

(4) Any such re-appointment shall be for such term not exceeding seven years as may be specified in the instrument of re-appointment.

(5)



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*Consumer Claims Tribunals.*

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(5) The Governor may appoint a person to act in the office of a referee during the absence of that referee from his office through illness or other cause and the person so appointed shall while so acting be deemed to be a referee and shall have the immunities, powers, authorities, duties and functions of a referee and be entitled to remuneration and expenses as a referee.

(6) Where the person absent as described in subsection (5) is the senior referee, the Governor may appoint any person appointed under that subsection or another referee to act as senior referee during the absence and the person so appointed shall while so acting have the immunities, powers, authorities, duties and functions of the senior referee and be entitled to remuneration and expenses as the senior referee.

(7) A person who is of or above the age of seventy-two years shall not be appointed as a referee or be appointed under subsection (5).

(8) The provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment of a referee, a senior referee or a person appointed under subsection (5) but the provisions of that Act and the regulations thereunder (except in so far as they are inconsistent with any of the provisions of this Act) apply to and in respect of any such appointee as if he had been appointed pursuant to the provisions of that Act.

Casual  
vacancy.

7. (1) A referee or person appointed under section 6 (5) shall be deemed to have vacated his office—

(a) if he dies;

(b) if he engages in any paid employment outside the duties of his office;

(c)

*Consumer Claims Tribunals.*

- (c) if he absents himself from duty for a period exceeding fourteen consecutive days except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) ;
- (d) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration or expenses as a referee, or of his estate, for their benefit ;
- (e) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act ;
- (f) if he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or longer, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable ;
- (g) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts the resignation ;
- (h) if he is removed from office by the Governor ; or
- (i) on the day on which he attains the age of seventy-two years.

(2) The Governor may, for any cause which to him seems sufficient, remove a referee or person appointed under section 6 (5) from office.

**8.** (1) In this section, "superannuation scheme" means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

(2) Preservation of certain rights of referees previously public servants, etc.



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*Consumer Claims Tribunals.*

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(2) Subject to subsection (3) and to the terms of his appointment, where a referee was, immediately before his appointment as a referee—

- (a) an officer of the Public Service; or
- (b) a contributor to a superannuation scheme,

he—

- (c) shall retain any rights accrued or accruing to him as such an officer or contributor;
- (d) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as a referee; and
- (e) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he had continued to be such an officer or contributor during his service as a referee, and—

- (f) his service as a referee shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and
- (g) he shall be deemed to be an officer or employee and the Minister shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this subsection.

(3) A referee who, but for this subsection, would be entitled under subsection (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme shall not be so entitled upon his becoming (whether upon his appointment as a referee or at any later time while he holds office as a referee) a contributor to any other superannuation scheme, and the provisions of subsection (2) (g) cease to apply to or in respect of him and the Minister in any case where he becomes a contributor to such another superannuation scheme.

(4)

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*Consumer Claims Tribunals.*

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(4) Subsection (3) does not prevent the payment to a referee upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of resignation, to be an officer or employee for the purposes of that scheme.

(5) A referee shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

9. A referee who was, immediately before his appointment as a referee, an officer of the Public Service and who ceases to be a referee, otherwise than pursuant to section 7 (1) (paragraph (g) excepted) or section 7 (2), shall, if he is under the age of sixty years, be entitled to be appointed to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment as a referee.

Referee entitled to re-appointment to Public Service in certain cases.

10. Sitings of tribunals shall be held at such times and places as the senior referee, or, if only one person for the time being holds office as a referee, the referee from time to time determines.

Venue.

11. (1) There shall be established and maintained a registry of consumer claims tribunals in which all records of consumer claims tribunals shall be kept.

Registry.

(2) A registrar of consumer claims tribunals and such other persons as may be required for the proper functioning of the registry shall be appointed under and subject to the Public Service Act, 1902.

12. (1) The record of a consumer claims tribunal in respect of a claim referred to it shall consist of—

Records of consumer claims tribunals.

- (a) that claim as lodged by the claimant;
- (b) the notation of the nature of the issues in dispute as determined and recorded by the tribunal during the hearing of the claim; and
- (c) the order, if any, made by the tribunal.

(2)



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*Consumer Claims Tribunals.*

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(2) Every such record may be inspected free of charge by—

(a) the parties to the claim; and

(b) the Commissioner for Consumer Affairs,  
and shall be available for production before a court or judge for the purpose of any proceedings before the court or judge.

(3) Notes made by a referee in the course of the hearing of a claim, other than the notation and order referred to in subsection (1), shall not form part of the record of the tribunal.

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PART III.

CLAIMS.

Reference  
of claims  
to  
consumer  
claims  
tribunal.

13. (1) A person may refer his claim, being a consumer claim, to a tribunal by lodging the claim in the prescribed form with, and paying the prescribed fee to, the registrar or any clerk of petty sessions.

(2) It shall be the duty of the registrar and of every clerk of petty sessions to give his assistance to a person who seeks it in completing the prescribed claim form.

(3) A clerk of petty sessions with whom a completed claim form is lodged shall as soon as practicable send the form or, if so required by the regulations, a copy of it to the registrar by post.

14.

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*Consumer Claims Tribunals.*

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**14. (1) The registrar—**

Notice  
of claim  
and  
proceeding.

- (a) shall cause notice of the consumer claim and its particulars to be given, as soon as practicable, to the respondent and to every person who appears from the claim form to have a sufficient interest in a resolution of the dispute to which the claim relates; and
- (b) shall arrange with the senior referee or, if only one person for the time being holds office as referee, the referee a time and place for the initial proceeding of a tribunal in relation to the claim and shall cause notice of that time and place to be given in writing to the claimant and respondent and to every other person to whom notice of the claim is given.

(2) Where a tribunal to which a consumer claim has been referred is of the opinion that a person has a sufficient interest in a resolution of the dispute to which the claim relates but has not been given notice of the claim under subsection (1) (a), the tribunal may direct the registrar to cause notice of the claim and its particulars to be given, as soon as practicable, to that person and the registrar shall cause notice to be given in accordance with the direction.

**15.** Every person to whom notice of a consumer claim is given under section 14 shall be taken to be a party to the proceeding that relates to the claim and every person who satisfies a consumer claims tribunal to which a consumer claim has been referred that he has a sufficient interest in a resolution of the dispute to which the claim relates shall be entitled to be joined as a party to the proceeding.

Parties  
to proceed-  
ings.

**16.** A claimant may at any time withdraw his consumer claim whether or not a consumer claims tribunal has entered upon a hearing of the claim.

Withdrawal  
of claim.

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**PART**



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*Consumer Claims Tribunals.*

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## PART IV.

## JURISDICTION AND POWERS OF TRIBUNALS.

Juris-  
diction.

**17.** Subject to this Act, a consumer claims tribunal has jurisdiction to hear and determine any consumer claim referred to it.

No jurisdic-  
tion if  
contract  
more than  
two years  
old.

**18.** A consumer claims tribunal has jurisdiction in respect of a consumer claim arising from a contract whether the contract was made before or after the commencement of this Act but does not have jurisdiction in respect of such a claim if the contract was made earlier than two years before the day on which the claim was referred to a tribunal.

Exclusion  
of other  
juris-  
dictions.

**19.** (1) A court has no jurisdiction in respect of any issue in dispute in a consumer claim which has been referred to a consumer claims tribunal and has not been withdrawn.

(2) Where proceedings for the determination of any issue were commenced in a court before a consumer claim in which that issue is in dispute was referred to a consumer claims tribunal and those proceedings have not been withdrawn, nothing in subsection (1) prevents that court from having jurisdiction in respect of that issue and the tribunal on the application of any party to those proceedings who is a party to the proceeding before the tribunal, shall make an order dismissing the claim.

(3) For the purposes of this section, an issue is in dispute in a consumer claim referred to a consumer claims tribunal only if the existence of the dispute was shown in the claim referred to that tribunal or was recorded in the record made by that tribunal in accordance with section 12 (1) (b).

Order of  
tribunal  
to be  
final.

**20.** An order of a tribunal shall be final and binding on all parties to the proceeding in which the order is made and no appeal shall lie in respect of such an order.

**21.**

*Consumer Claims Tribunals.*

**21. No—**

- (a) judgment or order in the nature of prohibition, certiorari or other prerogative writ; or

Immunity from judicial supervision.

- (b) declaratory judgment or order,

shall be given or made in respect of a proceeding taken or to be taken by or before a consumer claims tribunal, being a proceeding that relates to a consumer claim referred to that tribunal, or in respect of any order of such a tribunal unless the court before which the judgment or order is sought is satisfied that the tribunal has or had no jurisdiction to take the proceeding or that there has occurred therein a denial of natural justice to any party to the proceeding.

**22. (1)** A consumer claims tribunal shall not make an order in respect of a consumer claim referred to it until it has brought, or has used its best endeavours to bring, the parties to the claim to a settlement acceptable to all of them.

Tribunal to attempt to conciliate.

(2) Where such a settlement is made the consumer claims tribunal shall, at the request of the claimant, make an order under section 23 that gives effect to the terms of the settlement.

**23. (1)** Subject to this Act, a consumer claims tribunal may make an order in any proceeding before it of the kind referred to in any of the following paragraphs but shall make no other order :—

Orders of consumer claims tribunal.

- (a) an order that requires a party to the proceeding, other than the claimant, to pay money to a person specified in the order within such time as may be specified in the order;
- (b) an order that requires a party to the proceeding, other than the claimant, to perform such work or take such other steps as the order specifies to rectify a defect in goods or services to which the consumer claim in the proceeding relates within such time as may be specified in the order;

(c)



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*Consumer Claims Tribunals.*

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- (c) an order that requires a party to the proceeding, other than the claimant, to pay money as referred to in paragraph (a) and to perform work or take steps as referred to in paragraph (b) within such time as may be specified in the order;
- (d) an order that requires a party to the proceeding, other than the claimant, to do any thing referred to in paragraph (b) within such time as may be specified in the order and in default of his complying with that order to pay money to a person specified in the order; or
- (e) an order that dismisses the claim to which the proceeding relates.

(2) In exercising its powers under subsection (1) (a), (b), (c) or (d) a consumer claims tribunal shall make such an order as is, in its opinion, fair and equitable to all the parties to the proceeding before it.

(3) Subsection (2) does not apply where a consumer claims tribunal makes an order giving effect to the terms of a settlement.

Enforce-  
ment of  
orders to  
rectify  
defects.

**24.** (1) In this section, "work order" means an order made under section 23 (1) (b) or (c) that requires a party to a proceeding before a consumer claims tribunal to perform work or take other steps as referred to in section 23 (1) (b) but does not include an order made under section 23 (1) (d).

(2) A work order shall not be enforceable except in accordance with this section.

(3) A tribunal making a work order may at the time of making the order or at any time thereafter give leave to the person in whose favour the order is made to renew the reference of the claim in the proceeding if the order is not complied with.

(4)

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*Consumer Claims Tribunals.*

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(4) The renewal of such a reference may be effected by the person in whose favour the work order was made lodging a notification in the prescribed form that the order has not been complied with and the provisions of Part III apply to and in respect of the notification as if it were a consumer claim.

(5) Upon renewal of a reference the tribunal may make any order that it is empowered to make under section 23 (1) (a), (b), (c) or (d) or may refuse to make any order.

**25.** (1) Except as provided by subsection (2), the person to whom payment is to be made under an order made by a consumer claims tribunal requiring the payment of money to that person may enforce the order by filing, free of charge, with the registrar of a court of petty sessions (other than a court of petty sessions specified in an order made under section 77 (3) of the Courts of Petty Sessions (Civil Claims) Act, 1970)— Enforcement of orders to pay money.

- (a) a copy of the order certified by the registrar of consumer claims tribunals to be a true copy; and
- (b) the affidavit of the person filing the order as to the amount unpaid under the order and, where the order is to take effect upon any default, as to the making of that default,

and thereupon the order shall be deemed to be a judgment of that court for the amount specified in the affidavit as being unpaid.

(2) Where, under subsection (1), a person has filed a copy of the order with a registrar of a court of petty sessions, any second or subsequent filing of a copy of that order with the registrar of that or any other court of petty sessions shall be of no effect.

**26.**



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*Consumer Claims Tribunals.*

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Limit of  
amount  
of order.

**26.** (1) In this section, "prescribed amount" means—

- (a) except as provided in paragraph (b), the amount of \$500; or
- (b) where another amount is prescribed, that other amount.

(2) An order of a consumer claims tribunal made in a proceeding before that tribunal shall, if it orders the payment by one person of an amount exceeding the prescribed amount, be valid and effective as an order requiring the payment of the prescribed amount and otherwise shall be of no effect.

(3) An order of a consumer claims tribunal made in a proceeding before that tribunal shall, if it orders the payment by two or more persons of amounts the sum of which exceeds the prescribed amount, be valid and effective as an order requiring the payment by each of those persons of an amount that bears to the prescribed amount the same proportion as the amount ordered to be paid by that person bears to that sum and shall otherwise be of no effect.

(4) An order made on a consumer claim and an order made on the renewal of a reference of such a claim in accordance with section 24 shall, for the purposes of this section, be deemed to be one order.

(5) For the purposes of subsections (2) and (3), an order of a consumer claims tribunal which orders the payment by two or more persons jointly of any amount (whether or not it orders the payment by any other person of any amount) shall be deemed to be an order of such a tribunal which orders the payment by one person of that amount.

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**PART**

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*Consumer Claims Tribunals.*

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PART V.

HEARINGS.

**27.** (1) A consumer claims tribunal shall, at all times throughout the course of a proceeding, be constituted by the same referee. Continuity of consumer claims tribunal.

(2) If before an order is made in a proceeding before a consumer claims tribunal the proceeding is interrupted by the death or incapacity of the referee who constitutes the tribunal, or by vacation of his office, and the claimant notifies the registrar that he desires to proceed with the consumer claim, the registrar shall arrange for a fresh proceeding in relation to the claim to be commenced before another referee.

**28.** A tribunal may, at any stage of a proceeding before it, make such amendment of the consumer claim to which the proceeding relates as it thinks fit either at the request of the claimant or of its own motion with the approval of the claimant. Amendment of claim.

**29.** (1) A consumer claims tribunal may from time to time adjourn a proceeding before it to such times and places and for such purposes as it considers necessary or desirable. Adjournment of proceeding.

(2) The registrar shall cause to be given to any party to a proceeding that has adjourned who is not present or represented at the time when the proceeding is adjourned a notice of the time and place to which the proceeding is adjourned.

**30.** (1) Each party to a proceeding before a consumer claims tribunal shall have the carriage of his own case. Presentation of cases.

(2)



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*Consumer Claims Tribunals.*

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(2) A party to a proceeding before a consumer claims tribunal or a person who applies to be made a party to such a proceeding shall not be entitled to be represented by an agent unless it appears to the tribunal that an agent should be permitted to that party as a matter of necessity and the tribunal so approves.

(3) Subsection (2) does not prevent an officer within the meaning of the Companies Act, 1961, of a corporation from representing that corporation in a proceeding before a tribunal.

(4) A consumer claims tribunal shall not approve of a party to a proceeding before it being represented by an agent who practises as a barrister or solicitor or as an advocate for fee or reward unless—

- (a) all parties to the proceeding agree; and
- (b) the tribunal is satisfied that the parties, other than the party who applies for approval of an agent, or any of them will not be thereby unfairly disadvantaged.

(5) Where apart from this subsection it appears to a consumer claims tribunal that it should allow an agent to represent a party to a proceeding before it the tribunal—

- (a) shall not approve of the proposed agent so doing unless it is satisfied that the proposed agent has sufficient personal knowledge of the issue in dispute to enable him to represent the party effectively and is vested with sufficient authority to bind the party; and
- (b) may subject its approval to such conditions as it considers reasonable to ensure that any other party to the proceeding is not unfairly disadvantaged by the agent appearing before the tribunal and, where it does so, the entitlement of the agent to represent the party shall be subject to his compliance with those conditions.

(6)

*Consumer Claims Tribunals.*

(6) Contravention of any provision of this section shall not invalidate any proceeding before a consumer claims tribunal in which the contravention occurs or any order made therein.

**31.** (1) Every proceeding before a consumer claims tribunal shall be taken in private. Taking of evidence before consumer claims tribunal.

(2) The evidence material to a proceeding before a consumer claims tribunal—

(a) may be given orally or in writing; and

(b) shall be given upon oath.

(3) For the purposes of subsection (2) (b), a referee who constitutes a tribunal is empowered to administer an oath.

(4) A tribunal is not bound by the rules or practice as to evidence but subject to subsection (2) (b) may inform itself of any matter in such manner as it thinks fit.

**32.** (1) Subject to this section, where the case of any party to a proceeding before a consumer claims tribunal is not presented to the tribunal, the issues in dispute in the proceeding shall be resolved by the tribunal on such evidence as is otherwise adduced before it and an order made by the tribunal therein shall be lawful and as effective as if the party whose case was not presented had been fully heard. Tribunal to act on evidence available.

(2) Where an issue in dispute has been resolved in the absence of any party to the proceeding, a referee, on application made to the registrar within seven days after the party receives notice of the order made on the consumer claim which gave rise to the dispute, may, if it appears to him that there was sufficient reason for the party's absence, order that the claim be re-heard.

(3)



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*Consumer Claims Tribunals.*

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(3) Upon an order being made for a re-hearing—

- (a) the registrar shall notify all parties to the proceeding that related to the consumer claim of the making of the order and of the time and place appointed for the re-hearing; and
- (b) the order of the consumer claims tribunal made upon the first hearing shall thereupon cease to have effect.

(4) If the party on whose application a re-hearing is ordered does not appear at the time and place for the re-hearing or upon any adjournment of the proceeding therein, the consumer claims tribunal if it thinks fit and without re-hearing or further re-hearing the consumer claim, may direct that the order made upon the first hearing of the claim be restored and that order shall, notwithstanding subsection (3) (b), be thereby restored to full force and effect and be deemed to have been of full force and effect at all times since the time of its making.

No costs  
allowable.

**33.** Costs shall not be allowed to or against any party to a proceeding before a consumer claims tribunal.

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**PART VI.**

**MISCELLANEOUS.**

Control of  
procedures.

**34.** Subject to this Act and the regulations, every consumer claims tribunal shall have control of its own procedures and in the exercise of that control shall have regard to natural justice.

**35.**

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*Consumer Claims Tribunals.*

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**35.** (1) A person shall not—

Contempt.

(a) wilfully insult—

- (i) a referee during his sitting as a consumer claims tribunal or while he is on his way to or from such a sitting; or
- (ii) any person during his attendance at a sitting of a consumer claims tribunal or while he is on his way to or from such a sitting;

(b) wilfully misbehave at a sitting of a consumer claims tribunal;

(c) wilfully and without lawful excuse interrupt the proceeding of a consumer claims tribunal;

(d) unlawfully assault or wilfully obstruct a person in attendance at a consumer claims tribunal; or

(e) without lawful excuse disobey a lawful direction (not being an order referred to in section 23) of a consumer claims tribunal given to him during a sitting of the tribunal.

Penalty : \$500 or imprisonment for 6 months.

(2) A consumer claims tribunal may by oral order direct any person who does anything referred to in subsection (1) to remove himself from the sitting of the tribunal and a person to whom such direction is given shall comply with the direction.

Penalty : \$500 for a contravention of this subsection.

**36.** The provisions of this Act have effect notwithstanding any stipulation to the contrary and no contract or agreement made or entered into before or after the commencement of this Act operates to annul, vary or exclude any of the provisions of this Act. Contract-  
ing out  
pro-  
hibited.

**37.**



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*Consumer Claims Tribunals.*

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Mode  
of  
giving  
notice.

**37.** Where, by or under this Act, the registrar is required to cause any notice or other document to be given to any person, the posting of the notice or document by pre-paid mail to that person at his usual or last known address shall be deemed to be sufficient service.

Reports  
by  
referees.

**38.** (1) A referee shall from time to time report upon—

- (a) all matters arising out of consumer claims the subject of proceedings before the consumer claims tribunal constituted by him, and any matters reported to him, where he is the senior referee, under subsection (2), being in either case matters that he considers of importance as regards the relationship of consumer and trader;
- (b) all matters relevant to the administration of this Act or to the practices and procedures of consumer claims tribunals that in his opinion should be brought to the notice of the Minister.

(2) A referee shall so report—

- (a) where any other person holds the office of senior referee, to that other person; and
- (b) in every other case, to the Minister.

Publica-  
tion of  
particulars  
of  
reference.

**39.** The registrar shall cause to be published, in such manner as the Minister from time to time directs, such particulars in relation to references to consumer claims tribunals as the Minister specifies in the direction.

Protection  
for  
things  
done  
under  
Act.

**40.** No proceedings shall be taken against the registrar, any referee, any claimant or any other person on account of any proceeding taken, any publication made, or anything done, under the authority of this Act or the regulations or taken, made or done bona fide and purportedly under the authority of this Act or the regulations or on account of any omission made bona fide in respect of the administration of this Act or the regulations.

*Consumer Claims Tribunals.*

41. (1) Proceedings for an offence against this Act or the regulations may— Proceed-  
ings.

- (a) be taken and prosecuted by any person acting with the authority in writing of the Minister;
- (b) be disposed of summarily by an industrial magistrate appointed under the Industrial Arbitration Act, 1940, or a court of petty sessions held before a stipendiary magistrate sitting alone.

(2) In a prosecution for any such an offence, an authority to prosecute, purporting to have been signed by the Minister, shall be evidence of the authority without proof of the Minister's signature.

(3) The provisions of the Industrial Arbitration Act, 1940, and the regulations made under that Act, relating to proceedings before an industrial magistrate and to appeals from an industrial magistrate to the Industrial Commission of New South Wales shall apply to proceedings before an industrial magistrate or a court of petty sessions held before a stipendiary magistrate for offences against this Act and the regulations as if the proceedings were proceedings under that Act.

(4) In proceedings for an offence against this Act or the regulations, the informant may conduct his case himself, or by his counsel or attorney, or by an agent authorised by him in writing, or by any officer of the Public Service.

42. (1) The Governor may make regulations not inconsistent with this Act for or with respect to— Regula-  
tions.

- (a) forms to be used for the purposes of this Act;
- (b) fees to be paid under this Act;
- (c) the practice and procedure of consumer claims tribunals and the enforcement of orders of consumer claims tribunals;

(d)



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*Consumer Claims Tribunals.*

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- (d) the issue of summonses requiring parties to a proceeding before a consumer claims tribunal, or other persons, to give evidence before, or produce evidence to, the tribunal;
- (e) the practice and procedure of the registrar and the powers, functions and duties of the registrar and other persons employed in the registry; and
- (f) any matter which by this Act is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A regulation may impose a penalty not exceeding \$200 for an offence against the regulation.

(3) A regulation may make provisions which differ in their application according to such factors as are specified in the regulation.

*In the name and on behalf of Her Majesty I assent to this Act.*

A. R. CUTLER,  
*Governor.*

*Government House,  
Sydney, 10th April, 1974.*