

**CONSUMER CLAIMS TRIBUNALS (AMENDMENT)  
ACT, 1979, No. 139**

**New South Wales**



ANNO VICESIMO OCTAVO

**ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

**Act No. 139, 1979.**

An Act to amend the Consumer Claims Tribunals Act, 1974, with respect to the jurisdiction of consumer claims tribunals and judicial review of proceedings of the tribunals. [Assented to, 28th November, 1979.]

---

*Consumer Claims Tribunals (Amendment).*

---

**BE** 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 :—

Short title.      **1.** This Act may be cited as the "Consumer Claims Tribunals (Amendment) Act, 1979".

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

(2) Section 3, in its application to Schedule 1 (1), and Schedule 1 (1) shall be deemed to have commenced on 2nd December, 1976.

Amendment      **3.** The Consumer Claims Tribunals Act, 1974, is amended in  
of Act No.      the manner set forth in Schedule 1.  
16, 1974.

Sec. 3.

---

SCHEDULE 1.

AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT,  
1974.

- (1) (a) Section 4 (1), definition of "consumer claim"—  
Omit "a trader", insert instead "engaged in a business activity as referred to in subsection (3A)".
- (b) Section 4 (1), definition of "trader"—  
Omit the definition.

---

*Consumer Claims Tribunals (Amendment).*

---

SCHEDULE 1—*continued.*

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

(c) Section 4 (3A)—

After section 4 (3), insert :—

(3A) For the purposes of the definition of “consumer claim” in subsection (1), a person is engaged in a business activity if, whether in the course of a profession or in the field of trade or commerce or otherwise, he carries on a business of supplying goods or providing services or holds himself out as carrying on such a business.

(2) (a) Section 12 (1) (b)—

Omit “and” where lastly occurring.

(b) Section 12 (1) (b1)—

After section 12 (1) (b), insert :—

(b1) the ruling, if any, given by the tribunal in relation to its jurisdiction to hear and determine the claim; and

(c) Section 12 (3)—

After “notation”, insert “, ruling”.

(3) (a) Section 19 (1)—

After “withdrawn”, insert “or dismissed for want of jurisdiction”.

---

*Consumer Claims Tribunals (Amendment).*


---

 SCHEDULE 1—*continued.*

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

## (b) Section 19 (4)—

After section 19 (3), insert :—

(4) For the purposes of this section, “court” includes any court, tribunal, board or other body or person—

(a) which or who has power under any Act;  
or

(b) which or who has, by agreement between 2 or more persons, authority,

to determine by arbitration, conciliation or otherwise any issue that is in dispute.

## (4) Section 20A—

After section 20, insert :—

20A. (1) If at any time before an order has been made by a tribunal under section 23 in respect of a consumer claim the jurisdiction of the tribunal to hear and determine the claim is disputed by a party to the claim, the tribunal shall not make an order determining the claim without first giving a ruling as to whether it has jurisdiction to hear and determine the claim.

(2) A tribunal shall not of its own motion make an order under section 23 (1) (e) dismissing a consumer claim for want of jurisdiction without first giving a ruling as to its jurisdiction to hear and determine the claim.

Procedure  
where  
jurisdiction  
disputed.

---

*Consumer Claims Tribunals (Amendment).*

---

SCHEDULE 1—*continued.*

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

(3) If a tribunal has given a ruling under subsection (1) or (2) in respect of a consumer claim it shall not make an order under section 23 in respect of the claim—

- (a) until 14 days have elapsed following the giving of the ruling; or
- (b) if at any time before it has made an order it receives notice that proceedings for the relief or remedies referred to in section 21 have been commenced in a court in respect of the ruling, until the proceedings before the court have been determined.

(5) Section 21—

Omit the section, insert instead :—

21. No court shall grant any relief or remedy to any person by way of—

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

in respect of a proceeding taken or to be taken before a consumer claims tribunal or in respect of any order or ruling of such a tribunal unless—

- (d) the tribunal has given a ruling under section 20A (1) or (2), or has made an order under section 23, in respect of the proceeding; and

Immunity  
from  
judicial  
supervision.

---

*Consumer Claims Tribunals (Amendment).*

---

SCHEDULE 1—*continued.*AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT,  
1974—*continued.*

(e) where the tribunal has—

- (i) given such a ruling, the only ground upon which any relief or remedy is sought is that the tribunal erred in making the ruling and the court is satisfied that the tribunal so erred; or
- (ii) made such an order (whether or not it has given such a ruling), the court is satisfied that the tribunal had no jurisdiction to make the order or, if it gave the ruling, erred in giving the ruling or that there had occurred in relation to the proceeding a denial of natural justice to any party to the proceeding.

(6) Section 23 (1) (e)—

After “relates”, insert “, whether for want of jurisdiction or any other reason”.

(7) Section 39A—

After section 39, insert :—

39A. Where any proceeding, order or ruling of a consumer claims tribunal is challenged, reviewed or called into question in proceedings before any court, the Minister may intervene at any stage of the proceedings before that court, by counsel, solicitor or agent, and shall thereupon become a

Minister  
may  
intervene.

---

*Consumer Claims Tribunals (Amendment).*

---

SCHEDULE 1—*continued.*

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

party to, and shall have all the rights of a party to, those proceedings before that court, including the right to appeal against any order or judgment of the court.

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

A. R. CUTLER,  
*Governor.*

*Government House,  
Sydney, 28th November, 1979.*

THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

1155 EAST 58TH STREET  
CHICAGO, ILLINOIS 60637

PLEASE PRINT NAME AND ADDRESS OF THE PERSON TO WHOM THIS LETTER IS TO BE SENT.  
NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_

PLEASE PRINT NAME AND ADDRESS OF THE PERSON TO WHOM THIS LETTER IS TO BE SENT.

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

UNIVERSITY OF CHICAGO  
PHYSICS DEPARTMENT



## CONSUMER CLAIMS TRIBUNALS (AMENDMENT) BILL, 1979

---

### EXPLANATORY NOTE

#### (This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Consumer Claims Tribunals Act, 1974 ("the Act"), so as—

- (a) to extend the meaning of the expression "consumer claim" in the Act so that it includes claims against persons engaged in any business activity, and to give retrospective effect to this amendment (clause 3 and Schedule 1 (1));
- (b) to provide that the exclusion of other jurisdictions with respect to any issue in dispute in a consumer claim which has been referred to a consumer claims tribunal shall extend to all forums for the settlement or determination of issues in dispute (Schedule 1 (3) (b));
- (c) to permit a consumer claims tribunal to give a ruling, in certain circumstances, as to whether it has jurisdiction with respect to a particular consumer claim and to provide that if a tribunal does give such a ruling, it shall not thereafter make an order determining the claim for 14 days (Schedule 1 (4)—proposed section 20A);
- (d) to prohibit judicial supervision of a proceeding of a consumer claims tribunal with respect to a consumer claim until after the tribunal has made an order determining the claim or given a ruling as to its jurisdiction to hear the claim (Schedule 1 (5));
- (e) to permit the Minister to intervene in and become a party to any proceedings challenging or reviewing a proceeding, an order or a ruling of a consumer claims tribunal (Schedule 1 (7)—proposed section 39A);
- (f) to make other provisions of a consequential or ancillary nature.

# CONSTITUTIONAL HISTORY OF THE UNITED STATES

## INTRODUCTION

The Constitution of the United States is the supreme law of the land. It is the framework of government that defines the powers and responsibilities of the federal government and the states. The Constitution was drafted in 1787 and has since been amended to reflect the needs and values of the American people. The document is a masterpiece of political philosophy and legal craftsmanship, designed to create a balanced and effective system of government. It establishes the separation of powers among the executive, legislative, and judicial branches, and guarantees the rights and liberties of the citizenry. The Constitution is a living document that has shaped the course of American history and continues to guide the nation's development.

**CONSUMER CLAIMS TRIBUNALS (AMENDMENT)  
BILL, 1979**

No.           , 1979.

---

---

**A BILL FOR**

An Act to amend the Consumer Claims Tribunals Act, 1974, with respect to the jurisdiction of consumer claims tribunals and judicial review of proceedings of the tribunals.

[MR EINFELD—25 *October*, 1979.]

---

---

---

*Consumer Claims Tribunals (Amendment).*

---

**BE** 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 :—

5   **1.** This Act may be cited as the “Consumer Claims Tribunals **Short title.**  
(Amendment) Act, 1979”.

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

      (2) Section 3, in its application to Schedule 1 (1), and  
10 Schedule 1 (1) shall be deemed to have commenced on 2nd  
December, 1976.

**3.** The Consumer Claims Tribunals Act, 1974, is amended in **Amendment**  
the manner set forth in Schedule 1. **of Act No.**  
16, 1974.

---

SCHEDULE 1.

**Sec. 3.**

15   **AMENDMENTS TO THE CONSUMER CLAIMS TRIBUNALS ACT,**  
          **1974.**

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

      Omit “a trader”, insert instead “engaged in a business  
      activity as referred to in subsection (3A)”.

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

      Omit the definition.

---

*Consumer Claims Tribunals (Amendment).*

---

SCHEDULE 1—*continued.*

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

(c) Section 4 (3A)—

5           After section 4 (3), insert :—

10           (3A) For the purposes of the definition of  
“consumer claim” in subsection (1), a person is  
engaged in a business activity if, whether in the course  
of a profession or in the field of trade or commerce  
or otherwise, he carries on a business of supplying  
goods or providing services or holds himself out as  
carrying on such a business.

(2) (a) Section 12 (1) (b)—

Omit “and” where lastly occurring.

15       (b) Section 12 (1) (b1)—

After section 12 (1) (b), insert :—

(b1) the ruling, if any, given by the tribunal in  
relation to its jurisdiction to hear and  
determine the claim; and

20       (c) Section 12 (3)—

After “notation”, insert “, ruling”.

(3) (a) Section 19 (1)—

After “withdrawn”, insert “or dismissed for want of  
jurisdiction”.

---

*Consumer Claims Tribunals (Amendment).*

---

SCHEDULE 1—*continued.*

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

(b) Section 19 (4)—

5 After section 19 (3), insert :—

(4) For the purposes of this section, “court” includes any court, tribunal, board or other body or person—

10 (a) which or who has power under any Act;  
or

(b) which or who has, by agreement between 2 or more persons, authority,

to determine by arbitration, conciliation or otherwise any issue that is in dispute.

15 (4) Section 20A—

After section 20, insert :—

20 20A. (1) If at any time before an order has been made by a tribunal under section 23 in respect of a consumer claim the jurisdiction of the tribunal to hear and determine the claim is disputed by a party to the claim, the tribunal shall not make an order determining the claim without first giving a ruling as to whether it has jurisdiction to hear and determine the claim. Procedure where jurisdiction disputed.

25 (2) A tribunal shall not of its own motion make an order under section 23 (1) (e) dismissing a consumer claim for want of jurisdiction without first giving a ruling as to its jurisdiction to hear and determine the claim.

---

*Consumer Claims Tribunals (Amendment).*

---

SCHEDULE 1—*continued.*

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

- 5 (3) If a tribunal has given a ruling under subsection (1) or (2) in respect of a consumer claim it shall not make an order under section 23 in respect of the claim—
- (a) until 14 days have elapsed following the giving of the ruling; or
- 10 (b) if at any time before it has made an order it receives notice that proceedings for the relief or remedies referred to in section 21 have been commenced in a court in respect of the ruling, until the proceedings before the court have been
- 15 determined.

(5) Section 21—

Omit the section, insert instead :—

- 20 21. No court shall grant any relief or remedy to any person by way of—
- (a) a judgment or order in the nature of prohibition, mandamus, certiorari or other prerogative writ;
- (b) a declaratory judgment or order; or
- (c) an injunction,
- 25 in respect of a proceeding taken or to be taken before a consumer claims tribunal or in respect of any order or ruling of such a tribunal unless—
- (d) the tribunal has given a ruling under section 20A (1) or (2), or has made an order under section 23, in respect of the proceeding; and

Immunity  
from  
judicial  
supervision.

---

*Consumer Claims Tribunals (Amendment).*

---

SCHEDULE 1—*continued.*

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

(e) where the tribunal has—

- 5 (i) given such a ruling, the only ground upon which any relief or remedy is sought is that the tribunal erred in making the ruling and the court is satisfied that the tribunal so erred; or
- 10 (ii) made such an order (whether or not it has given such a ruling), the court is satisfied that the tribunal had no jurisdiction to make the order or, if it gave the ruling, erred in giving the ruling or that
- 15 there had occurred in relation to the proceeding a denial of natural justice to any party to the proceeding.

(6) Section 23 (1) (e)—

- 20 After “relates”, insert “, whether for want of jurisdiction or any other reason”.

(7) Section 39A—

After section 39, insert :—

- 25 39A. Where any proceeding, order or ruling of a consumer claims tribunal is challenged, reviewed or called into question in proceedings before any court, the Minister may intervene at any stage of the proceedings before that court, by counsel, solicitor or agent, and shall thereupon become a Minister may intervene.



---

*Consumer Claims Tribunals (Amendment).*

---

SCHEDULE 1—*continued.*

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

- 5 party to, and shall have all the rights of a party to, those proceedings before that court, including the right to appeal against any order or judgment of the court.

---

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES, 1979

[16c]

Contract (Contract No. 1099)

SCHEDULE 1 - Contract

Agreement to the Contract (Contract No. 1099)  
1974-1975

party to and shall have all the rights of a party to this  
contract before the court, including the right to appeal  
any award or judgment of the court.

1974-1975

1974-1975

THE UNIVERSITY OF CHICAGO

PH.D. THESIS

BY

THE AUTHOR

IN

THE DEPARTMENT OF

PHYSICS

CHICAGO, ILLINOIS

1948

PHYSICS DEPARTMENT

UNIVERSITY OF CHICAGO

