

*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, 24 November, 1976.*

## New South Wales



ANNO VICESIMO QUINTO

**ELIZABETHÆ II REGINÆ**

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Act No.           , 1976.

An Act to amend the Consumer Claims Tribunals Act, 1974, so as to grant further jurisdiction to consumer claims tribunals, to provide for the appointment of part-time referees and to make further provision in relation to orders that may be made by the tribunals.

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*Consumer Claims Tribunals (Amendment).*

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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:—

1. This Act may be cited as the "Consumer Claims Tribunals (Amendment) Act, 1976".

2. (1) Except as provided in subsection (2), this Act shall commence on the date of assent to this Act.

10 (2) Schedule 1 (3) and section 3, in its application to that provision, shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

15 3. The Consumer Claims Tribunals Act, 1974, is amended in the manner set forth in Schedule 1.

is Amendment  
of Act No.  
16, 1974.

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SCHEDULE 1.

Sec. 3.

AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT,  
1974.

(1) Section 3, the matter relating to Part I—

20 Omit "ss. 1-4.", insert instead "ss. 1-4A."

SCHEDULE

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*Consumer Claims Tribunals (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT,  
1974—*continued.*

(2) (a) Section 4 (1), definition of “claimant”—

5 Omit the definition, insert instead :—

“claimant” means a person who has referred  
his claim to a consumer claims tribunal  
in accordance with section 13 (1);

(b) Section 4 (1), definition of “consumer”—

10 (i) Omit “, not being a corporation”.

(ii) From paragraph (b), omit “persons;”,  
insert instead :—

persons,

15 but does not include a corporation  
other than—

20 (c) a corporation that is a body  
corporate constituted under  
the Strata Titles Act, 1973,  
by a proprietor or pro-  
prietors of lots within the  
meaning of that Act; and

25 (d) a corporation owning an  
interest in land and having a  
memorandum or articles of  
association conferring on  
owners of shares in the cor-  
poration the right to occupy  
certain parts of a building  
erected on the land,

30 all or the majority of which lots or  
parts, as the case may be, are intended  
to be occupied as dwellings;

SCHEDULE

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*Consumer Claims Tribunals (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT,  
1974—*continued.*

(c) Section 4 (1), definition of “consumer claim”—

5 Omit the definition, insert instead :—

“consumer claim” means—

(a) a claim by a person for—

(i) the payment of money;

(ii) the performance of work;  
or

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(iii) the payment of money  
and the performance of  
work; or

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(b) a claim by a person for relief from  
an obligation to pay money,

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being, in the case of paragraph (a), a  
claim or, in the case of paragraph (b),  
an obligation 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 ser-  
vices, or those goods and services, is a  
trader;

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(d) Section 4 (1), definition of “respondent”—

Omit “trader”, insert instead “person”.

SCHEDULE



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*Consumer Claims Tribunals (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT,  
1974—*continued.*

(e) Section 4 (1), definition of “services”—

5 Omit the definition, insert instead :—

“services” includes the rights and benefits that  
are or are to be supplied under—

(a) a contract for or involving—

10 (i) the performance of work  
(including work of a  
professional nature);

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

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

25 (iv) the provision of gas or  
electricity or other forms  
of energy; or

(b) a contract of insurance (excluding  
life assurance);

(f) Section 4 (3)—

After section 4 (2), insert :—

30 (3) For the purpose of paragraphs (a) and  
(b) of the definition of “consumer”, a corporation  
referred to in paragraph (c) or (d) of that  
definition shall be deemed not to carry on a  
business.

SCHEDULE

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*Consumer Claims Tribunals (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT,  
1974—*continued.*

(3) Section 4A—

5 After section 4, insert :—

4A. (1) In this section, “lease” means a lease of any kind of dwelling other than a dwelling that is intended to be movable. Act applies to certain claims by lessees.

10 (2) A reference to this Act in subsection (3) is a reference to this Act excluding sections 18 (2), 23 (1) (b), (c), (d) and (d1), 24 and 38 (1) (a).

15 (3) This Act applies to and in respect of a claim by a person (other than a corporation) for the repayment of money held by or on behalf of another person to whom or in accordance with whose directions the money was paid by way of a bond or another form of security in connection with a contract of lease between the firstmentioned person as lessee and the secondmentioned person as lessor in the same way as  
20 it applies to and in respect of a consumer claim.

(4) (a) Section 6 (1A)—

After section 6 (1), insert :—

25 (1A) A referee appointed under subsection (1) may, by the instrument appointing him, be appointed as a part-time referee.

(b) Section 6 (2)—

After “referee”, insert “, other than a part-time referee,”.

SCHEDULE

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*Consumer Claims Tribunals (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT,  
1974—*continued.*

(c) Section 6 (2A)—

5           After “referee”, insert “, other than a part-time  
referee.”.

(d) Section 6 (2B)—

After section 6 (2A), insert :—

10           (2B) A part-time referee is entitled to be paid  
such remuneration (including travelling and  
subsistence allowances) as the Minister may from  
time to time determine in respect of him.

(e) Section 6 (3)—

15           Omit “exceeding seven years”, insert instead :—  
exceeding—

(a) seven years if he is not a part-time  
referee; or

(b) three years if he is a part-time referee,

(f) Section 6 (3A)—

20           After section 6 (3), insert :—

(3A) The Governor may, in the instrument  
of appointment of a referee, insert terms that  
negate or vary the effect of section 8 (2) in  
relation to the referee.

25           (g) Section 6 (4)—

Omit the subsection, insert instead :—

(4) This Act applies to and in respect of the  
re-appointment of a referee in the same way as  
it applies to an original appointment of a referee.

SCHEDULE

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*Consumer Claims Tribunals (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT,  
1974—*continued.*

(h) Section 6 (8)—

5 Omit “in respect of any such appointee as if he”,  
insert instead :—

in respect of—

(a) a referee other than a part-time  
referee; and

10 (b) a part-time referee when he is  
acting in his office as referee,

as if they

(5) Section 7 (1) (b), (c)—

15 Omit “if” wherever occurring, insert instead “if he is  
not a part-time referee and”.

(6) Section 9—

After “referee” where firstly occurring, insert “, other  
than a part-time referee,”.

(7) Section 18—

20 Omit the section, insert instead :—

18. (1) A consumer claims tribunal has jurisdic- No juris-  
tion in respect of a consumer claim arising from a diction in  
contract whether the contract was made before or certain  
after the commencement of this Act. cases.

SCHEDULE



*Consumer Claims Tribunals (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT,  
1974—*continued.*

5 (2) Notwithstanding subsection (1), a consumer claims tribunal does not have jurisdiction in respect of any consumer claim if the contract from which it arose was made earlier than 2 years before the day on which the claim was referred to a tribunal.

(8) (a) Section 22 (2)—

10 Omit “, at the request of the claimant.”

(b) Section 22 (2)—

After “section 23 that”, insert “, to the extent authorised by that section.”

(9) (a) Section 23 (1) (d)—

15 Omit “or”.

(b) Section 23 (1) (d1)—

After section 23 (1) (d), insert :—

20 (d1) where the consumer claim in the proceeding is a claim for relief from an obligation to pay money not exceeding the prescribed amount—

25 (i) an order that money in an amount specified in the order is not due or owing by the claimant to a person so specified in respect of a contract described in the order;  
or

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*Consumer Claims Tribunals (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT,  
1974—*continued.*

5 (ii) an order that requires the  
claimant to pay money in an  
amount (not exceeding the pre-  
scribed amount) specified in the  
order to a person so specified; or

(c) Section 23 (4)—

10 After section 23 (3), insert :—

(4) In subsection (1) (d1), “prescribed  
amount” has the meaning ascribed thereto in  
section 26 (1).

(10) Section 30 (3)—

15 Omit the subsection, insert instead :—

(3) Subsection (2) does not prevent—

- (a) an officer within the meaning of the Com-  
panies Act, 1961, of a corporation; or
- 20 (b) where a corporation that is a body corporate  
constituted under the Strata Titles Act,  
1973, is a party to a proceeding before a  
consumer claims tribunal—the proprietor or,  
if there is more than one proprietor, one  
of the proprietors constituting that  
25 corporation,

from representing that corporation.

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BY AUTHORITY