

CONSUMER CLAIMS TRIBUNALS (AMENDMENT) BILL 1992

SPEECH ON SECOND READING

LEGISLATIVE COUNCIL

MR PRESIDENT

I MOVE THAT THIS BILL BE READ A SECOND TIME.

THE CONSUMER CLAIMS TRIBUNALS (AMENDMENT) BILL 1992 SEEKS TO AMEND THE CONSUMER CLAIMS TRIBUNALS ACT 1987 TO PROMOTE GREATER EFFICIENCY AND ACCOUNTABILITY IN THE OPERATION OF THE TRIBUNALS AND TO RECTIFY CERTAIN DEFICIENCIES IN THE WORDING OF THE ACT.

THE CONSUMER CLAIMS TRIBUNALS IN NSW WERE ESTABLISHED IN 1974. THEIR PURPOSE WAS TO PROVIDE A MECHANISM FOR RESOLVING DISPUTES BETWEEN CONSUMERS AND TRADERS IN THE QUICKEST, CHEAPEST AND LEAST FORMAL MANNER POSSIBLE.

THIS IS ACHIEVED BY RESTRICTING LEGAL REPRESENTATION AND APPEALS, PROHIBITING BOTH DEBT RECOVERY ACTION BY TRADERS AND THE AWARDING OF COSTS, AND BY WAIVING RULES OF EVIDENCE. THE TRIBUNALS HELP ALLEVIATE PRESSURE ON THE COURT SYSTEM AND OFFER A SERVICE WHICH ALLOWS REFEREES TO MEDIATE IN THE SETTLEMENT OF A CLAIM BEFORE HANDING DOWN AN ORDER. THE RANGE OF ORDERS POSSIBLE IS WIDER THAN THAT AVAILABLE IN THE COURTS.

SINCE 1974 THE ACT HAS BEEN AMENDED AND THEN REVISED IN 1987. THE FORMER NARROW DEFINITION OF 'CONSUMER CLAIM' HAS BEEN BROADENED SO THAT SMALL TRADERS (SUPPLIERS OF GOODS AND SERVICES) MAY BE CLAIMANTS IN RESPECT OF THEIR 'CONSUMER' PURCHASES. THE MONETARY JURISDICTION IS NOW \$6,000 AND A



RISE TO \$10,000 HAS BEEN RECOMMENDED TO KEEP PACE WITH THE PRESENT DAY COSTS OF GOODS AND SERVICES.

DISPUTES WHICH MAY BE HEARD BEFORE THE TRIBUNALS RELATE TO SUCH ISSUES AS FAULTY GOODS, UNSATISFACTORY PROFESSIONAL AND TRADE SERVICES, INSURANCE CLAIMS AND VARIOUS DISPUTES WITH UTILITIES.

IN 1989 THE BUILDING DISPUTES TRIBUNALS WERE SET UP TO PROVIDE A SPECIALIST BUILDING DISPUTES JURISDICTION. THEY OPERATE WITHIN THE ORGANISATION OF THE CONSUMER CLAIMS TRIBUNALS. THE AMENDMENTS BEFORE YOU WILL APPLY EQUALLY TO THE BUILDING DISPUTES TRIBUNALS, WITH CERTAIN MINOR CHANGES BEING MADE TO CATER FOR THEIR SPECIFIC NEEDS.

THE NEED FOR THE PRESENT AMENDMENTS WAS ESTABLISHED DURING A REVIEW OF THE TRIBUNAL SYSTEM CARRIED OUT BY THE CONSULTANTS PEAT MARWICK HUNGERFORDS AND ATTORNEYS CLAYTON UTZ. THIS WAS FOLLOWED BY RELEASE OF A DISCUSSION PAPER AND A CALL FOR SUBMISSIONS FROM THE PUBLIC.

THE LEVEL OF SATISFACTION WITH THE OPERATION OF THE TRIBUNALS APPEARS TO BE HIGH AND THE PRESENT AMENDMENTS ARE NOT A DEPARTURE FROM THEIR BASIC PHILOSOPHY. THEY ARE MORE IN THE NATURE OF A TIDYING-UP IN ORDER TO IMPROVE THE FUNCTIONING OF THE SYSTEM.

THE PRINCIPAL CHANGES LIE IN THE AREAS OF EXTENSION OF THE DEFINITION OF CONSUMER, CLARIFICATION OF THE PROCEDURE FOR LODGING CLAIMS, PROVISION OF WRITTEN REASONS FOR ORDERS, IMPOSITION OF INTEREST ON UNSATISFIED ORDERS AND EXCLUSION

FROM JURISDICTIONN OF CLAIMS WHICH HAVE ALREADY BEEN DETERMINED BY A TAXING OFFICER.

AN EXTENSION OF THE JURISDICTION OF THE TRIBUNALS IS PROPOSED TO INCLUDE PUBLIC COMPANIES LIMITED BY GUARANTEE.

THE PRESENT ACT ALREADY ALLOWS USE OF THE TRIBUNALS BY CERTAIN CLASSES OF COMPANY: EXEMPT PROPRIETARY COMPANIES; BODIES CORPORATE UNDER STRATA TITLES LEGISLATION; AND A COMPANY THAT OWNS AN INTEREST IN LAND AND HAS A MEMORANDUM OR ARTICLES OF ASSOCIATION CONFERRING ON EACH OWNER OF SHARES IN THE COMPANY VARIOUS RIGHTS. AT PRESENT THE LODGEMENT OF CLAIMS BY ALL OTHER TYPES OF COMPANY IS RULED OUT.

A CASE HAS BEEN MADE FOR THE INCLUSION OF PUBLIC COMPANIES LIMITED BY GUARANTEE. THESE ARE PUBLIC COMPANIES WHICH, ALTHOUGH CLASSIFIED PUBLIC, ARE NOT LISTED ON THE STOCK EXCHANGE AND DO NOT HAVE A SHARE CAPITAL. THE MEMBERS OF SUCH COMPANIES GUARANTEE ON JOINING, TO PAY A CERTAIN SUM OF MONEY IN THE EVENT OF THE COMPANY BEING WOUND UP. SUCH COMPANIES ARE USUALLY SPORTING OR SOCIAL CLUBS AND THEIR PROFITS MUST BE PUT BACK INTO THE CLUB AND NOT DISTRIBUTED TO MEMBERS. THIS EXTENSION OF THE JURISDICTION IS SEEN AS A MATTER OF EQUITY. IT IS ANTICIPATED THAT IT WILL BE USED ONLY BY SMALLER BODIES AND THAT THE LARGER AND MORE AFFLUENT GROUPS WILL CONTINUE TO USE LAWYERS RATHER THAN THE TRIBUNAL.

THE CLARIFICATION OF THE LODGEMENT PROCEDURES FOR CLAIMS IS A FURTHER MOVE TOWARDS ADMINISTRATIVE EFFICIENCY. BECAUSE THERE ARE A NUMBER OF PLACES SUCH AS REGIONAL OFFICES OF THE DEPARTMENT OF CONSUMER AFFAIRS WHERE TRIBUNAL CLAIMS CAN BE



LOGGED AND A NUMBER OF STAFF WHO DEAL WITH THE PROCESS IT IS IMPORTANT TO SPECIFY THE POINT IN TIME AT WHICH A CLAIM IS FORMALLY LODGED. THIS BECAME AN ISSUE BECAUSE OF LEGAL DISPUTE WHICH AROSE OVER WHICH LODGEMENT HAD PRECEDENCE, WHEN CLAIMS WERE LODGED BOTH IN THE LOCAL COURT AND THE TRIBUNAL BY OPPOSING PARTIES.

ITEMS (10) AND (11) OF THE BILL RELATE TO THE PROVISION TO CLIENTS OF THE TRIBUNALS OF WRITTEN REASONS FOR REFEREES' DECISIONS. AT PRESENT THERE IS NO OBLIGATION ON THE REFEREES TO PROVIDE EITHER VERBAL OR WRITTEN REASONS, ALTHOUGH IT IS CUSTOMARY FOR REFEREES TO GIVE ORAL REASONS TO JUSTIFY THEIR DECISIONS.

THE INTENT IS TO REQUIRE REFEREES TO RECORD AND FURNISH BRIEF REASONS FOR THEIR DECISIONS, SUCH RECORD TO BE AVAILABLE TO CLIENTS ON PAYMENT OF A FEE AND ON LODGEMENT OF AN APPLICATION WITHIN A SET PERIOD.

THE MECHANISM TO ENFORCE COMPLIANCE WITH TRIBUNAL ORDERS HAS BEEN IMPROVED. CLIENTS HAVE TO SEEK SATISFACTION OF OVERDUE MONETARY ORDERS THROUGH THE LOCAL COURTS. THIS ADDITIONAL STEP LENGTHENS THE PROCESS AND GIVES A FINANCIAL ADVANTAGE TO SLOW PAYERS. THE AMENDMENT WILL ALLOW THE INTEREST COMPONENT ON AN UNSATISFIED ORDER TO RUN FROM THE TIME OF LODGEMENT IN COURT, RATHER THAN 21 DAYS LATER. THIS ARRANGEMENT SHOULD ENCOURAGE MORE PROMPT SETTLEMENT OF SUCH DEBTS.

A CLAUSE HAS BEEN INCLUDED IN THE BILL TO PREVENT THE 'DOUBLE JEOPARDY' OF A CLAIM REGARDING SOLICITOR'S COSTS BEING TAKEN TO THE TRIBUNAL WHEN THOSE COSTS HAVE ALREADY BEEN TAXED BY A

COURT OFFICER. WHILE IT HAS BEEN THE CUSTOM OF THE TRIBUNAL TO TAKE INTO ACCOUNT THE MECHANISM OF TAXATION OF COSTS, THE PROPOSED PROVISION WILL PUT THE MATTER BEYOND DOUBT.

FURTHER MINOR CHANGES HAVE BEEN MADE TO CLARIFY CERTAIN PARTS OF THE ACT. THE DEFINITION OF 'GOODS' HAS BEEN EXPANDED TO SPECIFICALLY EXCLUDE REAL PROPERTY, AND THE SECTION CONCERNING THE FINALITY OF A TRIBUNAL ORDER HAS BEEN REWORDED TO INDICATE THE POSSIBILITY OF RENEWAL OF CLAIMS AND OF APPEALS TO SUPERIOR COURTS ON THE GROUNDS OF DENIAL OF NATURAL JUSTICE OR LACK OF JURISDICTION.

IN SHORT, THE BILL CONTAINS A PACKAGE OF MEASURES WHICH ARE INTENDED TO ELIMINATE PROBLEMS OF INTERPRETATION WHICH HAVE ARISEN, TO MAKE THE ACT MORE ACCESSIBLE TO THE PUBLIC AND TO INCREASE THE TRIBUNALS' EFFECTIVENESS AND ACCOUNTABILITY. THESE CHANGES SHOULD ENHANCE THE OPERATION OF A SERVICE WHICH IS ALREADY VERY SUCCESSFUL.

I COMMEND THE BILL.

FIRST PRINT

**CONSUMER CLAIMS TRIBUNALS (AMENDMENT)
BILL 1992**

NEW SOUTH WALES



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 1987:

- (a) to extend the definition of "consumer" in the Act to permit companies limited by guarantee to lodge claims;
 - (b) to provide that the definition of "goods" does not include interests in land;
 - (c) to provide for the creation of branches of the registry of consumer claims tribunals;
 - (d) to extend the power of the registrar of consumer claims tribunals to delegate registrar functions;
 - (e) to require a consumer claims tribunal to provide written reasons for certain orders made by it in respect of a consumer claim and to require that those reasons be kept as part of the official record of the claim;
 - (f) to allow a consumer claims tribunal to award costs in limited cases;
 - (g) to make it clear that an order of a consumer claims tribunal sitting as a building disputes tribunal is (for enforcement and other purposes) to be treated in the same way as an order of any other consumer claims tribunal;
 - (h) to clarify an existing provision that makes tribunal decisions final and not subject to appeal;
 - (i) to alter the time from which interest starts to run on unpaid consumer claims tribunal orders;
 - (j) to make a minor amendment by way of statute law revision;
 - (k) to enact consequential savings and transitional provisions.
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Consumer Claims Tribunals (Amendment) 1992

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 gives effect to Schedule 1.

Clause 4 provides that the explanatory notes appearing in the Bill do not form part of the proposed Act.

Schedule 1 makes the amendments to the Consumer Claims Tribunals Act 1987 described above. Each amendment is (where necessary) explained in detail in the explanatory note relating to the amendment concerned.

FIRST PRINT

**CONSUMER CLAIMS TRIBUNALS (AMENDMENT)
BILL 1992**

NEW SOUTH WALES



TABLE OF PROVISIONS

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3. Amendment of Consumer Claims Tribunals Act 1987 No. 206
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- Clarification of definition of “goods”
Item (2)—section 3
- Lodgment of claims and certain applications
Item (3)—section 3
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Item (5)—section 8
Item (6)—section 9
Item (7)—section 13
Item (8)—section 25
Item (9)—section 36
- Written reasons for tribunal’s decision to be provided
Item (10)—section 9
Item (11)—section 34A
- Clarification of effect of orders made by a building disputes tribunal
Item (12)—section 12I
- Tribunal’s power to award costs in certain cases
Item (13)—section 28
- Clarification of effect of tribunal orders
Item (14)—section 34
- Payment of interest on monetary order of tribunal
Item (15)—section 35A

Consumer Claims Tribunals (Amendment) 1992

- Statute law revision
Item (16)—section 35
 - Savings and transitional provisions
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**CONSUMER CLAIMS TRIBUNALS (AMENDMENT)
BILL 1992**

NEW SOUTH WALES



No. , 1992

A BILL FOR

An Act to amend the Consumer Claims Tribunals Act 1987 to make further provision with respect to the classes of persons who may make a consumer claim, the awarding of costs, interest on awards and administrative and procedural matters, and for other purposes.

Consumer Claims Tribunals (Amendment) 1992

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Consumer Claims Tribunals (Amendment) Act 1992.

5 Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Consumer Claims Tribunals Act 1987 No. 206

10 3. The Consumer Claims Tribunals Act 1987 is amended as set out in Schedule 1.

Explanatory notes

4. Matter appearing under the heading "Explanatory note" in Schedule 1 does not form part of this Act.

SCHEDULE 1—AMENDMENTS

15 (Sec. 3)

Amendments: extension of definition of "consumer"

(1) Section 3 (Definitions):

- 20 (a) From paragraph (f) of the definition of "consumer" in section 3 (1), omit "or".
- (b) At the end of paragraph (g) of the definition of "consumer" in section 3 (1), insert:
- ; or
- (h) a company limited by guarantee (not being a company limited both by shares and by guarantee),

25 Explanatory note

Item (1) extends the definition of "consumer" to include companies limited by guarantee (companies whose members guarantee to contribute agreed amounts of money in the event the company is wound up). Such companies are currently not entitled to lodge a claim in a Consumer Claims Tribunal.

Consumer Claims Tribunals (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

Amendment: clarification of definition of “goods”

(2) Section 3 (**Definitions**):

From section 3 (1), omit the definition of “goods”, insert instead:

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“goods” means any tangible thing that is or may be the subject of trade or commerce, but does not include money or an interest in land;

Explanatory note

Item (2) makes it clear that the definition of “goods” does not include interests in land.

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Amendments: lodgment of claims and certain applications

(3) Section 3 (**Definitions**):

In the definition of “registry” in section 3 (1) after “tribunals”, insert “, and any branch of that registry,”.

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(4) Section 7 (**Registry of consumer claims tribunals**):

At the end of section 7, insert:

(2) Branches of that registry may also be established and maintained. Any thing done at a branch is taken to have been done at the registry.

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(5) Section 8 (**Registrar, deputy registrars and staff of tribunals**):

(a) From section 8 (3), omit “a deputy registrar” insert instead “any person engaged in the administration of this Act”.

(b) From section 8 (3), omit “by this or any other Act”, insert instead “by or under this or any other Act”.

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(6) Section 9 (**Records**):

(a) In section 9 (2) (a), after “claim” insert “or a copy of that record”.

(b) In section 9 (3), after “record” wherever occurring, insert “(or a copy of it)”.

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Consumer Claims Tribunals (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

(7) Section 13 (**Making a consumer claim**):

- 5 (a) From section 13 (1), omit “lodge with the registrar of consumer claim tribunals or the registrar of a Local Court”, insert instead “lodge at the registry or at a Local Court”.
- (b) From section 13 (2), omit “the registrar of consumer claims tribunals or the registrar of a Local Court”, insert instead “staff of the registry or of a Local Court”.
- 10 (c) From section 13 (3), omit “lodged with the registrar of a Local Court, that registrar”, insert instead “lodged at a Local Court, the Clerk of the Local Court”.

(8) Section 25 (**Rehearing of certain consumer claims**):

From section 25 (1), omit “made to the registrar”, insert instead “lodged at the registry”.

15 (9) Section 36 (**Enforcement of other tribunal orders**):

From section 36 (4), omit “lodging with the registrar”, insert instead “lodging at the registry”.

Explanatory note

20 Items (3) and (4) allow branches of the registry of consumer claims tribunals to be established.

25 Currently the Act allows the registrar to delegate to a deputy registrar. Item (5) extends this power by allowing the registrar to delegate to any person involved in the administration of the Act. Item (6) is consequential on the creation of registry branches. It provides for a copy of the official record of a claim to be made available for inspection by a party to the claim (since the original record will not be available at all registry branches).

Item (7) revises the provisions dealing with the lodgment of claims to make it clear that lodging a claim at the registry (or a branch registry) or a local court does not require the personal involvement of a registrar, i.e. lodging it with counter staff is sufficient.

30 Items (8) and (9) are consequential on items (3)–(5) and (7).

Amendments: written reasons for tribunal’s decision to be provided

(10) Section 9 (**Records**):

- (a) From section 9 (1) (c), omit “claim; and”, insert instead “claim;”.
- 35 (b) At the end of section 9 (1) (d), insert:
; and

Consumer Claims Tribunals (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

- (e) the written reasons required to be noted on the official record in respect of the claim under section 34A.
- (c) After section 9 (2), insert:
- (2A) An entitlement that a person has under subsection (2) does not apply to that part of the official record that consists of the written reasons for an order until 7 days after the person has lodged a request at the registry, unless the order concerned was made in circumstances referred to in section 24.
- (11) Section 34A:
- After section 34, insert:
- Reasons for certain tribunal orders etc.**
- 34A. (1) There is to be noted on the official record of a tribunal in respect of a consumer claim the tribunal's reasons for:
- (a) any ruling given by the tribunal with respect to its jurisdiction to hear and decide the claim; and
- (b) any order made by the tribunal in respect of the claim (other than an interim or ancillary order made under section 30).
- (2) The reasons are to be as brief as is reasonably practicable in the particular case.
- Explanatory note**
- Items (10) and (11) require a tribunal, when making certain orders or rulings, to record brief reasons for them. The reasons will form part of the official record of the claim. This requirement will apply to rulings as to jurisdiction and all orders (other than interim or ancillary orders).
- The Act currently provides that a party to a consumer claim may inspect and obtain a copy of the official record of the claim. Provision is made in item (10) (c) requiring a party to give the registry 7 days' notice to inspect or obtain a copy of the written reasons for an order except where the order was made in the absence of a party or all parties to the claim. This will give the registry sufficient time to incorporate written reasons in the official record. Reasons for an order in a case where one party or all of the parties were not present will have to be available as soon as possible so as not to disadvantage a party wishing to seek a rehearing.

Consumer Claims Tribunals (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

Amendment: clarification of effect of orders made by a building disputes tribunal

- 5 (12) Section 12I (**Power to make additional orders in favour of respondent**):

At the end of section 12I, insert:

(3) Orders under this section are considered to be orders under section 30.

Explanatory note

- 10 A consumer claims tribunal hearing a building claim (i.e. a claim arising under a residential building contract or arising from a supply of residential building goods or services) is known as a building disputes tribunal. Item (12) makes it clear that orders of a building disputes tribunal are to be treated (for enforcement and other purposes) in the same way as an order of any other consumer claims tribunal.

15 **Amendments: tribunal's power to award costs in certain cases**

- (13) Section 28 (**Costs to be allowed in limited cases**):

(a) After "consumer claim", insert " , except as provided by this section".

(b) At the end of section 28, insert:

- 20 (2) A tribunal may order a party to a consumer claim to pay costs in respect of the reasonable costs of obtaining expert advice or evidence in respect of the claim if the parties to the claim agreed to the obtaining of that advice or evidence.

- 25 (3) A tribunal may make an order for costs in favour of a party to a consumer claim for the reasonable costs incurred by the party in attending at the hearing or rehearing of the claim, but only if:

- 30 (a) the party is a respondent to the claim and the tribunal is satisfied that the claim is frivolous or vexatious; or
 (b) the party against whom costs are to be awarded failed to attend at the hearing or rehearing.

- 35 (4) A tribunal must not make an order in the circumstances described in subsection (3) (b) if satisfied that there was sufficient reason for the failure to attend.

Consumer Claims Tribunals (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

(5) An order for costs under subsection (3) in respect of attendance on any one day must not exceed the prescribed maximum daily attendance rate.

(6) An order of a tribunal for the payment of costs is considered to be an order under section 30 requiring the payment of an amount of money. 5

Explanatory note

Currently under the Act a tribunal does not have power to make an order for costs in respect of a consumer claim. Item (13) allows a tribunal to award costs but only in two kinds of situations. 10

Firstly, where the parties to a consumer claim agree to obtaining expert advice or evidence in respect of the claim, the tribunal may award costs for reasonable expenses incurred in obtaining that advice or evidence.

Secondly, a tribunal may award costs to a party to a claim for the reasonable costs incurred by that party in attending at the hearing or rehearing of the claim (a maximum daily attendance rate is to be prescribed) if the tribunal is satisfied the claim is frivolous or vexatious or the party against whom costs are to be awarded failed to attend at the hearing or rehearing unless the tribunal is satisfied that there was sufficient reason for the failure to attend. 15
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A tribunal order for the payment of costs is taken to be a monetary order of the tribunal and as such can be enforced as a judgment of a local court if it is not complied with.

Amendment: clarification of effect of tribunal orders

(14) Section 34: 25

Omit the section, insert instead:

Order of tribunal to be final

34. An order of a tribunal is final and binding on all parties to a consumer claim that is heard and determined by the tribunal and no appeal lies in respect of an order of the tribunal. However, this does not prevent a claim being renewed under section 36 and does not prevent a court granting relief or a remedy as referred to in section 12 (2). 30

Consumer Claims Tribunals (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

Explanatory note

Item (14) makes it clear that while an order of the tribunal in respect of a consumer claim is final and binding on all the parties to the claim, it does not prevent a party from proceeding to renew a claim (under section 36) where the tribunal's order is not complied with.

It also does not prevent a party seeking relief from a court under section 12 (based on a dispute as to jurisdiction or denial of natural justice).

Amendment: payment of interest on monetary order of tribunal

10 (15) Section 35A:

After section 35, insert:

Interest payable on money ordered to be paid

15 35A. In the application of section 39 of the Local Courts (Civil Claims) Act 1970 to an order of a tribunal under this Act, subsection (3) of that section is not to apply.

Explanatory note

20 Currently, when a tribunal makes an order for the payment of money, the order can be enforced as a judgment of a local court. Generally, interest accrues on a local court judgment from the date the order is registered in the local court. However, if the debt is paid within 21 days of that date, no interest is payable. Item (15) provides that in the case of a tribunal order, interest is instead to accrue from the date the order is registered in the local court (i.e. the 21 days interest free period is not to apply to a tribunal order). Provision can already be made in a tribunal order for allowing time to pay.

Amendments: statute law revision

25 (16) Section 35 (Enforcement of orders to pay money):

(a) Omit "registrar of a Local Court" wherever occurring, insert instead "Clerk of a Local Court".

30 (b) From section 35 (5), omit "registrar of that or another Local Court", insert instead "Clerk of that or another Local Court".

Explanatory note

Item (16) reflects the fact that all local courts have a Clerk but not necessarily a registrar.

Consumer Claims Tribunals (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

Amendments: savings and transitional provisions

(17) Schedule 3 (Savings and transitional provisions):

(a) Before clause 1, insert:

PART 1—PRELIMINARY

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Savings and transitional regulations

1A. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Consumer Claims Tribunals (Amendment) Act 1992

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(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the date of assent of the Act concerned or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

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(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication;

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or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

**PART 2—CONSUMER CLAIMS TRIBUNALS
ACT 1987**

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(b) Omit clause 11.

(c) At the end of Schedule 3, insert:

**PART 3—CONSUMER CLAIMS TRIBUNALS
(AMENDMENT) ACT 1992**

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Meaning of “amending Act”

11. In this Part, “amending Act” means the Consumer Claims Tribunals (Amendment) Act 1992.

Consumer Claims Tribunals (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

Extension of definition of “consumer”

5 12. The amendments made by Schedule 1 (1) of the amending Act do not apply to a consumer claim arising in respect of a matter that occurred before the commencement of the amendments.

Tribunal’s power to award costs in certain cases

10 13. The amendments made by Schedule 1 (13) of the amending Act apply in respect of matters that occur after the commencement of the amendments even if the claim concerned was lodged before that commencement.

Payment of interest on monetary order of tribunal

15 14. The amendment made by Schedule 1 (15) of the amending Act does not apply to orders made before the commencement of the amendment.

SECOND PRINT

**CONSUMER CLAIMS TRIBUNALS (AMENDMENT)
BILL 1992**

NEW SOUTH WALES



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 - Item (14)—section 35A

Consumer Claims Tribunals (Amendment) 1992

- Statute law revision
Item (15)—section 35
 - Savings and transitional provisions
Item (16)—Schedule 3
-

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.

Clerk of the Legislative Assembly.

Legislative Assembly

NEW SOUTH WALES



Act No. , 1992

An Act to amend the Consumer Claims Tribunals Act 1987 to make further provision with respect to the classes of persons who may make a consumer claim, the awarding of costs, interest on awards and administrative and procedural matters, and for other purposes.

Consumer Claims Tribunals (Amendment) 1992

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Consumer Claims Tribunals (Amendment) Act 1992.

5 Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Consumer Claims Tribunals Act 1987 No. 206

10 3. The Consumer Claims Tribunals Act 1987 is amended as set out in Schedule 1.

Explanatory notes

4. Matter appearing under the heading "Explanatory note" in Schedule 1 does not form part of this Act*.

SCHEDULE 1—AMENDMENTS

15

(Sec. 3)

Amendments: extension of definition of "consumer"

(1) Section 3 (Definitions):

- 20 (a) From paragraph (f) of the definition of "consumer" in section 3 (1), omit "or".
- (b) At the end of paragraph (g) of the definition of "consumer" in section 3 (1), insert:
- ; or
- (h) a company limited by guarantee (not being a company limited both by shares and by guarantee),

25 **Explanatory note**

Item (1) extends the definition of "consumer" to include companies limited by guarantee (companies whose members guarantee to contribute agreed amounts of money in the event the company is wound up). Such companies are currently not entitled to lodge a claim in a Consumer Claims Tribunal.

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* The matter marked "†" in the explanatory notes was inserted after the introduction of the Bill in the Legislative Assembly to explain amendments to the Bill that were moved in Committee.

Consumer Claims Tribunals (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

Amendment: clarification of definition of “goods”

(2) Section 3 (Definitions):

From section 3 (1), omit the definition of “goods”, insert instead:

“goods” means any tangible thing that is or may be the subject of trade or commerce, but does not include money or an interest in land;

Explanatory note

Item (2) makes it clear that the definition of “goods” does not include interests in land.

Amendments: lodgment of claims and certain applications

(3) Section 3 (Definitions):

(a) In the definition of “registry” in section 3 (1) after “tribunals”, insert “, and any branch of that registry,”.

(b) At the end of section 3, insert:

(6) For the purposes of this Act, a decision of a taxing officer on a taxation of a solicitor’s bill of costs is (subject to any retaxation of the bill and subject to any review of the taxation of the bill by the Supreme Court) final and conclusive as to any matter determined by the taxing officer. Accordingly a tribunal has no jurisdiction in respect of any matter determined by the taxing officer.

(7) For the purposes of this Act, any issue to be determined in a taxation of a solicitor’s bill of costs is taken to be an issue the subject of a dispute in proceedings before a court and the taxing officer is taken to be a court.

(4) Section 7 (Registry of consumer claims tribunals):

At the end of section 7, insert:

(2) Branches of that registry may also be established and maintained. Any thing done at a branch is taken to have been done at the registry.

Consumer Claims Tribunals (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

- (5) Section 8 (**Registrar, deputy registrars and staff of tribunals**):
- (a) From section 8 (3), omit “a deputy registrar” insert instead “any person engaged in the administration of this Act”.
- 5 (b) From section 8 (3), omit “by this or any other Act”, insert instead “by or under this or any other Act”.
- (6) Section 9 (**Records**):
- (a) In section 9 (2) (a), after “claim” insert “or a copy of that record”.
- 10 (b) In section 9 (3), after “record” wherever occurring, insert “(or a copy of it)”.
- (7) Section 13 (**Making a consumer claim**):
- (a) From section 13 (1), omit “lodge with the registrar of consumer claim tribunals or the registrar of a Local Court”, insert instead “lodge at the registry or at a Local Court”.
- 15 (b) From section 13 (2), omit “the registrar of consumer claims tribunals or the registrar of a Local Court”, insert instead “staff of the registry or of a Local Court”.
- (c) From section 13 (3), omit “lodged with the registrar of a Local Court, that registrar”, insert instead “lodged at a Local Court, the Clerk of the Local Court”.
- 20
- (8) Section 25 (**Rehearing of certain consumer claims**):
- From section 25 (1), omit “made to the registrar”, insert instead “lodged at the registry”.
- 25
- (9) Section 36 (**Enforcement of other tribunal orders**):
- From section 36 (4), omit “lodging with the registrar”, insert instead “lodging at the registry”.

Explanatory note

30 Items (3) and (4) allow branches of the registry of consumer claims tribunals to be established.

35 Currently the Act allows the registrar to delegate to a deputy registrar. Item (5) extends this power by allowing the registrar to delegate to any person involved in the administration of the Act. Item (6) is consequential on the creation of registry branches. It provides for a copy of the official record of a claim to be made available for inspection by a party to the claim (since the original record will not be available at all registry branches).

Consumer Claims Tribunals (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

†Item (3) (b) inserts two new provisions relating to consumer claims that involve solicitors' bills of costs. Proposed section 3 (6) makes it clear that a consumer claims tribunal cannot review any matter already determined on a taxation of a solicitor's bill of costs (such as the reasonableness of a solicitor's charges). Proposed section 3 (7) operates to equate the taxation of a solicitor's bill of costs with a dispute in court proceedings so that the current provisions of the Act relating to the overlap of the jurisdiction of consumer claims tribunals with that of courts will apply to proceedings on a taxation of a bill of costs: the effect of this will be that if a taxation of a bill of costs is pending, a consumer claims tribunal cannot hear a claim on the matter and if a consumer claim on a bill of costs is pending before a tribunal, a taxation of the bill of costs cannot be dealt with. 5

Item (7) revises the provisions dealing with the lodgment of claims to make it clear that lodging a claim at the registry (or a branch registry) or a local court does not require the personal involvement of a registrar, i.e. lodging it with counter staff is sufficient. 10

Items (8) and (9) are consequential on items (3)–(5) and (7). 15

Amendments: written reasons for tribunal's decision to be provided

(10) Section 9 (Records):

(a) From section 9 (1) (c), omit "claim; and", insert instead "claim;". 20

(b) At the end of section 9 (1) (d), insert:
; and

(e) the written reasons required to be noted on the official record in respect of the claim under section 34A. 25

(c) After section 9 (2), insert:

(2A) An entitlement that a person has under subsection (2) does not apply to that part of the official record that consists of the written reasons for an order until 7 days after the person has lodged a request at the registry, unless the order concerned was made in circumstances referred to in section 24. 30

(11) Section 34A:

After section 34, insert:

Reasons for certain tribunal orders etc.

34A. (1) There is to be noted on the official record of a tribunal in respect of a consumer claim the tribunal's reasons for: 35

Consumer Claims Tribunals (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

- 5 (a) any ruling given by the tribunal with respect to its jurisdiction to hear and decide the claim; and
- (b) any order made by the tribunal in respect of the claim (other than an interim or ancillary order made under section 30).
- (2) The reasons are to be as brief as is reasonably practicable in the particular case.

Explanatory note

- 10 Items (10) and (11) require a tribunal, when making certain orders or rulings, to record brief reasons for them. The reasons will form part of the official record of the claim. This requirement will apply to rulings as to jurisdiction and all orders (other than interim or ancillary orders).

- 15 The Act currently provides that a party to a consumer claim may inspect and obtain a copy of the official record of the claim. Provision is made in item (10) (c) requiring a party to give the registry 7 days' notice to inspect or obtain a copy of the written reasons for an order except where the order was made in the absence of a party or all parties to the claim. This will give the registry sufficient time to incorporate written reasons in the official record. Reasons for an order in a case where one party or all of
- 20 the parties were not present will have to be available as soon as possible so as not to disadvantage a party wishing to seek a rehearing.

Amendment: clarification of effect of orders made by a building disputes tribunal

- 25 (12) Section 12I (Power to make additional orders in favour of respondent):

At the end of section 12I, insert:

- (3) Orders under this section are considered to be orders under section 30.

Explanatory note

- 30 A consumer claims tribunal hearing a building claim (i.e. a claim arising under a residential building contract or arising from a supply of residential building goods or services) is known as a building disputes tribunal. Item (12) makes it clear that orders of a building disputes tribunal are to be treated (for enforcement and other purposes) in the same way as an order of any other consumer claims tribunal.

Consumer Claims Tribunals (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

Amendment: clarification of effect of tribunal orders

(13) Section 34:

Omit the section, insert instead:

Order of tribunal to be final

34. An order of a tribunal is final and binding on all parties to a consumer claim that is heard and determined by the tribunal and no appeal lies in respect of an order of the tribunal. However, this does not prevent a claim being renewed under section 36 and does not prevent a court granting relief or a remedy as referred to in section 12 (2).

Explanatory note

Item (13) makes it clear that while an order of the tribunal in respect of a consumer claim is final and binding on all the parties to the claim, it does not prevent a party from proceeding to renew a claim (under section 36) where the tribunal's order is not complied with.

It also does not prevent a party seeking relief from a court under section 12 (based on a dispute as to jurisdiction or denial of natural justice).

Amendment: payment of interest on monetary order of tribunal

(14) Section 35A:

After section 35, insert:

Interest payable on money ordered to be paid

35A. In the application of section 39 of the Local Courts (Civil Claims) Act 1970 to an order of a tribunal under this Act, subsection (3) of that section is not to apply.

Explanatory note

Currently, when a tribunal makes an order for the payment of money, the order can be enforced as a judgment of a local court. Generally, interest accrues on a local court judgment from the date the order is registered in the local court. However, if the debt is paid within 21 days of that date, no interest is payable. Item (14) provides that in the case of a tribunal order, interest is instead to accrue from the date the order is registered in the local court (i.e. the 21 days interest free period is not to apply to a tribunal order). Provision can already be made in a tribunal order for allowing time to pay.

*Consumer Claims Tribunals (Amendment) 1992*SCHEDULE 1—AMENDMENTS—*continued***Amendments: statute law revision**

(15) Section 35 (**Enforcement of orders to pay money**):

- 5 (a) Omit “registrar of a Local Court” wherever occurring, insert instead “Clerk of a Local Court”.
- (b) From section 35 (5), omit “registrar of that or another Local Court”, insert instead “Clerk of that or another Local Court”.

Explanatory note

- 10 Item (15) reflects the fact that all local courts have a Clerk but not necessarily a registrar.

Amendments: savings and transitional provisions

(16) Schedule 3 (**Savings and transitional provisions**):

- (a) Before clause 1, insert:

15

PART 1—PRELIMINARY**Savings and transitional regulations**

1A. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

20

Consumer Claims Tribunals (Amendment) Act 1992

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the date of assent of the Act concerned or a later day.

25

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

30

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or

- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

35

**PART 2—CONSUMER CLAIMS TRIBUNALS
ACT 1987**

Consumer Claims Tribunals (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

(b) Omit clause 11.

(c) At the end of Schedule 3, insert:

**PART 3—CONSUMER CLAIMS TRIBUNALS
(AMENDMENT) ACT 1992**

5

Meaning of “amending Act”

11. In this Part, “amending Act” means the Consumer Claims Tribunals (Amendment) Act 1992.

Extension of definition of “consumer”

12. The amendments made by Schedule 1 (1) of the amending Act do not apply to a consumer claim arising in respect of a matter that occurred before the commencement of the amendments.

10

Payment of interest on monetary order of tribunal

13. The amendment made by Schedule 1 (14) of the amending Act does not apply to orders made before the commencement of the amendment.

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CONSUMER CLAIMS TRIBUNALS (AMENDMENT) ACT 1992
No. 26

NEW SOUTH WALES



TABLE OF PROVISIONS

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Consumer Claims Tribunals (Amendment) 1992 Act No. 26

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CONSUMER CLAIMS TRIBUNALS (AMENDMENT) ACT 1992
No. 26

NEW SOUTH WALES



Act No. 26, 1992

An Act to amend the Consumer Claims Tribunals Act 1987 to make further provision with respect to the classes of persons who may make a consumer claim, the awarding of costs, interest on awards and administrative and procedural matters, and for other purposes. [Assented to 18 May 1992]

Consumer Claims Tribunals (Amendment) Act 1992 No. 26

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Consumer Claims Tribunals (Amendment) Act 1992.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Consumer Claims Tribunals Act 1987 No. 206

3. The Consumer Claims Tribunals Act 1987 is amended as set out in Schedule 1.

Explanatory notes

4. Matter appearing under the heading "Explanatory note" in Schedule 1 does not form part of this Act*.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

Amendments: extension of definition of "consumer"

(1) Section 3 (Definitions):

- (a) From paragraph (f) of the definition of "consumer" in section 3 (1), omit "or".
- (b) At the end of paragraph (g) of the definition of "consumer" in section 3 (1), insert:
 - ; or
 - (h) a company limited by guarantee (not being a company limited both by shares and by guarantee),

Explanatory note

Item (1) extends the definition of "consumer" to include companies limited by guarantee (companies whose members guarantee to contribute agreed amounts of money in the event the company is wound up). Such companies are currently not entitled to lodge a claim in a Consumer Claims Tribunal.

* The matter marked "+" in the explanatory notes was inserted after the introduction of the Bill in the Legislative Assembly to explain amendments to the Bill that were moved in Committee.

Consumer Claims Tribunals (Amendment) Act 1992 No. 26

SCHEDULE 1—AMENDMENTS—*continued*

Amendment: clarification of definition of “goods”

(2) Section 3 (Definitions):

From section 3 (1), omit the definition of “goods”, insert instead:

“goods” means any tangible thing that is or may be the subject of trade or commerce, but does not include money or an interest in land;

Explanatory note

Item (2) makes it clear that the definition of “goods” does not include interests in land.

Amendments: lodgment of claims and certain applications

(3) Section 3 (Definitions):

(a) In the definition of “registry” in section 3 (1) after “tribunals”, insert “, and any branch of that registry,”.

(b) At the end of section 3, insert:

(6) For the purposes of this Act, a decision of a taxing officer on a taxation of a solicitor’s bill of costs is (subject to any retaxation of the bill and subject to any review of the taxation of the bill by the Supreme Court) final and conclusive as to any matter determined by the taxing officer. Accordingly a tribunal has no jurisdiction in respect of any matter determined by the taxing officer.

(7) For the purposes of this Act, any issue to be determined in a taxation of a solicitor’s bill of costs is taken to be an issue the subject of a dispute in proceedings before a court and the taxing officer is taken to be a court.

(4) Section 7 (Registry of consumer claims tribunals):

At the end of section 7, insert:

(2) Branches of that registry may also be established and maintained. Any thing done at a branch is taken to have been done at the registry.

Consumer Claims Tribunals (Amendment) Act 1992 No. 26

SCHEDULE 1—AMENDMENTS—*continued*

- (5) Section 8 (**Registrar, deputy registrars and staff of tribunals**):
- (a) From section 8 (3), omit “a deputy registrar” insert instead “any person engaged in the administration of this Act”.
 - (b) From section 8 (3), omit “by this or any other Act”, insert instead “by or under this or any other Act”.
- (6) Section 9 (**Records**):
- (a) In section 9 (2) (a), after “claim” insert “or a copy of that record”.
 - (b) In section 9 (3), after “record” wherever occurring, insert “(or a copy of it)”.
- (7) Section 13 (**Making a consumer claim**):
- (a) From section 13 (1), omit “lodge with the registrar of consumer claim tribunals or the registrar of a Local Court”, insert instead “lodge at the registry or at a Local Court”.
 - (b) From section 13 (2), omit “the registrar of consumer claims tribunals or the registrar of a Local Court”, insert instead “staff of the registry or of a Local Court”.
 - (c) From section 13 (3), omit “lodged with the registrar of a Local Court, that registrar”, insert instead “lodged at a Local Court, the Clerk of the Local Court”.
- (8) Section 25 (**Rehearing of certain consumer claims**):
- From section 25 (1), omit “made to the registrar”, insert instead “lodged at the registry”.
- (9) Section 36 (**Enforcement of other tribunal orders**):
- From section 36 (4), omit “lodging with the registrar”, insert instead “lodging at the registry”.

Explanatory note

Items (3) and (4) allow branches of the registry of consumer claims tribunals to be established.

Currently the Act allows the registrar to delegate to a deputy registrar. Item (5) extends this power by allowing the registrar to delegate to any person involved in the administration of the Act. Item (6) is consequential on the creation of registry branches. It provides for a copy of the official record of a claim to be made available for inspection by a party to the claim (since the original record will not be available at all registry branches).

Consumer Claims Tribunals (Amendment) Act 1992 No. 26

SCHEDULE 1—AMENDMENTS—*continued*

†Item (3) (b) inserts two new provisions relating to consumer claims that involve solicitors' bills of costs. Proposed section 3 (6) makes it clear that a consumer claims tribunal cannot review any matter already determined on a taxation of a solicitor's bill of costs (such as the reasonableness of a solicitor's charges). Proposed section 3 (7) operates to equate the taxation of a solicitor's bill of costs with a dispute in court proceedings so that the current provisions of the Act relating to the overlap of the jurisdiction of consumer claims tribunals with that of courts will apply to proceedings on a taxation of a bill of costs: the effect of this will be that if a taxation of a bill of costs is pending, a consumer claims tribunal cannot hear a claim on the matter and if a consumer claim on a bill of costs is pending before a tribunal, a taxation of the bill of costs cannot be dealt with.

Item (7) revises the provisions dealing with the lodgment of claims to make it clear that lodging a claim at the registry (or a branch registry) or a local court does not require the personal involvement of a registrar, i.e. lodging it with counter staff is sufficient.

Items (8) and (9) are consequential on items (3)–(5) and (7).

Amendments: written reasons for tribunal's decision to be provided

(10) Section 9 (**Records**):

- (a) From section 9 (1) (c), omit "claim; and", insert instead "claim;".
- (b) At the end of section 9 (1) (d), insert:
; and
- (e) the written reasons required to be noted on the official record in respect of the claim under section 34A.
- (c) After section 9 (2), insert:
(2A) An entitlement that a person has under subsection (2) does not apply to that part of the official record that consists of the written reasons for an order until 7 days after the person has lodged a request at the registry, unless the order concerned was made in circumstances referred to in section 24.

(11) Section 34A:

After section 34, insert:

Reasons for certain tribunal orders etc.

34A. (1) There is to be noted on the official record of a tribunal in respect of a consumer claim the tribunal's reasons for:

Consumer Claims Tribunals (Amendment) Act 1992 No. 26

SCHEDULE 1—AMENDMENTS—*continued*

- (a) any ruling given by the tribunal with respect to its jurisdiction to hear and decide the claim; and
 - (b) any order made by the tribunal in respect of the claim (other than an interim or ancillary order made under section 30).
- (2) The reasons are to be as brief as is reasonably practicable in the particular case.

Explanatory note

Items (10) and (11) require a tribunal, when making certain orders or rulings, to record brief reasons for them. The reasons will form part of the official record of the claim. This requirement will apply to rulings as to jurisdiction and all orders (other than interim or ancillary orders).

The Act currently provides that a party to a consumer claim may inspect and obtain a copy of the official record of the claim. Provision is made in item (10) (c) requiring a party to give the registry 7 days' notice to inspect or obtain a copy of the written reasons for an order except where the order was made in the absence of a party or all parties to the claim. This will give the registry sufficient time to incorporate written reasons in the official record. Reasons for an order in a case where one party or all of the parties were not present will have to be available as soon as possible so as not to disadvantage a party wishing to seek a rehearing.

Amendment: clarification of effect of orders made by a building disputes tribunal

- (12) Section 12I (**Power to make additional orders in favour of respondent**):

At the end of section 12I, insert:

- (3) Orders under this section are considered to be orders under section 30.

Explanatory note

A consumer claims tribunal hearing a building claim (i.e. a claim arising under a residential building contract or arising from a supply of residential building goods or services) is known as a building disputes tribunal. Item (12) makes it clear that orders of a building disputes tribunal are to be treated (for enforcement and other purposes) in the same way as an order of any other consumer claims tribunal.

Consumer Claims Tribunals (Amendment) Act 1992 No. 26

SCHEDULE 1—AMENDMENTS—*continued*

Amendment: clarification of effect of tribunal orders

(13) Section 34:

Omit the section, insert instead:

Order of tribunal to be final

34. An order of a tribunal is final and binding on all parties to a consumer claim that is heard and determined by the tribunal and no appeal lies in respect of an order of the tribunal. However, this does not prevent a claim being renewed under section 36 and does not prevent a court granting relief or a remedy as referred to in section 12 (2).

Explanatory note

Item (13) makes it clear that while an order of the tribunal in respect of a consumer claim is final and binding on all the parties to the claim, it does not prevent a party from proceeding to renew a claim (under section 36) where the tribunal's order is not complied with.

It also does not prevent a party seeking relief from a court under section 12 (based on a dispute as to jurisdiction or denial of natural justice).

Amendment: payment of interest on monetary order of tribunal

(14) Section 35A:

After section 35, insert:

Interest payable on money ordered to be paid

35A. In the application of section 39 of the Local Courts (Civil Claims) Act 1970 to an order of a tribunal under this Act, subsection (3) of that section is not to apply.

Explanatory note

Currently, when a tribunal makes an order for the payment of money, the order can be enforced as a judgment of a local court. Generally, interest accrues on a local court judgment from the date the order is registered in the local court. However, if the debt is paid within 21 days of that date, no interest is payable. Item (14) provides that in the case of a tribunal order, interest is instead to accrue from the date the order is registered in the local court (i.e. the 21 days interest free period is not to apply to a tribunal order). Provision can already be made in a tribunal order for allowing time to pay.

Consumer Claims Tribunals (Amendment) Act 1992 No. 26

SCHEDULE 1—AMENDMENTS—*continued*

Amendments: statute law revision

- (15) Section 35 (**Enforcement of orders to pay money**):
- (a) Omit “registrar of a Local Court” wherever occurring, insert instead “Clerk of a Local Court”.
 - (b) From section 35 (5), omit “registrar of that or another Local Court”, insert instead “Clerk of that or another Local Court”.

Explanatory note

Item (15) reflects the fact that all local courts have a Clerk but not necessarily a registrar.

Amendments: savings and transitional provisions

- (16) Schedule 3 (**Savings and transitional provisions**):
- (a) Before clause 1, insert:

PART 1—PRELIMINARY

Savings and transitional regulations

1A. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Consumer Claims Tribunals (Amendment) Act 1992

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the date of assent of the Act concerned or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

**PART 2—CONSUMER CLAIMS TRIBUNALS
ACT 1987**

Consumer Claims Tribunals (Amendment) Act 1992 No. 26

SCHEDULE 1—AMENDMENTS—*continued*

- (b) Omit clause 11.
(c) At the end of Schedule 3, insert:

**PART 3—CONSUMER CLAIMS TRIBUNALS
(AMENDMENT) ACT 1992**

Meaning of “amending Act”

11. In this Part, “amending Act” means the Consumer Claims Tribunals (Amendment) Act 1992.

Extension of definition of “consumer”

12. The amendments made by Schedule 1 (1) of the amending Act do not apply to a consumer claim arising in respect of a matter that occurred before the commencement of the amendments.

Payment of interest on monetary order of tribunal

13. The amendment made by Schedule 1 (14) of the amending Act does not apply to orders made before the commencement of the amendment.

[Minister's second reading speech made in—
Legislative Assembly on 29 April 1992
Legislative Council on 7 May 1992]

