

壹、亞太地區

1987 年第 206 號澳洲消費者申訴仲裁庭條例

依 1972 年重印條例重印

[1992 年 9 月 14 日重印]

新南威爾斯

本條例係規定消費者申訴仲裁庭之組成、界定該仲裁庭之管轄及職權並規定相關事項，以替代一九七四年消費者申訴仲裁庭條例與其他特定法律。

第 1 部份 法例

簡稱

1. 本條例名稱為一九八七年消費者申訴仲裁庭條例。

施行日

2. 本條例應自公布指定施行之日起生效。

定義

3. (1) 於本條例中：

「銀行業者」包括營建資金互助合作社、信用合作社及其他從事銀行通常業務之人。

CONSUMER CLAIMS TRIBUNALS ACT 1987 No.206

Reprinted under the Reprints Act 1972

[Reprinted as at 14 September 1992]

NEW SOUTH WALES

An Act to provide for the constitution of consumer claims tribunals, to define their jurisdiction and functions, to provide for related matters, and to repeal the Consumer Claims Tribunals Act 1974 and certain other enactments.

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the Consumer claims Tribunals Act 1987.

Commencement

2. This Act shall commence on a day to be appointed by proclamation.

Definitions

3. (1) In this Act:

“banker” includes a building society, credit union and any other person who carries on the ordinary business of banking;

「營建糾紛仲裁庭」指如第三 A 部份所定審理並判斷營建申訴事件之消費者申訴仲裁庭。

「事業」包括：

- (a) 以非營利為目的之事業。
- (b) 一行業或職業。

「申訴人」指依第 13 條規定提起消費者申訴訴訟或依第 14 條規定被列為參加申訴之人。

「局長」指依一九八七年公平交易法第六條規定任命之消費者事務局局長。

「消費者」指：

- (a) 自然人。
- (b) 商號。
- (c) 免稅公營公司。
- (d) 依一九七三年土地多層權利法或一九八六年土地多層權利（租賃）法所設立之法人。
- (e) 擁有土地上權利且就各公司股東就建造於該土地上之建物之一部或數部份依租賃或許可而佔有之權利訂有章程或組織規章之公司。
- (f) 法人社團。
- (g) 由為共同目的之會員所組成之非法人團體。
- (h) 有限公司（非股份有限公司）等

不論依契約與否，經供應人提供或同意提供貨品或服務之人，或與供應人訂定依附隨於貨品或服務提供契約之契約之人；

“building disputes tribunal” means a consumer claims tribunal which hears and determines a building claim, as referred to in Part 3A;

“business” includes:

- (a) a business not carried on for profit; and
- (b) a trade or profession;

“claimant” means a consumer who has lodged a consumer claim in accordance with section 13 or who is joined as a claimant in accordance with section 14;

“Commissioner” means the Commissioner for Consumer Affairs holding office under section 6 of the Fair Trading Act 1987;

“consumer” means:

- (a) a natural person;
- (b) a Firm;
- (c) an exempt proprietary company;
- (d) a body corporate constituted under the Strata Titles Act 1973 or under the Strata Titles (Leasehold) Act 1986;
- (e) 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 a right to occupy under a lease or licence a part or parts of a building erected on the land;
- (f) an incorporated association;
- (g) an unincorporated body whose members are associated for a common purpose; or
- (h) a company limited by guarantee (not being a company limited both by shares and by guarantee), to whom or to which a supplier has supplied or agreed to supply goods or services, whether under a contract or not, or

「消費者請求」指：

- (a) 消費者就特定金額之給付所為之金錢請求。
- (b) 消費者就特定服務之提供所為之請求。
- (c) 消費者就免除定額金錢給付義務所為之請求。
- (d) 消費者就特定貨品或特定規格之貨品之交付、退還或更換所為之請求。
- (e) 消費者就上述(a)款至(d)款規定之任二種或以上救濟合併所為之請求，
而係因一供應人對該消費者，不論依契約與否，為貨品或服務之提供而生者、或因一附隨於貨品或服務提供契約之依契約而生者；

「副書記長」指依本法擔任消費者申訴副書記長職務之人。

「商號」之定義同於一八九二年合夥事業法之規定。

「貨品」指任何為或得為交易或商業標的之有形物，但不包括金錢或土地上之利益。

「當事人」指於消費者申訴中，申訴人或被申訴人。

「仲裁人」指依本條例擔任消費者申訴仲裁庭仲裁人職務之人。

「書記長」指依本條例擔任消費者申訴仲裁庭書記長職務之人。

with whom or which a supplier has entered into a contract that is collateral to a contract for the supply of goods or services;

“consumer claim” means:

- (a) a claim by a consumer for the payment of a specified sum of money;
- (b) a claim by a consumer for the supply of specified services;
- (c) a claim by a consumer for relief from payment of a specified sum of money;
- (d) a claim by a consumer for the delivery, return or replacement of specified goods or goods of a specified description ; or
- (e) a claim by a consumer for a combination of 2 or more of the remedies referred to in paragraphs (a)-(d).

that arises from a supply of goods or services by a supplier to the consumer, whether under a contract or not, or that arises under a contract that is collateral to a contract for the supply of goods or services;

“deputy registrar” means a person who is holding office under this Act as a deputy registrar of consumer claims;

“firm” has the same meaning as it has in the Partnership Act 1892;

“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;

“party”, in relation to a consumer claim, means a claimant or a respondent to the claim;

“referee” means a person who is holding office under this Act as a referee of consumer claims tribunals;

“registrar” means the person who is holding office under this Act as the registrar of consumer claims tribunals;

「書記處」指依本條例設立並維持之消費者申訴仲裁庭書記處或其之分支機關。

「舊條例」指本條例施行前有效之一九七四年消費者申訴仲裁庭條例；

「被申訴人」指就消費者申訴言，依第 14 條規定受送達該申訴之人，而非依該條規定參加而成為申訴人之人。

「資深仲裁人」指依本條例擔任消費者申訴仲裁庭資深仲裁人職務之人，或於僅有一名仲裁人時，即指擔任該職務之人。

「服務」包括交易或商務中所提供、讓與或授與或將提供、讓與或授與之任何權利（包括關於財產之權益）、利益、特殊權利或便利，於不受前述通稱之限制，並包括：

- (a) 工作履行（包括專門職業性質之工作），不論是否有提供貨品均屬之。
- (b) 瓦斯或電力供應或其他任何型態之能源供應。
- (c) 為供消遣、娛樂、休閒或教育目的而為設施之提供或提供其使用此類設施之便利。
- (d) 供渡假或休閒目的而為場所之租賃。
- (e) 以權利金、獻金、稅捐或類似收費方式為代價而為權利、利益或特殊權利之有償授與。
- (f) 保險之提供（但不包括人壽保險之提供）。

“reglstry” means the registry of consumer claims tribunals, and any branch of that registry, established and maintained under this Act;

“repealed Act” means the Consumer Claims Tribunals Act 1974 as in force immediately before the commencement of this Act;

“respondent”, in relation to a consumer claim, means a person on whom a notice of the claim has been served under section 14, other than a person joined as a claimant in accordance with that section;

“senior referee” means the person holding office under this Act as the senior referee of consumer claims tribunals or, if there is for the time being only one referee, means the person holding office as such;

“services” includes any rights (including rights in relation to, and interests in, property), benefits, privileges or facilities that are, or are to be, provided, granted or conferred in trade or commerce and, without limiting the generality of the foregoing, includes:

- (a) the performancce of work (including work of a professional nature), whether with or without the supply of goods;
- (b) the provision of goas or electricity or the provision of any other form of energy;
- (c) the provision, or the making available for use, of facilities for amusement, entertainment, rccreation or instruction;
- (d) the leting of premises for vacation or recreational purposes;
- (e) the conferring of rights, benefits or privileges for which remuneration is payable in the form of a royalty, tribute, levy or similar exaction;
- (f) the provision of insurance cover (but not assurance cover

(g) 銀錢業與該銀錢業之客戶之間於該銀錢業營業過程中所訂定之契約。

(h) 依第 10 條第(4)項規定之信用授與。

但不包括基於僱傭契約，以貨物提供或工作履行為內容之權利或利益。

「供應人」指於業務推動時或為推動業務時，提供貨品或服務之人。

「供應」

(a) 就貨品言，包括依買賣、互易、租賃、使用或分期付款買賣貨品契約所為貨品之供應、或主張以此一契約名義所為之貨品之供應。

(b) 就服務言，包括依契約有償或依此契約名義所為有償供應、讓與或提供服務。

「交易或商務」包括任何營業或職業之活動。

「仲裁庭」指依本條例組成之消費者申訴仲裁庭。

(2) 本條例中

(a) 關於貨物之供應，包括其再供應。

(b) 貨物之供應，包括同意供應其貨品。

(c) 服務之提供，包括同意提供其服務。

in respect of a person's life;

(g) a contract between a banker and a customer of the banker entered into in the course of the carrying on by the banker of the business of banking; and

(h) subject to section 10 (4), the provision of credit.

But does not include rights or benefits being the supply of goods or the performance of work under a contract of employment;

“supplier” means a person who, in the course of carrying on, or purporting to carry on, a business, supplies goods or services;

“supply”

(a) in relation to goods, includes supply goods by way of a contract for the sale, exchange, lease, hire or hire-purchase of goods or an alleged contract for the sale, exchange, lease, hire or hire-purchase of goods; and

(b) in relation to services, includes provide, grant or render services for valuable consideration under a contract or for valuable consideration claimed to have been agreed to under an alleged contract;

“trade or commerce” includes any business or professional activity;

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

(2) In this Act:

(a) a reference to supply in relation to goods includes a reference to resupply;

(b) a reference to the supply of goods includes a reference to agreeing to supply goods;

(c) a reference to the supply of services includes a reference to agreeing to supply services;

- (d) 貨物之提供，包括貨品連同服務之提供。
- (e) 服務之提供，包括提供服務並附帶提供貨品。
- (3) 本條例中，免稅公營公司、外國公司或認許設立公司，係指（新南威爾斯）公司法第 5 條所界定之公司。
- (4) 本條例中
 - (a) 職責包括權力、職權及職務上之義務。
 - (b) 當職責屬職務上義務之性質時，所盡職責包括該義務之履行。
- (5) 關於本條例之目的，主張自己為消費者之人，除有反證外，應推定其係具消費者身分。且，於任何法律程序（包括仲裁程序）中，主張其不具消費者身分之舉證責任，應由相反主張之人負擔。
- (6) 關於本條例之目的，稅務官員就律師之費用帳單所為之課稅決定（除得為重新課徵並得由最高法院對該帳單之課稅為審查外），與其他由稅務官員決定之事項一般，具終局及確定效力。因此，有關任何由稅務官員所決定之事項，仲裁庭無管轄權。
- (7) 關於本條例之目的，任何於律師之費用帳單之課稅案件中決定爭點，將視同法庭爭訟程序中之主要爭點，且該稅務官員將視同法院。

- (d) a reference to the supply of goods includes a reference to the supply of goods together with services; and
- (e) a reference to the supply of services includes a reference to the supply of services together with goods.
- (3) In this Act, a reference to an exempt proprietary company, a foreign company or a recognised company is a reference to such a company as defined in section 5 of the Companies (New South Wales) Code.
- (4) In this Act:
 - (a) a reference to a function includes a reference to a power, authority and duty; and
 - (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.
- (5) For the purposes of this Act, a person who claims to be a consumer shall be presumed to be such until the contrary is proved and, in any legal proceedings (including proceedings before a tribunal), the onus of proving that a person who claims to be a consumer is not a consumer is on the party who seeks establish that fact.
- (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

第 2 部份 消費者申訴仲裁庭

仲裁人之任命

4. (1) 省長得任命仲裁庭之仲裁人。
- (2) 依前項所任命之人得被任命為全職仲裁人或兼職仲裁人。
- (3) 若有二人以上同時擔任或即將擔任仲裁人職務者，省長必須於任命時或嗣後，以聘書任命其中一人為資深仲裁人。
- (4) 附則一就仲裁人有拘束力。

營建糾紛仲裁人之指定

- 4A.(1) 被任命為仲裁人中，至少有一人應被指定為營建糾紛仲裁人。
- (2) 前項指定應於任命該人為仲裁人之任命中或嗣後以命令方式，由省長為之。
- (3) 未經廳長推薦，不得被指定為營建糾紛仲裁人，且廳長除確信該人對營建業具豐富經驗外，不得為此推薦。
- (4) 為此推薦前，廳長應：
 - (a) 就此事項向資深仲裁人、營建服務公司、新南威爾斯重大營建工程協會及（新南威爾斯）房屋業協會等徵詢意見。

officer is taken to be a court.

PART 2 – CONSUMER CLAIMS TRIBUNALS

Appointment of referees

4. (1) The Governor may appoint persons to be referees of tribunals.
- (2) A person appointed under subsection (1) may be appointed as a full-time referee or as a part-time referee.
- (3) If 2 or more persons hold or are to hold office as referees at the same time, the Governor must appoint one of them, either in the person's instrument of appointment or in a later instrument, to be the senior referee.
- (4) Schedule 1 has effect with respect to referees.

Nomination of building dispute referees

- 4A.(1) At least one of the persons appointed as a referee is to be nominated as a building dispute referee.
- (2) The nomination is to be made by the instrument of appointment of the person as a referee or by a subsequent instrument executed by the Governor.
- (3) A person is not to be nominated as a building dispute referee except on the recommendation of the Minister and the Minister is not to recommend a person unless satisfied that the person has extensive experience in the building industry.
- (4) Before making such a recommendation, the Minister:
 - (a) is to seek advice on the matter from the senior referee, the Building Services Corporation, the Master Builders' Association of New South Wales and the housing Industry Association (New South Wales); and

(b) 就廳長為前項意見徵詢所定期間內所取得之任何意見，應加以考量。

(5) 營建申訴仲裁人不因某一案件非屬營建申訴，即不得就該申訴為審理及判斷。

仲裁庭之組成

5. (1) 仲裁庭由一仲裁人獨任之。

(2) 資深仲裁人得於新南威爾斯省任何地點，組成仲裁庭就消費者申訴案件加以審理並判斷之。

(3) 若有二人以上同時擔任仲裁人職務者，資深仲裁人有義務指定應由其中某一名仲裁人組成仲裁庭就某消費者申訴案件加以審理並判斷之。

仲裁庭之庭期

6. 仲裁庭之開庭之地點及庭期應由資深仲裁人決定之。

消費者申訴仲裁庭之書記處

7. (1) 關於本法之目的，應設立並維持消費者申訴仲裁庭書記處。

(2) 書記處亦得設立並維持分支辦事處。由分支辦事處所為之任何事項，視同該書記處所為一般。

書記長、副書記長及仲裁庭職員

8. (1) 消費者申訴仲裁庭之書記長及副書記長與其他執行仲裁庭職務為目的所需之人員，應依一九七九年公職人員法規定任命之。

(2) 書記長及副書記長負有依本法或其他法律或資深仲裁人所授與或

(b) is to take into consideration any advice received by the Minister within the period specified by the Minister when seeking the advice.

(5) A building claim referee is not prevented from hearing and determining a claim merely because it is not a building claim.

Constitution of tribunals

5. (1) A tribunal is constituted by a referee sitting alone.

(2) The senior referee may constitute a tribunal to hear and determine consumer claims anywhere in New South Wales.

(3) If 2 or more persons hold office as referees at the same time, the senior referee has the duty of deciding which of those persons will constitute a tribunal to hear and determine a consumer claim.

Sittings of tribunals

6. A tribunal shall sit at such place and on such day or days as the senior referee decides.

Registry of consumer claims tribunals

7. (1) For the purposes of this Act, there shall be established and maintained a registry of consumer claims tribunals.

(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.

Registrar, deputy registrars and staff of tribunals

8. (1) A registrar and deputy registrars of consumer claims tribunals and such other persons as may be required for the proper functioning of tribunals shall be appointed in accordance with the Public Service Act 1979.

(2) The registrar has, and deputy registrars have, such functions as

規定之職權。

- (3) 書記長得授權任何人，依書記長認為適當之限制及條件，履行書記長依本法或其他法律所授與之職權（但本項規定之授權權力不得更行再授權）。

- (4) 資深仲裁人得：

- (a) 經廳長之許可，
- (b) 依公職人員行政局規定之事項及條件，

徵用政府部門、行政辦公室或公務主管機關之人員服務或設施。

紀錄

9. (1) 仲裁庭審理並判斷有關消費者申訴之正式紀錄包括：

- (a) 由申訴人提起之申訴書。
- (b) 由仲裁庭審理該申訴過程中發現並記錄爭點性質之簡錄。
- (c) 由仲裁庭審理並判斷該申訴案件之管轄權所為之任何裁定。
- (d) 由仲裁庭就該申訴案件所為之命令。
- (e) 關於依第 34A 條規定應記明於申訴案件正式記錄之書面理由。

- (2) 於書記處任何辦公時間內，消費者申訴案件之任何一方當事人有權：

are conferred or imposed on the registrar or deputy registrars by or under this or any other Act or by the senior referee.

- (3) The registrar may delegate to any person engaged in the administration of this Act, with such limitations and on such conditions as the registrar thinks fit, the exercise of such functions as are conferred on the registrar by or under this or any other Act (other than the power of delegation conferred by this subsection).

- (4) The senior referee may:

- (a) with the approval of the Minister, and
- (b) on such terms and conditions as may be approved by the Public Service Board.

arrange for the use of the services of any staff or facilities of a government department, administrative office or public authority.

Records

9. (1) The official record of a tribunal in respect of a consumer claim that it has heard and determined consists of:

- (a) the claim as lodged by the claimant;
- (b) the notation of the nature of the issues in dispute as found and recorded by the tribunal in the course of the hearing of the claim;
- (c) any ruling given by the tribunal with respect to its jurisdiction to hear and decide the claim;
- (d) any order made by the tribunal in respect of the claim; and
- (e) the written reasons required to be noted on the official record in respect of the claim under section 34A.

- (2) At any time while the registry is required to be open for business, each of the parties to a consumer claim is entitled:

- (a) 免費查閱有關於該案之正式紀錄或該記錄之副本。
- (b) 支付規定之規費，以取得該記錄全部或一部之副本。
- (2A) 當事人欲查閱正式紀錄中有關命令之書面理由部份，非經向書記處提出聲請七日後，不得行使第(2)項規定之權利。但依第 24 條規定情形所發命令不在此限。
- (3) 若正式紀錄（或其副本）因任何原因而無法提供予欲行使第(2)項規定權利之人者，書記長依該當事人之聲請，應採取實際措施儘速取得該記錄（或其副本），以俾使該當事人得以行使其權利。
- (4) 若任何與消費者申訴案件有關之事項提呈至法院者，書記長依法院或任何一方涉案當事人之請求，應將該申訴案件有關之正式紀錄免費提供給法院。
- (5) 局長有權以無償方式：
 - (a) 查閱與消費者申訴案件有關之正式紀錄。
 - (b) 取得該紀錄全部或一部之副本。
 - (c) 於消費者申訴案件經仲裁庭決定而確定後，查閱任何與該申訴案件之審理或判斷有關，而未包含於該申訴案件正式紀錄中之文件。
- (6) 局長有權依第(5)項規定從查閱之紀錄或文件中取得之資訊，包括於任何局長依法應準備或出版（或得準備或出版）之任何報告或文件中。

- (a) to inspect, without charge, the official record relating to the claim or a copy of that record; and
- (b) on payment of the prescribed fee (if any), to obtain a copy of that record or of any part of it,
- (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.
- (3) If, for any reason, an official record (or a copy of it) cannot be made available to a person who seeks to exercise a right conferred by subsection (2), the registrar must, if requested to do so by that person, take all practicable steps to obtain as soon as possible the record (or a copy of it) so as to enable that person to exercise the right.
- (4) If any matter concerning a consumer claim comes before a court, the registrar must, if requested to do by the court or any of the parties concerned, make the official record relating to the claim available for production to the court without charge.
- (5) The Commissioner is entitled, without charge:
 - (a) to inspect the official record relating to a consumer claim;
 - (b) to obtain a copy of that record or of any part of it; and
 - (c) after a consumer claim has been finally determined by a tribunal, to inspect any document relating to the hearing or determination of the claim that is not included in the official record relating to the claim.
- (6) The Commissioner is entitled to include in any report or other document that the Commissioner is required or permitted by law to prepare or publish any information obtained from a

- (7) 除本條規定者外，任何人無權查閱或取得與消費者申訴案件有關之任何正式紀錄或其他文件之副本。

第 3 部份 仲裁庭之管轄權

管轄權

10. (1) 仲裁庭對依本法交付該仲裁庭之任何消費者申訴案件，有依本法規定審理並判斷之管轄權。
- (2) 除本條第(3)項及第(4)項規定外，仲裁庭就消費者申訴案件，不論該申訴所涉及之事件係發生於本法施行前或施行後者，皆有管轄權。
- (3) 仲裁庭有下列情形之一時，就消費者申訴案件無管轄權：
- (a) 關於已提供貨品或服務予申訴人之消費者申訴案件，自為給付之日起，或於分期給付情形，自最後一次給付之日起。
- (b) 關於依契約應於特定期日或特定期間提供貨品或服務予申訴人而未提供之消費者申訴案件，依契約應為給付之日起。

record or document inspected in accordance with subsection (5).

- (7) A person is not entitled to inspect or obtain a copy of any official record or other document relating to a consumer claim except as provided by this section.

PART 3—JURISDICTION OF TRIBUNALS

Jurisdiction.

- 10.(1) Subject to this Act, a tribunal has jurisdiction to hear and determine any consumer claim referred to it in accordance with this Act.
- (2) Subject to subsection (3) and (4), a tribunal has jurisdiction in respect of a consumer claim whether or not the matter to which the claim relates arose before or after the commencement of this Act.
- (3) A tribunal does not have jurisdiction in respect of a consumer claim if:
- (a) in the case of a consumer claim relating to goods or services that have been supplied to or for the claimant, the date on which the supply was made or, if made in instalments, the date on which the supply was last made;
- (b) in the case of a consumer claim relating to goods or services which are required under a contract to be supplied to or for the claimant on or by a specified date or within a specified period but which have not been so supplied, the date on or by which the supply was required under the contract to be made; or

(c) 消費者申訴案件係關於：

i. 供應第(a)款或第(b)款規定外之貨品或服務之契約。

ii. 附約者。

於契約訂定之日起，至依本條例第 13 條規定或舊條例第 13 條規定提起之日止，已逾三年者。

(4) 依一九八四年信用法規定提供信用所生之事件，或依同法規定得決定提供信用之事件，除該法明定應適用本條之外，不屬仲裁庭管轄。

於特定案件中仲裁庭以外機構無管轄權

11. (1) 本條所稱之法院，係指下述情形之法院、仲裁庭、局、其他機構或個人：

(a) 依其他法律授權，

(b) 二人以上依契約或其合意而有權，

經由仲裁、調解或其他途徑，決定或解決係爭問題者。但並非指：

(c) 關於特定事件依法有權對違法不當之行為，或經證明與該事件相關之違規行為，課予刑罰、訓誡或其他制裁，但就該事件無權給與或命令補償或損害賠償之法院、仲裁庭、局、機構或個人。

(c) in the case of a consumer claim relating to:

(i) a contract for the supply of goods or services to which neither paragraph (a) or (b) applies; or

(ii) a collateral contract,

the date on which the contract was entered into, was more than 3 years before the date on which the claim was lodged in accordance with section 13 of this Act or section 13 of the repealed Act.

(4) If a matter relating to the provision of credit arises or could be determined under the Credit Act 1984, that matter is not within the jurisdiction of a tribunal unless the provision of that Act under which the matter arises or could be determined is a provision prescribed for the purposes of this section.

Other jurisdictions excluded in some cases

11.(1) In this section, a reference to a court is a reference to a court, tribunal, board or other body or person which or who:

(a) is empowered under any other Act; or

(b) by agreement between or the consent of 2 or more persons, has authority,

to decide or resolve, whether through arbitration or conciliation or any other means, any issue that is in dispute, but such a reference does not include a reference:

(c) to a court, tribunal, board, body or person which or who, in relation to a particular matter, is empowered by law to impose a penalty, admonition or other sanction for a contravention of a law or for misconduct or breach of discipline proved to have been committed in connection with that matter but is not empowered to award or order compensation or damages in respect of that matter; or

(d) 本款特別指定或屬其特定類別之法院、仲裁庭、局、機構或個人。

(2) 若

(a) 依第 13 條規定已提起消費者申訴。

(b) 於提起此申訴時，其同一原因事實非係屬於法院審理中者，法院對此申訴之原因事實無審理或判斷之管轄權。
除非：

(c) 該申訴或其中與該爭點有關之部份：

i. 已撤回。

ii. 因欠缺管轄權而遭不受理決定者。

(d) 建檔法院於司法覆核中，以仲裁庭無管轄權為由，曾經撤銷仲裁庭就申訴案件所為之命令、決定或裁定，或曾宣告其為無效。

(3) 若

(a) 依第 13 條規定已提起消費者申訴。

(b) 於提起此申訴時，其同一原因事實案件已係屬於法院審理中者，仲裁庭於知悉有上開法院訴訟案件，其審理、判斷該申訴案件之管轄權即行終止。
除非：

(c) 該訴訟程序或其中與該爭點有關之部份：

i. 已撤回。

ii. 被繫屬法院或上訴法院以無管轄權為理由或未經實體判

(d) to a court, tribunal, board, body or person which or who is prescribed, or belongs to a class which or who is prescribed, for the purposes of this paragraph.

(2) If:

(a) a consumer claim has been lodged in accordance with section 13; and

(b) at the time when the claim was so lodged, no issue arising under the claim was the subject of a dispute in proceedings pending before a court, a court has no jurisdiction to hear or determine such an issue, unless:

(c) the claim, or the part of the claim to which the issue relates:

(i) is withdrawn; or

(ii) is dismissed for want of jurisdiction; or

(d) a court of record has, on a judicial review, quashed or declared invalid an order, determination or ruling of a tribunal made in respect of the claim on the ground that the tribunal had no jurisdiction to hear and determine the issue.

(3) If:

(a) a consumer claim has been lodged in accordance with section 13; and

(b) at the time when the claim was so lodged, an issue arising under the claim was the subject of a dispute in proceedings pending before a court, the tribunal, on becoming aware of those proceedings, ceases to have jurisdiction to hear or determine the issue, unless:

(c) those proceedings, or the part of the proceedings relating to the issue, are or is:

(i) withdrawn; or

(ii) dismissed by the court, or by another court on appeal in

決駁回者。

(d) 建檔法院於司法覆核中，撤銷或宣告其為無效：

- i. 該訴訟程序或其中該部份之程序。
- ii. 任何與該爭點有關而於訴訟程序中所為之命令、裁判或決定，而係前第一審法院無審理及判斷爭點之管轄權為理由者。

(4) 關於第(2)項規定之目的，僅於爭點在申訴中顯現或於仲裁庭依第9條第(1)項第(b)款規定製作之紀錄中記載時，始依本條例規定向仲裁庭提出消費者申訴中有此爭點發生。

(5) 第(1)項第(c)款或第(d)款規定所稱法院、仲裁庭、局、機構或個人所為之認定或決定，於仲裁庭審理消費者申訴時，得作為其認定或決定之證據。

仲裁庭免受司法覆核

12. (1) 除第(2)項規定外，建檔法院無權以下列方式：

- (a) 具禁止、訓示、移送命令或其他豁免令狀性質之裁判或命令，
- (b) 宣示性裁判或命令，
- (c) 禁制命令，

就仲裁庭依本條例審理並判斷或將審理或判斷之消費者申訴，或與該申訴有關之裁定、命令或其他程序提供救濟。

those proceedings, for want of jurisdiction or without deciding the issue on its merits; or

(d) a court of record has, on a judicial review, quashed or declared invalid:

- (i) those proceedings or that part of those proceedings; or
- (ii) any order, judgment or decision made in those proceedings in relation to the issue, on the ground that the first-mentioned court had no jurisdiction to hear and determine the issue.

(4) For the purposes of subsection (2), an issue arises under a consumer claim made to a tribunal in accordance with this Act only if the existence of the issue is shown in the claim or is recorded in the record made by the tribunal in accordance with section 9 (1) (b).

(5) At a hearing of a consumer claim by a tribunal, a finding or decision made by a court, tribunal, board, body or person referred to in subsection (1) (c) or (d) is admissible as evidence of the finding or decision.

Tribunal to be immune from judicial review

12. (1) Except as provided by subsection (2), a court of record has no jurisdiction to grant relief or a remedy 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 consumer claim heard and determined or to be heard or determined by a tribunal in accordance with this Act or in respect of any ruling, order or other proceeding relating to such a claim.

(2) 消費者申訴有下列情形之一時，法院得給予第(1)項之救濟：

(a) 仲裁庭已依第 26 條規定做成裁定，或經該申訴之一方當事人就該仲裁庭審理並判斷該案件之管轄權為爭執後，拒絕或未為此等裁定時，且其請求該救濟之理由為：

- i. 該裁定係屬錯誤。
- ii. 該仲裁庭於其管轄權經爭執後，誤地拒絕或未為該裁定。

(b) 仲裁庭已依第 30 條規定下達一命令，且請求救濟之理由為：

- i. 該仲裁庭無權下達該命令。
- ii. 關於申訴之審理或判斷，該申訴之一方當事人之自然正義曾受否定。

第 3A 部份 營建糾紛申訴

定義

12A. 本部份中：

「BSC」指依 BSC 條例所設立之營建服務公會。

「BSC 條例」指一九八九年營建服務公會條例。

「營建糾紛申訴」指請求下列救濟之申訴而言。

- (a) 特定數額金錢之給付。
- (b) 特定服務之提供。
- (c) 免於給付特定數額金錢之給付。

(2) A court is not precluded from granting relief or a remedy of a kind referred to in subsection (1) if, in respect of a consumer claim:

(a) a tribunal has given a ruling under section 26 or refused or failed to give such a ruling after the jurisdiction of the tribunal to hear and determine the claim has been disputed by a party to the claim and the ground on which the relief or remedy is sought is that:

- (i) the ruling was erroneous; or
- (ii) the tribunal erred in refusing or failing to give the ruling after its jurisdiction was disputed; or

(b) a tribunal has made an order under section 30 and the ground on which the relief or remedy is sought is that:

- (i) the tribunal had no jurisdiction to make the order; or
- (ii) in relation to the hearing or determination of the claim, a party to the claim had been denied natural justice.

PART 3A—BUILDING CLAIMS

Definitions

12A. In this Part:

“BSC” means the Building Services Corporation constituted by the BSC Act;

“BSC Act” means the Building Services Corporation Act 1989;

“building claim” means a claim for;

- (a) the payment of a specified sum of money; or
- (b) the supply of specified services; or
- (c) relief from payment of a specified sum of money; or

(d) 特定貨品或特定規格之貨品之交付、返還或更換。

(e) (a)至(b)款中二種以上救濟之合併。

而其申訴不論係基於契約與否，自營建用貨品或服務之提供而生，或基於營建用貨品或服務提供契約之附帶契約而生者；

「營建用貨品或服務」指為進行居住用營建工程或專業工程（依 BSC 條例之定義）所提供或與之有關之貨品或服務，而：

(a) 由承攬該工程之人所提供者。

(b) 依情形經指定提供與承攬該工程之人。

得被認定為消費者申訴之營建糾紛申訴

12B. (1) 關於本條例之目的，營建糾紛申訴被認為係消費者申訴，而提出營建糾紛申訴之人即被認為係消費者：

(a) 第 3 條第(1)項「消費者」及「消費者申訴」之定義不適用之。

(b) 縱該申訴係由提供人所提起者亦屬之。

(2)關於本部份之目的，下列情形之申訴不被視為營建糾紛申訴：

(a) 由提供貨品或服務之人所提起者。

(b) 於提供該等貨品或服務之契約訂定時，依 BSC 條例規定應取得執照始有權締約而為取得者。

(d)the delivery, return or replacement of specified goods or goods of a specified description; or

(e)a combination of 2 or more of the remedies referred to in paragraphs (a)-(b),

that arises from a supply of building goods or services, whether under a contract or not, or that arises under a contract that is collateral to a contract for the supply of building goods or services;

“building goods or services” means goods or services supplied for or in connection with the carrying out of residential building work or specialist work (within the meaning of the BSC Act) being goods or services:

(a)supplied by the person who contracts to do that work; or

(b)supplied in such circumstances as may be prescribed to the person who contracts to do that work.

Building claims to be considered to be consumer claims

12B.(1)For the purposes of this Act, a building claim is to be considered to be a consumer claim and a person who makes a building claim is to be considered to be a consumer:

(a)despite the definitions of “consumer” and “consumer claim” in section 3 (1); and

(b)even when the claim is made by a supplier.

(2)A claim is not to be considered to be a building claim for the purposes of this Part if:

(a)it is made by a person as the supplier of goods or services; and

(b)at the time any contract for the supply of those goods or services was entered into, the person failed to hold any licence required by the BSC Act to be held to authorise the entering into of the contract.

細則得規定某些申訴非屬營建糾紛申訴

12C. 細則得規定某些情形下，申訴非屬本部份所指之營建糾紛申訴。

營建糾紛仲裁庭

12D. 當審理並判斷營建糾紛申訴時，仲裁庭即為營建糾紛仲裁庭。

組成營建糾紛仲裁庭之仲裁人所需之特殊資格

12E. 組成營建糾紛仲裁庭之仲裁人，必須以被指定為營建糾紛仲裁人為限（第 4A 條）。

營建糾紛申訴提交予 BSC 之預備移送

12E. (1) 若書記長認為提付仲裁之申訴屬營建糾紛申訴，書記長不受第 14 條之限制（即消費者申訴審理庭期之確定並將審理庭期及地點通知當事人），應將該申訴移送 BSC 進行審查。

(2) 書記長就申訴是否屬營建糾紛申訴而應依本條規定辦理與否所生疑義，得向資深仲裁人諮商。

(3) 若申訴被移送至 BSC 後，一個月內被撤回，或經 BSC 通知其不受理該申訴者，書記長即應依第 14 條規定就該申訴進行處理。

(4) 本條規定於非本條規定之營建糾紛申訴，不適用之。

審理中申訴移送至 BSC

Regulations may provide that certain claims are not building claims

12C. The regulations may make provision for circumstances in which a claim is not to be considered to be a building claim for the purposes of this part.

Tribunal to be known as building disputes tribunal

12D. When it hears and determines a building claim, a tribunal is to be known as a building disputes tribunal.

Special qualifications required for referee constituting building disputes tribunal

12E. The referee who constitutes a building disputes tribunal must be a referee who is nominated as a building disputes referee (section 4A).

Preliminary referral of building claim to BSC

12F. (1) If it appears to the registrar that a claim lodged is a building claim, the registrar must, despite section 14 (Fixing of times for hearings of consumer claims and notification to parties of times and places of hearings), refer the claim to the BSC for consideration.

(2) The registrar may consult the senior referee if in doubt as to whether a claim is a building claim and should be dealt with under this section.

(3) If the claim has not been withdrawn within 1 month after it is referred to the BSC or the BSC advises that it proposes to take no action in the matter, the registrar is to proceed to deal with the claim under section 14.

(4) This section does not apply to a class of building claims prescribed as being exempt from this section.

Referral of claim to BSC during hearing

- 12G. (1) 仲裁庭於審理營建糾紛申訴時，如認為有助於和解者，得停止審理並將該申訴移送至 BSC 進行審查。
- (2) 仲裁庭如認為依 BSC 條例採取任何措施，以求取該申訴之和解及撤回屬適當者，得繼續停止該申訴之審理。
- (3) 第 20 條之規定（消費者申訴審理之停止）適用於本條規定之停止審理。但不因本條規定而限制第 20 條規定之運作。

BSC 得於申訴繫屬中採取措施

- 12H. (1) 消費者申訴繫屬於仲裁庭之事實，不妨礙 BSC 依 BSC 條例第 4 部份（糾紛解決及懲戒規定），就申訴涉及之事項採取措施。
- (2) 若 BSC 發覺或嗣後發覺採取措施之事項涉及繫屬於該仲裁庭消費者申訴者，BSC 應通知資深仲裁人其所採取之措施。

有利於被申訴人附帶命令之權力

- 12I. (1) 認定營建糾紛申訴之全部或一部有利於被申訴人，仲裁庭認為適當時，得為下列一項或多項命令：
- (a) 任何依第 30 條第(2)項得為之命令。
- (b) 命令申訴人履行特定工程以補正該申訴有關之貨品或服務之瑕疵。

- 12G.(1) If a tribunal hearing a building claim thinks it appropriate to do so in the interests of setting the claim, it may adjourn the hearing and refer the claim to the BSC for consideration.
- (2) The tribunal may further adjourn the hearing of the claim if it thinks it appropriate to do for the purpose of enabling any action to be taken under the BSC Act which may result in settlement and withdrawal of the claim.
- (3) Section 20 (Adjournment of the hearing of a consumer claim) applies to any such adjournment and this section does not limit the operation of section 20.

BSC not prevented from taking action when claim pending

- 12H.(1) The fact that a consumer claim is pending before a tribunal does not prevent the BSC from taking action under Part 4 (Dispute resolution and disciplinary provisions) of the BSC Act in respect of a matter even if the claim concerns that matter.
- (2) If the BSC takes any such action in respect of a matter and is or becomes aware that a consumer claim pending before a tribunal concerns that matter, the BSC must inform the senior referee of the action taken.

Power to make additional orders in favour of respondent

- 12I.(1) In determining a building claim wholly or partly in favour of a respondent to the claim, a tribunal may make such one or more of the following orders as it considers appropriate:
- (a) any order it could make under section 30 (2);
- (b) an order that requires a claimant to perform specified work in order to rectify a defect in goods or services to which the claim relates;

- (c) 命令申訴人提供工程外之特定服務予被申訴人。
 - (d) 於准免為特定金錢給付之情形，宣告被申訴人並無積欠申訴人特定數額之金錢。
 - (e) 命令申訴人將一特定規格之貨品交付予被申訴人。
 - (f) 命令申訴人更換其申訴所涉之貨品。
- (2) 本條規定不影響營建糾紛仲裁庭依第 30 條第(1)項規定為命令（有利於申訴人之命令）之權力。
- (3) 依本條所為之命令視同依第 30 條規定所為之命令。

不成立營建糾紛申訴並不排除本法其他部份之適用

12J. 若申訴因第 12B 條第(2)項或第 12C 條規定而不成立營建糾紛申訴者，申訴仍得適用本部分之其他規定向消費者申訴仲裁庭提起申訴。

第 4 部份 仲裁庭程序

第 1 節 消費者申訴

消費者申訴之提起

13. (1) 消費者申訴欲提交仲裁庭審理並判斷，必須以規定之表格，連同規費一併向書記長或地區法院提起。

- (c) an order that requires a claimant to supply to the respondent specified services other than work;
 - (d) in the case of a claim for relief from payment of money, an order declaring that a specified amount of money is not due or owing by the respondent to the claimant;
 - (e) an order that requires a claimant to deliver to the respondent goods of a specified description;
 - (f) an order that requires a claimant to replace goods to which the claim relates.
- (2) This section does not affect the power of a building disputes tribunal to make an order under section 30 (1) (orders in favour of claimant).
- (3) Orders under this section are considered to be orders under section 30.

Excluded building claims not excluded from rest of Act

12J. If a claim would be a building claim but for section 12B (2) or 12C, this Part does not prevent a person from bringing the claim before a consumer claims tribunal if it could be brought apart from this Part.

PART 4—PROCEEDINGS BEFORE TRIBUNALS

Division 1—Consumer claims

Making a consumer claim

13.(1) A consumer who wishes to have a consumer claim heard and determined by a tribunal must lodge at the registry or at a Local Court a claim in the prescribed form, together with the

- (2) 書記處或地區法院之職員經請求協助，有義務協助消費者完成規定申訴表格之填註。
- (3) 消費者申訴提至地區法院後，地區法院之職員應儘速將該申訴移送至消費者申訴仲裁庭書記長。

消費者申訴庭期之排定及通知當事人開庭之時間及地點

14. (1) 消費者申訴之提起或依第 13 條規定移送至消費者申訴仲裁庭時，書記長應：
 - (a) 依第(4)項規定，將該申訴提付至仲裁庭審理及判斷。
 - (b) 排定仲裁庭初次審理該申訴之庭期。
 - (c) 將申訴通知送達於：
 - (i) 每一位申訴之相對人。
 - (ii) 該申訴顯示與所涉糾紛之解決有利害關係之每個人（申訴人除外）。
 - (d) 將申訴初次審理之庭期及地點通知送達予申訴人及其他依第(c)款規定應受送達之人。
- (2) 若仲裁人認為就消費者申訴所涉糾紛之解決有利害關係之人，未依第(1)項第(C)款規定被送達通知者，不論仲裁庭是否已組成，該仲裁人斟酌情形以命令指示該人為參加申訴人或被申訴人。

prescribed fee.

- (2) It is the duty of staff of the registry or of a Local Court to help a consumer who requests assistance in completing the prescribed claim form.
- (3) As soon as practicable after a consumer claim is lodged at a Local Court, the Clerk of the Local Court must ensure that the claim is transmitted to the registrar of consumer claims tribunals.

Fixing of times for hearings of consumer claims and notification to parties of times and places of hearings

- 14.(1) As soon as practicable after a consumer claim has been lodged with or transmitted to the registrar of consumer claims tribunals in accordance with section 13, the registrar must:
 - (a) subject to subsection (4), refer the claim to a tribunal for hearing and determination;
 - (b) fix a time for the initial hearing of the claim by the tribunal;
 - (c) cause notice of the claim to be served:
 - (i) on every person against whom the claim is made; and
 - (ii) on every other person (other than the claimant) who appears from the claim to have an interest in resolving the dispute to which the claim relates; and
 - (d) cause notice of the time and place fixed for the initial hearing of the claim to be served on the claimant and on each person on whom notice of the claim is required to be served in accordance with paragraph (c).
- (2) If a referee, whether constituted as a tribunal or not, is of the opinion that a person has a sufficient interest in resolving the dispute to which a consumer claim relates but the person has not been served with notice of the claim in accordance with

- (3) 若依第(2)項規定命令參加而成為消費者申訴之申訴人或被申訴人者，書記長應於該命令下達後，儘速將該申訴之通知，及該申訴之初次審理或其後審理之庭期及地點通知，送達予該人。
- (4) 當書記長認為消費者申訴：
 - (a) 異常複雜，
 - (b) 可能需要特殊專業或資格以資判斷者，
 書記長應將該申訴提報予資深仲裁人知悉。
- (5) 消費者申訴依第(4)項規定提報予資深仲裁人知悉時，若認為第(4)項第(a)款或第(b)款之規定中確實有一存在時，資深仲裁人應指示書記長將該申訴移送至需專業或資格審理該類申訴之仲裁人組成之仲裁庭。
- (6) 視情形需要時，不論是否已依第(1)項第(b)款規定排定庭期，書記長得：
 - (a) 為消費者申訴之初次審理排定另一庭期。
 - (b) 將該申訴移送至另一仲裁庭，並於其他仲裁庭為該申訴之初次審理，排定庭期。
- (7) 依第(6)項規定，授予行使有關消費者申訴之權時，書記長必須確實遵守第(1)項第(d)款有關申訴之規定。

- subsection (1) (c), the referee may make an order directing that the person be joined either as a claimant or as a respondent as appears to the referee to be appropriate.
- (3) If an order under subsection (2) is made joining a person as a claimant or as a respondent to a consumer claim, the registrar must cause notice of the claim and notice of the time and place for the initial or further hearing of the claim to be served on the person as soon as practicable after the making of the order.
- (4) Whenever it appears to the registrar that a consumer claim:
 - (a) is unusually complex; or
 - (b) may require special expertise or qualifications in order to determine it,
 the registrar must bring the claim to the attention of the senior referee.
- (5) When a consumer claim is brought to the attention of the senior referee in accordance with subsection (4), the senior referee must, if satisfied as to either of the matters referred to in subsection (4) (a) or (b), direct the registrar to refer the claim to a tribunal constituted by a referee who has the requisite expertise or qualifications for dealing with that kind of claim.
- (6) Whenever the case so requires, whether before or after the time fixed in accordance with subsection (1) (b), the registrar may:
 - (a) fix another time for the initial hearing of a consumer claim;
 - or
 - (b) refer the claim to another tribunal and fix a time for the initial hearing of the claim by that other tribunal.
- (7) Whenever the power conferred by subsection (6) is exercised in relation to a consumer claim, the registrar must ensure that subsection (1) (d) is complied with in respect of that claim.

消費者申訴之當事人

15. (1) 依第 14 條規定，受消費者申訴通知之人（依該條規定，參加成為申訴人之除外）為該申訴之被申訴人。

(2) 若：

(a) 因信託關係就該信託財產有利益者，

(b) 依一九八三年禁治產法規定受其命令拘束之人，

(c) 已死亡之人，

有資格或本應有資格提起消費者申訴或得為被申訴人，則：

(d) 該財產之受託管理人，

(e) 該禁治產之管理人，

(f) 該死者之遺囑執行人或遺產管理人，

得為該人或其財產之利益，提起消費者申訴或成為被申訴人，並行使依本法規定之申訴人或被申訴人所得行使之所有權利及權能。

申訴之撤回

16. 仲裁庭就消費者申訴審理終結前及就該申訴為判斷前，申訴人得撤回其申訴。

第 2 節 消費者申訴之審理

仲裁程序之控制

17. (1) 除本條例或其細則另有明文規定者外，仲裁庭應控制該庭之程序並負其責。但依本條例行使職權時，必須符合自然的正義法

Parties to a consumer claim

15.(1) Every person on whom notice of a consumer claim has been served in accordance with section 14 (other than a person joined as a claimant in accordance with that section) is a respondent to the claim.

(2) If:

(a) a person beneficially entitled to property that is subject to a trust;

(b) a person in respect of whom an order made under the Protected Estates Act 1983 is in force; or

(c) a deceased person,

is or would have been eligible to lodge or be a respondent to a consumer claim, then:

(d) the trustee of that property;

(e) the manager of the estate of that person; or

(f) the executor or administrator of the estate of that deceased person,

may, on behalf of that person or the estate of that person, lodge, or become a respondent to, a consumer claim and exercise all the rights and functions of a claimant or respondent under this Act.

Withdrawal of claim

16. At any time before a tribunal has finally completed its hearing of a consumer claim and before the tribunal has begun its determination of the claim, the claimant may withdraw the claim.

Division 2—Hearings of consumer claims

Control of tribunal procedures

17.(1) Except as expressly provided by this Act or the regulations, a tribunal has control of and responsibility for its own procedures,

則。

- (2) 若認為二件以上之消費者申訴係相牽連者，仲裁庭得一併審理並判斷之。

仲裁庭之審理更新禁止

18. (1) 依本條規定，仲裁庭應由同一仲裁人組成，並全程審理消費者申訴事件。

- (2) 若於消費者申訴審理期間，組成仲裁庭之仲裁人因該申訴事件之複雜性或其他正當理由已臻明顯，欲請具有適當專業或資格處理該類申訴之仲裁人所組成之仲裁庭審理並判斷該申訴者，得停止審理該申訴並將該申訴移回書記長。

- (3) 消費者申訴依第(2)項規定移回書記長時，書記長應協同資深仲裁人為該申訴之審理另定庭期，並安排於同一或另一地點，由具有審理該類申訴事件適當專業或資格之仲裁人組成仲裁庭審理之。

- (4) 仲裁庭就消費者申訴為判斷前，因組成仲裁庭之仲裁人死亡、喪失行為能力或被解除仲裁人職務而停止申訴之審理者，資深仲裁人於申訴人欲繼續進行該申訴時，應安排另一仲裁人組成之仲裁庭重新審理並判斷該申訴。

but in exercising its functions under this Act must conform to the rules of natural justice.

- (2) If satisfied that 2 or more consumer claims are related, a tribunal may hear and determine those claims together.

Continuity of tribunal

- 18.(1) Subject to this section, a tribunal must, at all times throughout the hearing of a consumer claim, be constituted by the same referee.

- (2) If, in the course of hearing a consumer claim, it becomes apparent to the referee who constitutes the tribunal concerned that, because of the complexity of the case or for any other valid reason, it would be desirable for the claim to be heard and determined by a tribunal constituted by another referee who has appropriate expertise or qualifications to deal with that kind of claim, the referee may adjourn the hearing of the claim and refer the claim back to the registrar.

- (3) When a consumer claim has been referred back to the registrar under subsection (2), the registrar must make arrangements with the senior referee for the claim to be heard at another time, and at the same or another place, by a tribunal constituted by a referee who has appropriate expertise or qualifications to deal with that kind of claim.

- (4) If the hearing of a consumer claim by a tribunal is, before the tribunal has determined the claim, interrupted by the death, incapacity or removal from office of the referee who constitutes the tribunal, the senior referee must, if the claimant wishes to proceed with the claim make arrangements for the hearing and determination of the claim to be recommenced before a tribunal constituted by another referee.

- (5) 依第(3)項或第(4)項規定已做成安排時，書記長應使該申訴繼續審理之庭期及地點之通知，送達該申訴之當事人。

仲裁庭變更消費者申訴之權力

19. (1) 仲裁庭就消費者申訴審理終結前及為判斷前，仲裁庭得就申訴為必要之變更。

- (2) 仲裁庭依申訴人之聲請或經申訴人同意後，為上述之變更。

消費者申訴審理之延期

20. (1) 仲裁庭認為必要時，得將消費者申訴之審理延期。

- (2) 若消費者申訴之審理被延期者，書記長應就延期審理之庭期及地點之通知，送達予該申訴之當事人。

- (3) 若：

- (a) 消費者申訴之審理展延後之庭期及地點，仲裁人屆時未出席或未曾出席者，
(b) 事實顯示仲裁人將不能於延期審理之庭期及地點出席者，於同一地點或另一地點，以通知送達予申訴之各當事人之方式，書記長應將該審理延至另一庭期。

仲裁庭就申訴為陳述

21. (1) 依本條規定，消費者申訴之當事人應各自進行攻擊防禦。

- (5) When arrangements have been made in accordance with subsection (3) or (4), the registrar must cause notice of the time and place for the further hearing of the claim to be served on the parties to the claim.

Power of tribunal to amend a consumer claim

19. (1) At any time before a tribunal has finally completed its hearing of a consumer claim and before the tribunal has begun its determination of the claim, the tribunal may make such amendments to the claim as it considers necessary.

- (2) Any such amendments may be made by the tribunal either at the request of the claimant or, with the approval of the claimant, of its own motion.

Adjournment of the hearing of a consumer claim

20. (1) A tribunal may from time to time adjourn the hearing of a consumer claim for such purposes as it considers necessary.

- (2) If the hearing of a consumer claim is adjourned, the registrar must serve on each party to the claim a notice of the time and place to which the hearing is adjourned.

- (3) If:

- (a) at a time and place to which the hearing of a consumer claim is adjourned a referee is or was not present; or
(b) it appears that a referee will not be present at a time and place to which the hearing is adjourned.

the registrar must, by notice served on each of the parties to the claim, adjourn the hearing to another time either at the same place or at another place.

Presentation of cases before a tribunal

21. (1) Subject to this section, a party to a consumer claim has the carriage of the party's own case.

(2) 消費者申訴之當事人（簡稱當事人），非依下列方式，不得於該申訴之審理程序中為攻防行為：

(a) 當事人係公司（新南威爾斯）法第 5 條第(1)項定義之法人，而該法人係由同法第 5 條第(1)項定義之職員中一人所代表。

(b) 當事人係依一九七三年土地權利法規定組成之法人團體，而該法人團體由所有權人代表。若有二人以上之所有權人時，由構成該法人團體之所有權人中一人代表。

(c) 當事人係依一九八六年土地權利（租賃）法規定組成之法人團體，而該法人團體係由承租人所代表，或有二人以上之承租人時，由構成該法人團體之承租人中一人代表。

(d) 當事人係：

(i) 依一九二三年合作法設立登記之社團、協會或聯合會，

(ii) 依一九七六年永久性營建業社團法設立登記之社團或協會，

(iii) 依一九六九年信用合作社法設立登記之信用合作社、信用合作社協會或信用合作社協會之聯合會，

而社團、協會或聯合會分別依一九二三年合作法第 5 條規定、一九六七年永久性營建業社團法第 3 條第(1)項規定或一九六九年信用合作社法第 3 條第(1)項規定中定義之職員之一人所代表。

(e) 當事人得暫時免依下列規定限制外國公司，或經許可設立之公司：

(i) 一九二三年合作法第 61 條第(1)項，

(2) A party to a consumer claim (“the party”) is not entitled to be represented at the hearing of the claim unless:

(a) the party is a corporation within the meaning of section 5 (1) of the Companies (New South Wales) Code and the corporation is represented by one of the corporation’s officers, as defined by section 5 (1) of that Code;

(b) the party is a body corporate constituted under the Strata Titles Act 1973 and the body corporate is represented by the proprietor or, if there is more than one proprietor, by one of the proprietors constituting the body corporate;

(c) the party is a body corporate constituted under the Strata Titles (Leasehold) Act 1986 and the body corporate is represented by the lessee or, if there is more than one lessee, by one of the lessees constituting the body corporate;

(d) the party is:

(i) a society, association or union registered under the Co-operation Act 1923;

(ii) a society or association registered under the Permanent Building Societies Act 1967; or

(iii) a credit union, or an association of credit unions, or a union of associations of credit unions, registered under the Credit Union Act 1969,

and the society, association or union is represented by one of its officers, as defined by section 5 of the Co-operation Act 1923, section 3 (1) of the Permanent Building Societies Act 1967 or section 3 (1) of the Credit Union Act 1969;

(e) the party is a foreign company, or a recognised company, in respect of which an exemption from compliance with:

(i) section 61 (1) of the Co-operation Act 1923;

- (ii) 一九六七年永久性營建業社團法第 35 條第(1)項，
 - (iii) 一九六九年信用合作社法第 28 條第(1)項，
- 而公司如屬公司（新南威爾斯）法第 5 條第(1)項定義之法人，則依該法第 5 條第(1)項定義之法人職員中一人所代表。
- (f) 當事人係商號，而商號係由其合夥人中一人所代表。
 - (g) 當事人係依一九八四年協會設立登記法登記成立之法人協會，而該協會係依該法第 3 條定義之職員中之一人所代表。
 - (h) 當事人係個人組成之非法人團體，而該團體係由下列人員所代表：
 - (i) 該團體之秘書或總務。
 - (ii) 經團體會員大會正式選任為團體行政或管理委員會成員之一人。
 - (i) 申訴之他方當事人依法得於新南威爾斯或他處執行律師業務之人或由此等人代理者。
 - (j) 仲裁庭依職權決定某當事人若於審理中未經代理，將受不利益者。
 - (k) 於其他情形，該代理經當事人或為當事人聲請後，仲裁庭准許者。

- (ii) section 35 (1) of the Permanent Building Societies Act 1967; or
 - (iii) section 28 (1) of the Credit Union Act 1969,
- is for the time being in force and the company is represented by a person who would, if the company were a corporation within the meaning of section 5 (1) of the Companies (New South Wales) Code, be one of the corporation's officers, as defined by section 5 (1) of that Code;
- (f) the party is a firm and the firm is represented by one of its partners;
 - (g) the party is an incorporated association registered under the Associations Incorporation Act 1984 and the association is represented by one of its officers, as defined by section 3 of that Act;
 - (h) the party is an unincorporated body of persons and the body is represented by:
 - (i) a secretary or treasurer of the body; or
 - (ii) a member of the executive or management committee of the body who was duly elected at a general meeting of members of the body;
 - (i) any other party to the claim is, or is represented by a person who is, entitled by law to practise as a legal practitioner, either in New South Wales or elsewhere;
 - (j) the tribunal, of its own motion, decides that the party would be placed at a disadvantage if not represented at the hearing; or
 - (k) in any other case, the representation is, on determination of an application made by or on behalf of the party, approved by the tribunal.

- (3) 仲裁庭非認為下列情形存在時，不得依第(2)項第(k)款規定提出聲請：
- (a) 准許該代理係屬必要。
 - (b) 如聲請不被准許，為聲請之當事人或聲請被代理之當事人，將處於不利益之地位。
- (4) 於處理消費者申訴當事人代理之聲請時，仲裁庭：
- (a) 除認為相關代表人員下列資格外，不得准許其聲請：
 - (i) 就糾紛之爭點具充分個人知識足使該代表人於仲裁庭審理該申訴時，有效代表該聲請人。
 - (ii) 經充分授權足以拘束聲請人。
 - (b) 為確保該申訴之其他當事人，不致因聲請人於仲裁庭審理該申訴時被代理而受不利益，仲裁庭得附必要條件，而為聲請之准許。
- (5) 仲裁庭附條件為該聲請之准許者，於消費者申訴審理時能否代表聲請人行使其權利，繫於能否履踐應由聲請人或聲請人之代表人所需遵守之條件。
- (6) 違反本條任一項規定或仲裁庭所定之條件者，並不因此使一消費者申訴之審理失其效力，亦不因此使由仲裁庭就該申訴所為之任何命令失其效力。

- (3) A tribunal must not give an approval to an application referred to in subsection (2) (k) unless the tribunal is satisfied that:
- (a) the representation should be permitted as a matter of necessity; or
 - (b) the party by whom or on whose behalf the application was made would otherwise be placed at a disadvantage.
- (4) In dealing with an application for the representation of a party to a consumer claim, a tribunal:
- (a) must not approve the application unless it is satisfied that the representative concerned:
 - (i) has sufficient personal knowledge of the issues in dispute to enable that representative to represent the applicant effectively at the hearing by the tribunal of the claim; and
 - (ii) is vested with sufficient authority to bind the applicant; and
 - (b) may make its approval of the application subject to such conditions as it considers necessary to ensure that any other party to the claim is not placed at a disadvantage by the representative of the applicant at the hearing of the claim by the tribunal.
- (5) Whenever a tribunal makes its approval of such an application subject to conditions, the right of the representative concerned to represent the applicant at a hearing of a consumer claim is subject to compliance with those conditions by the applicant and the applicant's representative.
- (6) Contravention of any provision of this section or a condition imposed by a tribunal does not of itself invalidate a tribunal's hearing of a consumer claim, nor does it invalidate any order made by a tribunal in respect of such a claim.

消費者申訴審理不公開

22. (1) 除第(2)項規定外，仲裁庭應以不公開方式審理消費者申訴。

(2) 若：

(a) 仲裁庭認為某人係基於教育、研究或學習目的，希望出席
仲裁庭仲裁之消費者申訴之審理程序，

(b) 請求之各當事人皆無異議者，
仲裁庭得准許該人於審理時出席。

證據之取得

23. (1) 消費者申訴審理時，與該申訴評議相關之證據，得以口頭或書面方式提出。

(2) 若於消費者申訴審理程序中，以口頭方式提出證據，應宣誓其屬真實。

(3) 若於消費者申訴審理程序中，以書面方式提出證據，證據提供者必須選擇以宣誓或法定聲明之方式表示其為真實。

(4) 仲裁庭不受證據法則或其實務作法所拘束，並得依第(2)項及第(3)項規定以其認為適當之方式對任何事項為調查。

仲裁庭依可得之證據行事

24. (1) 於不影響第 25 條規定之情況下，仲裁庭就消費者申訴審理中，申訴之一方當事人未提出足夠有利證據主張者：

(a) 仲裁庭應以其他可得知證據判斷糾紛之爭點，

(b) 仲裁庭依此所做成申訴判斷之命令，如同該當事人到庭為完整陳述般有效。

(2) 於不影響第 25 條規定之情況下，如消費者申訴之雙方當事人

Consumer claims to be heard in private

22.(1) Except as provided by subsection (2), a tribunal must hear a consumer claim in private.

(2) If:

(a) a tribunal is satisfied that a person wishes, for educational, research or study purposes, to attend the hearing of a consumer claim that is before the tribunal; and

(b) none of the parties to the claim objects,
the tribunal may allow the person to attend the hearing.

Taking of evidence

23.(1) At the hearing of a consumer claim, evidence relevant to the determination of the claim may be given orally or in writing.

(2) If evidence at the hearing of a consumer claim is to be given orally, it must be given on oath.

(3) If evidence at the hearing of a consumer claim is to be given in writing, it must be given either on oath or by statutory declaration, as the giver of evidence prefers.

(4) A tribunal is not bound by the rules or practice of evidence and, subject to subsections (2) and (3), can inform itself on any matter in such manner as it considers appropriate.

Tribunal to act on available evidence

24.(1) Subject to section 25, if at the hearing of a consumer claim by a tribunal the case of a party to the claim is not presented to the tribunal:

(a) the tribunal must decide the issues in dispute on such evidence as is otherwise adduced before it; and

(b) an order made by the tribunal to determine the claim is just as effective as if that party had been fully heard.

(2) Subject to section 25, if none of the cases of the parties to a

皆未能於排定審理之庭期及地點，或於延後之庭期及地點，提出足夠之有利證據主張者，仲裁庭應做成不受理之命令。

特定消費者申訴之重新審理

25. (1) 仲裁庭於消費者申訴之一方當事人缺席情形下就糾紛之爭點為判斷，或消費者申訴已依第 24 項第(2)款規定不受理，且當事人於收到該判斷或不受理該申訴之命令後十四日內以規定表格向書記長提出重新審理之聲請，仲裁人於認當事人之缺席有充足理由者，得命令重新審理該申訴。
- (2) 關於第(1)項規定之目的，消費者申訴之一方當事人於仲裁庭判斷糾紛之爭點時，有下列情形之一，即不得被認為缺席：
- (a) 當事人於仲裁庭有代表出席者。
- (b) 當事人就爭點之主張以書面方式呈送至仲裁庭者。
- (3) 依第(1)項規定，命重新審理時，仲裁人應就重新審理之庭期及地點之排定併予規定。
- (4) 消費者申訴命重新審理時：
- (a) 書記長應將該命令之通知及重新審理之庭期及地點之通知，送達予申訴之各當事人。
- (b) 仲裁庭於先前審理時所為之命令，除第(5)項回復效力之規定外，應失其效力。
- (5) 聲請重新審理之當事人未於下列時地出席者：

consumer claim is presented to the tribunal at the time and place fixed for the hearing of the claim, or at the time and place to which the hearing of the claim is adjourned, the tribunal must make an order dismissing the claim.

Rehearing of certain consumer claims

- 25.(1) If a tribunal has decided an issue in dispute in the absence of a party to a consumer claim or a consumer claim has been dismissed under section 24 (2), a referee may, on application in the prescribed form lodged at the registry within 14 days after receiving notice of the decision or the order dismissing the claim, order the claim to be reheard if satisfied that there was sufficient reason for the party's absence.
- (2) For the purposes of subsection (1), a party to a consumer claim shall not be taken to have been absent at the time when a tribunal decided an issue in dispute if, at that time:
- (a) the party was represented before the tribunal; or
- (b) the party's case with respect to the issue had been presented to the tribunal in writing.
- (3) In making an order under subsection (1), a referee must make provision for fixing a time and a place for the rehearing.
- (4) Whenever a consumer claim is ordered to be reheard:
- (a) the registrar must serve on each of the parties to the claim a notice of the order and of the time and place of the rehearing; and
- (b) the order of the tribunal made at the previous hearing ceases to have effect unless restored in accordance with subsection (5).
- (5) If the party on whose application a rehearing is ordered does not appear:

- (a) 重新審理所排定之庭期及地點。
- (b) 仲裁庭延後重新審理所排定之庭期及地點。

仲裁庭認為適當且無須重新審理或進一步重新審理該申訴者，得指示該申訴先前審理中所為之命令回復其效力。

- (6) 仲裁庭依第(5)項規定做成指示者，該指示所涉及之命令：
 - (a) 因而完全回復效力。
 - (b) 被視為自做成之時起效力未曾中斷。

仲裁庭管轄權有爭執時應遵守之程序

- 26. (1) 若仲裁庭就消費者申訴為判斷前，審理並判斷該申訴之仲裁庭之管轄權為申訴當事人所爭執者，仲裁庭應先就其有無管轄權做成裁定，尚不得逕行繼續判斷該申訴。
- (2) 仲裁庭未先就其是否具有審理並判斷該申訴之管轄權為裁定前，不得依職權自行依第 30 條第(2)項第(a)款規定以無管轄權為由不受理該申訴。
- (3) 仲裁庭就其是否具審理並判斷消費者申訴之管轄權依本條規定做成裁定者，其於下列條件成就前，不得就該申訴為判斷：
 - (a) 於該裁定做成之日起至少十四日後。
 - (b) 就該申訴為判斷前，仲裁庭發現就該裁定聲請依第 12 條規定種類之救濟或損害賠償程序已向法院提起者一須俟該程

- (a) at the time and place fixed for the rehearing; or
 - (b) at the time and place to which a tribunal has adjourned the rehearing,
- the tribunal may, if it thinks fit and without rehearing or further rehearing the claim, direct that the order made at the previous hearing of the claim be restored.
- (6) If a tribunal gives a direction under subsection (5), the order to which the direction relates:
 - (a) is thereupon fully restored; and
 - (b) shall be regarded as having had effect at all times since it was made.

Procedure to be followed when a tribunal's jurisdiction is disputed

- 26. (1) If, before a tribunal has determined a consumer claim, the jurisdiction of the tribunal to hear and determine the claim is disputed by a party to the claim, the tribunal must not proceed to determine the claim without first giving a ruling as to whether or not it has that jurisdiction.
- (2) A tribunal must not, of its own motion, make an order under section 30 (2) (a) dismissing a consumer claim for want of jurisdiction without first giving a ruling as to its jurisdiction to hear and determine the claim.
- (3) If a tribunal has given a ruling under this section in respect of its jurisdiction to hear and determine a consumer claim, it must not determine the claim:
 - (a) until at least 14 days have elapsed since the day on which the ruling was given; or
 - (b) if, before it has determined the claim, it becomes aware that proceedings for relief or a remedy of a kind mentioned in

序終結後。

仲裁庭就輕微等消費者申訴之權力

27. 消費者申訴審理中，仲裁庭若認為：

- (a) 該申訴屬輕微、濫訴、誤會或欠缺實證時，
 - (b) 因其他理由而不處理該申訴時，
- 其得做成駁回該申訴之命令。

不得給與費用

28. 仲裁庭無權命令消費者申訴之當事人獲得或支付仲裁費用。

第3節 消費者申訴之判斷

仲裁庭試圖調解

29. (1) 除仲裁庭使申訴當事人已達成彼等可接受之和解，或為達成當事人可接受之和解已盡其最大努力者外，不得對審理中該消費者申訴為一命令。
- (2) 若當事人已達成和解者，仲裁庭必須依本節規定並於本節所允許之範圍內，為一命令使該和解發生效力。
- (3) 仲裁庭必須確使任何為達第一項規定目的而召開之任何會議或程序，不公開舉行。
- (4) 任何為達第(1)項規定目的而召開之會議或程序中所提出於仲裁庭之任何陳述或認諾，於相關消費者申訴審理程序或其他法定程序中不得被採為依據。

仲裁庭之命令

section 12 have been instituted in a court in respect of the ruling-until those proceedings have been concluded.

Powers of tribunal with respect to frivolous etc. consumer claims

27.If, at the hearing of a consumer claim, a tribunal is satisfied that:

- (a)the claim is frivolous, vexatious, misconceived or lacking in substance; or
- (b)for any other reason it should not deal with the claim, it may make an order dismissing the claim.

No costs to be allowed

28.A tribunal has no power to award costs to or against a party to a consumer claim.

Division 3—Determination of consumer claims

Tribunal to attempt to conciliate

- 29.(1)A tribunal must not make an order in respect of a consumer claim that is before it unless it has brought, or used its best endeavours to bring, the parties to the claim to a settlement acceptable to all of them.
- (2)If such a settlement is reached, the tribunal must make an order under this Division that gives effect to the settlement to the extent permitted by this Division.
- (3)A tribunal must ensure that any meeting or proceeding held for the purposes of subsection (1) is not held in public.
- (4)Any statement or admission made before a tribunal at a meeting or proceeding held for the purposes of subsection (1) is not admissible at a hearing of the consumer claim concerned or in any other legal proceeding.

Tribunal orders

30. (1) 判斷消費者申訴全部或一部有利於申訴人時，依第 31 條及第 32 條之規定，仲裁庭認為適當時，得做成下列一項或多項命令：

- (a) 命令被申訴人支付申訴人一定數額金錢。
- (b) 命令被申訴人履行特定工程以補正與申訴相關之貨品或服務之瑕疵。
- (c) 命令被申訴人提供申訴人工程以外之特定服務。
- (d) 免除特定金錢支付之情形，宣告申訴人並未積欠被申訴人特定數額之金錢。
- (e) 命令被申訴人提供特定規格貨品予申訴人。
- (f) 命令被申訴人就其所占有或管領之特定貨品，不論該貨品財產權是否已移轉，返還予申訴人。
- (g) 命令被申訴人更換與申訴有關之貨品。

(2) 判斷消費者申訴全部或一部有利於被申訴人時，仲裁庭認為適當時，得做成下列一項或多項命令：

- (a) 不受理該申訴或其一部。
- (b) 命令申訴人支付特定數額金錢予被申訴人。
- (c) 命令申訴人就其所占有或管領之特定貨品，不論財產權是

30.(1) In determining a consumer claim wholly or partly in favour of a claimant, a tribunal may, subject to sections 31 and 32, make such one or more of the following orders as it considers appropriate:

- (a) an order that requires a respondent to pay to the claimant a specified amount of money;
- (b) an order that requires a respondent to perform specified work in order to rectify a defect in goods or services to which the claim relates;
- (c) an order that requires a respondent to supply to the claimant specified services other than work;
- (d) in the case of a claim for relief from payment of money, an order declaring that a specified amount of money is not due or owing by the claimant to a respondent;
- (e) an order that requires a respondent to deliver to the claimant goods of a specified description;
- (f) an order that requires a respondent to return to the claimant specified goods which are in the possession or under the control of that respondent, whether the property in the goods has passed or not;
- (g) an order that requires a respondent to replace goods to which the claim relates.

(2) In determining a consumer claim wholly or partly in favour of a respondent to the claim, a tribunal may make such one or more of the following orders as it considers appropriate:

- (a) an order dismissing the claim or a part of the claim;
- (b) an order that requires the claimant to pay to the respondent a specified amount of money;
- (c) an order that requires the claimant to return to the respondent

否已移轉，返還予被申訴人。

- (3) 依本條規定做成要求消費者申訴當事人支付特定數額金錢或為其他行為之命令時，除有正當理由外，仲裁庭應規定金錢給付或行為履行之期間。
- (4) 若審理消費者申訴之過程中，仲裁庭認為必要時，該申訴為最終判斷前，依第(1)項或第(2)項規定得為中間命令。
- (5) 仲裁庭依第(1)項、第(2)項或第(4)項規定做成命令時，以使該命令有完全效力為目的，得成其認為必要之輔助命令。
- (6) 依本條規定做成命令時，仲裁庭得賦與其認為適當之條件。
- (7) 若仲裁庭已依本條規定做成命令而該命令仍未失其效力者，仲裁庭得因受該命令拘束或因該命令而有利之人之聲請，或依其自行，為具下列內容之中止前述命令適用之進一步命令：
 - (a) 特定理由及特定期間，
 - (b) 至特定事件之發生或特定條件之滿足，
 而由仲裁庭規定於該進一步命令中。
- (8) 仲裁庭所做成之命令，如同最高法院之判決一般，適用一九七〇年最高法院法第 97 條（即連帶責任）之規定。

仲裁庭依第 30 條規定做成命令時應考量之事項

specified goods which are in the possession or under the control of the claimant, whether the property in the goods has passed or not.

- (3) In making an order under this section requiring a party to a consumer claim to pay a specified amount of money or to take any other specified action, a tribunal must, unless it has good reason to the contrary, specify a period within which the money must be paid or the action must be taken.
- (4) If, in the course of hearing a consumer claim, it appears to a tribunal desirable to do so, it may make an interim order under subsection (1) or (2) pending final determination of the claim.
- (5) Whenever a tribunal makes an order under subsection (1), (2) or (4), it may make such ancillary orders as it considers necessary for the purpose of enabling the order to have full effect.
- (6) In making an order under this section, a tribunal may impose such conditions as it considers appropriate.
- (7) If a tribunal has made an order under this section which has not yet ceased to have effect, the tribunal may, on the application of the person against whom or in whose favour the order was made or of its own motion, make a further order suspending the operation of the first-mentioned order:
 - (a) for such reasons and for such period; or
 - (b) until the happening of such event or the fulfilment of such condition,
 as the tribunal specifies in the further order.
- (8) Section 97 (joint liability) of the Supreme Court Act 1970 applies to and in respect of an order of a tribunal as if such an order were a judgment of the Supreme Court.

Matters to be taken into account by tribunal when making

31. (1) 依第 30 條規定做成一命令或數命令時，仲裁庭應依其認定而做成對申訴之各當事人皆為公平及衡平之命令。

(2) 於不影響第(1)項之規定下，仲裁庭考慮是否依第 30 條規定做成一命令或數命令時，下列因素如係與申訴特定事實有實質關係者，即應加以考量：

(a) 申訴當事人間之對價能力是否有實質上不對等。

(b) 是否

(i) 申訴之任一當事人無法合理保護他方當事人之利益，

(ii) 任何代表申訴當事人之人，無法合理保護其所代表之當事人之利益，

乃因該當事人或人之年齡或身體或精神能力。

(c) 下列人之相關經濟情狀、教育背景及閱讀寫作能力：

(i) 申訴之當事人。

(ii) 任何代表任何該申訴當事人之人。

(d) 申訴人是否即時獲得獨立之法律或其他專家建議。

(e) 是否有下列人士對申訴人運用或使用不正影響、不公平脅迫或不公平謀略：

(i) 任何申訴之相對人。

(ii) 為任何申訴之相對人為代理或出席或代表而為行為之任何人。

orders under sec. 30

31.(1)When making an order or orders under section 30, a tribunal must make such orders as, in its opinion, will be fair and equitable to all the parties to the claim.

(2)Without limiting subsection (1), when a tribunal is considering whether or not to make an order or orders under section 30, the following factors are relevant, so far as they are material to the particular circumstances of the case:

(a)whether or not there was any material inequality in bargaining power between the parties to the claim;

(b)whether or not:

(i)any party to the claim was not reasonably able to protect the party's interest; or

(ii)any person who represented any of the parties to the claim was not reasonably able to protect the interests of any party represented by that person.

because of the age or physical or mental capacity of that party or person;

(c)the relative economic circumstances, educational background and literacy of:

(i)the parties to the claim; and

(ii)any person who represented any of those parties;

(d)whether or not and when independent legal or other expert advice was obtained by the claimant;

(e)whether any undue influence, unfair pressure or unfair tactics were exerted on or used against the claimant:

(i)by any other party to the claim;

(ii)by any person acting or appearing or purporting to act for or on behalf of any other party to the claim; or

- (iii) 為任何該申訴之相對人或代理或出席或代表而為該相對人而為行為之人所知悉之任何人。
- (f) 該申訴之相對人於當事人間為該交易當事人之類似交易中之行為。
- (g) 申訴之客體為貨品或服務提供之契約或附隨於此等契約之契約者：
 - (i) 契約訂定前或時，其規定是否為協商之客體。
 - (ii) 申訴人是否得合理可行地就任何契約之規定之變更或拒絕接受而為協商。
 - (iii) 契約之任何規定是否係無法合理遵守或於申訴事件之任何當事人之適法利益之保護上非屬必要者。
 - (iv) 若契約之全部或一部屬書面者，契約之實質形式及其表達語文之可理解性。
 - (v) 是否有任何人就該契約之規定及其法律效果之範圍正確地向申訴人為解釋，而申訴人是否了解該規定及其效果。
 - (vi) 商業或其他環境、契約之目的及效果。
- (3) 於不影響第(1)項之規定下，仲裁庭考慮是否依第 30 條規定做成一命令或數命令時，仲裁庭得就下列與該申訴特定事實真實關係之事項列入考量：

- (iii) by any person to the knowledge of any other party to the claim or of any person acting or appearing or purporting to act for or on behalf of any other party to the claim;
- (f) the conduct of the parties to the claim in relation to similar transactions to which any of them has been a party;
- (g) where the subject of the claim is a contract for the supply of goods or services or a contract collateral to such a contract:
 - (i) whether or not before or at the time when the contract was made its provisions were the subject of negotiation;
 - (ii) whether or not it was reasonably practicable for the claimant to negotiate for the alteration of or to reject any of the provisions of the contract;
 - (iii) whether or not any provisions of the contract impose conditions which are unreasonably difficult to comply with or not reasonably necessary for the protection of the legitimate interests of any party to the claim;
 - (iv) if the contract is wholly or partly in writing, the physical form of the contract and the intelligibility of the language in which it is expressed;
 - (v) the extent (if any) to which the provisions of the contract and their legal effect were accurately explained by any person to the claimant and whether or not the claimant understood the provisions and their effect; and
 - (vi) the commercial or other setting, purpose and effect of the contract.
- (3) Without limiting subsection (1), when a tribunal is considering whether or not to make an order or orders under section 30, it is appropriate for the tribunal to take into account, so far as material to the particular circumstances of the case:

- (a) 任何依一九八七年公平交易法第 7 部份規定之公平交易之行為準則。
- (b) 任何由局長提請資深仲裁人注意之其他行為準則，不論該行為準則是否係由其他法律所規定。

仲裁庭為命令之管轄權之限制

32. (1) 仲裁庭於下列價值或金額總數依該命令或因該命令將多於規定金額時，即無權就一消費者申訴為有利於請求人或於有複數請求人時為有利於該複數請求人之命令或數命令：

- (a) 應支付之金錢之數額。
- (b) 應履行之工程或應提供之服務之價值。
- (c) 被宣告未屆清償期或無積欠之金錢之數額。
- (d) 應提供或更換之貨物之價值。

(2) 仲裁庭依該命令或因該命令而應支付之金額或金額總數，多於規定金額時，即無權就申訴為有利於被申訴人或於有複數被申訴人時為有利於該複數被申訴人之命令或數命令。

更正仲裁庭命令之權力

33. 若仲裁庭所做成之命令包含：

- (a) 筆誤，
- (b) 意外逸失或疏漏而生之錯誤，
- (c) 數值之實際計算錯誤或於該命令中提及之任何人、物或事等敘

- (a) any code of practice for fair dealing prescribed under Part 7 of the Fair Trading Act 1987; and
- (b) where the Commissioner has brought to the attention of the senior referee any other of practice, whether or not prescribed by or under any other Act-that code of practice.

Limitation on tribunal's jurisdiction to make orders

32.(1) A tribunal has no jurisdiction to make in respect of a particular consumer claim an order or orders in favour of the claimant or, where there are 2 or more claimants, in favour of those claimants if the total of:

- (a) the amount or amounts (if any) of money to be paid;
- (b) the value or values (if any) of the work to be performed, or the services to be supplied;
- (c) the amount or amounts (if any) of money to be declared not to be due or owing; and
- (d) the value or values of goods (if any) to be delivered or replaced, under or by virtue of the order or orders would exceed the prescribed amount.

(2) A tribunal has no jurisdiction to make in respect of a particular consumer claim an order or orders in favour of the respondent to the claim or, where there are 2 or more respondents to the claim, in favour of those respondents if the amount or the total of the amounts (if any) to be paid under or by virtue of the order or orders would exceed the prescribed amount.

Power to correct tribunal orders

33. If an order made by a tribunal contains:

- (a) a clerical mistake;
- (b) an error arising from an accidental slip or omission;
- (c) a material miscalculation of figures or a material mistake in

述上之錯誤，

(d) 格式之瑕疵，

仲裁庭得自行或依該命令做成之申訴事件之當事人之聲請，或由仲裁庭得依此等當事人之聲請，更正該命令。

仲裁庭之命令為終局確定

34. 仲裁庭之命令，係屬終局確定並拘束受該仲裁庭審理並判斷之消費者申訴之所有當事人，且就仲裁庭之命令不得提起上訴。但不影響申訴依第 36 條規定為重新審理，且不影响法院給與於第 21 條第(2)項規定中所載之救濟或損害賠償。

特定仲裁庭命令等之理由

34A.(1) 仲裁庭就消費者申訴之正式記錄中，經載明仲裁庭就做成下列認定及命令之理由：

(a) 任何由仲裁庭就其審理並判定申訴之管轄權所做成之裁定。

(b) 任何由仲裁庭就申訴所做成之命令（依第 30 條規定做成之中間或附帶命令不適用之）。

(2) 前項規定之理由，應依個別事件儘可能合理可行地簡短。

第 4 節 仲裁庭命令之執行

金錢支付命令之執行

35. (1) 本條規定中，地區法院不包括一九七〇年地區法院（民事訴訟）法第 77 條第(3)項之有效命令之地區法院。

the description of any person, thing or matter referred to in the order; or

(d) a defect of form,

the tribunal, of its own motion or on the application of a party to the consumer claim in respect of which the order was made, or another tribunal, on the application of such a party, may correct the order.

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).

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.

Division 4—Enforcement of tribunal orders

Enforcement of orders to pay money

35.(1) In this section, a reference to a Local Court does not include a reference to a Local Court specified in an order in force under

(2) 仲裁庭依第 30 條規定命令支付一數額金錢予消費者申訴之當事人時：

(a) 該當事人得將經消費者申訴仲裁庭之書記長認證之命令之副本、與由當事人簽署而載有下列事項之具結書，提交地區法院以執行該命令：

- (i) 載明依命令而未付之金額。
- (ii) 若該命令僅於怠於行為發生時始生效者，載明怠於行為之特定事實。

(b) 消費者申訴仲裁庭之書記長得依該當事人之聲請而為該當事人之利益，以下列方式之一，執行該命令：

(i) 將命令之副本，與經該書記長簽署之具結書，及載明第(a)款第(i)點及第(ii)點規定事項，提交予地區法院。

(ii) 以前述方式將第(i)點規定之命令及具結書之內容，轉送於地區法院之職員。

(3) 當

(a) 仲裁庭命令之副本及具結書或認證書依第(2)項第(a)款或第(b)款第(i)點規定提交予地區法院時，

(b) 仲裁庭命令及認證書之內容依第 2 項第(b)款第(ii)點規定轉送至地區法院職員時，

一九七〇年地區法院（民事訴訟）法規定之目的，就具結書或認證書中載明未付之金額，該命令應被視為係未被履行之裁判。

section 77 (3) of the Local Courts (Civil Claims) Act 1970.

(2) Whenever a tribunal has made an order under section 30 requiring the payment of an amount of money to a party to a consumer claim:

(a) that party may enforce the order by filing in a Local Court a copy of the order, certified by the registrar of consumer claims tribunals to be a true copy, together with an affidavit executed by that party:

- (i) specifying the amount then unpaid under the order; and
- (ii) if the order is to take effect only when a default has occurred, specifying particulars of the default; or

(b) the registrar of consumer claims tribunals may, at the request and on behalf of that party, enforce the order either:

(i) by filing in a Local Court a copy of the order, together with a certificate, signed by that registrar, specifying the matters referred to in paragraph (a) (i) and (ii); or

(ii) by transmitting to the Clerk of a Local Court in the prescribed manner the contents of the order and of the certificate referred to in subparagraph (i).

(3) When:

(a) a copy of an order of a tribunal and an affidavit or a certificate are filed in a Local Court in accordance with subsection (2) (a) or (b) (i); or

(b) the contents of an order of a tribunal and of a certificate are transmitted to the Clerk of a Local Court in accordance with subsection 2 (b) (ii),

the order shall, for the purposes of the Local Courts (Civil Claims) Act 1970, be taken to be an unsatisfied judgment for the amount specified in the affidavit or certificate as being

(4) 若消費者申訴仲裁庭之書記長聲請執行消費者申訴之一方當事人支付一數額金錢之命令者，行使依第(2)項規定所授與之權力前，書記長應：

(a) 將所要求遵守該命令之通知送達當事人。

(b) 容許當事人有七日期間遵示該要求為履行。

(5) 若依第(2)項規定：

(a) 仲裁庭命令之副本已提交至地區法院，

(b) 此等命令之內容已轉送至地區法院之職員，

任何嗣後提交該命令之副本予同一地區法院或其他地區法院之行為，或任何嗣後將此等命令之內容轉送至同一地區法院或其他地區法院之職員之行為，均屬無效。

(6) 第(2)項規定有關之文件提交至地區法院，不須負擔任何費用。

(7) 若依第(2)項規定：

(a) 仲裁庭命令之副本及具結書或認證書已提交至地區法院，

(b) 仲裁庭命令及認證書之內容已轉送至地區法院之職員，

議長得依該命令而有利於當事人之聲請或同意，為該人行使一九七〇年地區法院（民事訴訟）法第 5 部份第 2 節規定授與裁判債權人之任何權能（裁判債務人之調查）。

unpaid/

(4) If the registrar of consumer claims tribunals is requested to enforce an order of a tribunal requiring a party to a consumer claim to pay an amount of money, the registrar, before exercising the power conferred by subsection (2), must:

(a) serve on the party a notice requiring the party a notice requiring the party to comply with the order; and

(b) allow the party a further period of 7 days to comply with the requirement.

(5) If, in accordance with subsection (2):

(a) a copy of an order of a tribunal has been filed in a Local Court; or

(b) the contents of such an order have been transmitted to the Clerk of a Local Court,

any later filing of a copy of the order in that or another Local Court, or any later transmission of the contents of such an order to the Clerk of that or another Local Court, is of no effect.

(6) No fee is payable for the filing in a Local Court of the documents referred to in subsection (2).

(7) If, in accordance with subsection (2):

(a) a copy of an order of a tribunal and an affidavit or certificate have been filed in a Local Court; or

(b) the contents of an order of a tribunal and of a certificate have been transmitted to the Clerk of a Local Court,

the Commissioner may, at the request or with the consent of the person in whose favour the order was made, exercise on behalf of that person any of the functions conferred on a judgment creditor by Division 2 of Part 5 of the Local Courts (Civil Claims) Act 1970 (Examination of judgment debtor).

經命令應支付之金錢之利息

35A.適用一九七〇年地區法院（民事訴訟）法第 39 條規定於依本法做成之仲裁庭命令，該條第(3)項不適用之。

其他仲裁庭命令之執行

36. (1)本條規定依第 30 條第(1)項第(b)款、第(c)款、第(e)款、第(f)款或第(g)款，或第(2)項第(c)款，或第 12I 條第(1)項第(b)款、第(c)款、第(e)款或第(f)款規定適用於仲裁庭所做成之命令。但該命令之效力依第 30 條第(7)項規定中止時，不適用之。

(2) 適用本條規定之仲裁庭命令，即得依本條規定執行之。

(3) 判斷消費者申訴之仲裁庭，於做成適用本條規定之命令時或後，若該命令未仲裁庭規定之期間內被遵守者，仲裁庭得准許該命令有利於當事人更新該申訴。

(4) 若適用本條規定之命令未於仲裁庭規定之期間內被遵守者，就該命令有利之人得以規定之表格，向書記處提出該命令為被遵守之通知，做為該仲裁申訴之更新。

(5) 本部份之規定，適用於依第(4)項規定所提出之通知，如同該通知係消費者申訴依第 13 條規定所提起者般。

(6) 當消費者申訴已依第(4)項規定被更新時，相關仲裁庭：

(a) 得如其於最初判斷該申訴事件時得為者般，依第 30 條規定做成其他適當命令。

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.

Enforcement of other tribunal orders

36.(1) This section applies to an order of a tribunal made under section 30 (1) (b), (c), (e), (f) or (g) or (2) (c) or 12I (1) (b), (c), (e) or (f) but does not so apply if the operation of the order has been suspended under section 30 (7).

(2) An order of a tribunal to which this section applies is enforceable only as provided by this section.

(3) A tribunal that is determining a consumer claim may, when making an order to which this section applies or later, give leave to the person in whose favour the order is made to renew the claim if the order is not complied with within the period specified by the tribunal.

(4) If an order to which this section applies has not been complied with within the period specified by the tribunal, the person in whose favour the order was made may effect a renewal of the consumer claim to which the order relates by lodging at the registry a notification in the prescribed form to the effect that the order has not been so complied with.

(5) The provisions of this Part apply to a notification lodged in accordance with subsection (4) as if the notification were a consumer claim lodged in accordance with section 13.

(6) When a consumer claim has been renewed in accordance with subsection (4), the tribunal concerned:

(a) may make such other appropriate order under section 30 as it could have made when the claim was originally determined;

(b) 得拒絕做成此等命令。

局長於公司清算程序中代表債權人之權力

37. 當

- (a) 公司債權人因公司（新南威爾斯）法第 363 條規定得申請公司清算，
- (b) 債權人有權申請債務或債務之一部，仲裁庭依本法第 30 條規定或依舊法第 23 條規定做成應支付債權人金額之命令，

局長於債權人同意或聲請時，有權行使該法就公司清算而授與債權人之所有權利及權能。

第 5 部份 其他事項

藐視仲裁庭罪

38. (1) 一人不得：

- (a) 故意侮辱：
 - (i) 組織仲裁庭之仲裁人或當其前往仲裁庭審理或審理後離去時。
 - (ii) 任何出席仲裁庭審理之人或當其前往審理或審理後離去時。
- (b) 於仲裁庭為審理時故意為不當行為。
- (c) 故意且無法律上原因而阻斷仲裁庭之審理。

or

(b) may refuse to make such an order.

Power of Commissioner to represent creditors in certain company winding up proceedings

37. Whenever:

- (a) a creditor of a company is, by virtue of section 363 of the Companies (New South Wales) Code, entitled to apply for the winding up of the company; and
- (b) the debt, or part of the debt, that entitles the creditor to make that application is an amount that a tribunal has ordered to be paid to the creditor by an order made under section 30 of this Act or under section 23 of the repealed Act,

the Commissioner is, with the consent or at the request of the creditor, entitled to exercise all of the rights and functions conferred by that Code on the creditor with respect to the winding up of the company.

PART 5—MISCELLANEOUS MATTERS

Offence to act in contempt of a tribunal

38.(1) A person shall not:

- (a) intentionally insult:
 - (i) a referee while constituted as a tribunal or while on his or her way to or from a hearing of the tribunal; or
 - (ii) any person while attending a hearing of a tribunal or while on his or her way to or from such a hearing;
- (b) intentionally misbehave at a hearing of a tribunal;
- (c) intentionally and without lawful excuse, interrupt a hearing

(d) 對欲出席仲裁庭審理之人施以強暴，或故意阻止或阻礙有權出席或經准許出席之人出席仲裁庭審理程序。

(e) 無法律上原因，不遵守仲裁庭於審理時發給之合法指示。

刑罰：五單位罰金或六個月徒刑。

(2) 第(1)項第(e)款規定之指示，不包括依第 30 條規定做成之命令。

(3) 在仲裁庭之審理中，若仲裁庭認為一人正從事或已從事第(1)項規定之違犯行為，仲裁庭得指示該人離開審理舉行之地點。

(4) 一人不得不遵從依第(3)項規定發給之指示。

刑罰：五單位罰金。

(5) 僅擔任規定職務或由擔任此等職務者指定之人，得於訴訟中就本條規定之罪擔任告發人。

合意排除之禁止

39. (1) 本法規定之效力，不因任何契約、合約、協議或共識排除而受影響。

(2) 本法施行前或施行後訂定之契約、合約、協議或共識，無使本法任何規定無效、變更或排除適用。

通知之送達

40. 依本法規定，書記長需要將通知或其他文件送達其人，依該人之一般住所地或書記長知悉該人最後所在地，以預付郵資方式投遞

of a tribunal;

(d) assault a person who is attending, or intentionally prevent or obstruct a person entitled or permitted to attend from attending, a hearing of a tribunal; or

(e) without lawful excuse, disobey a lawful direction given to the person by a tribunal during a hearing of the tribunal.

Penalty: 5 penalty units or imprisonment for 6 months.

(2) The reference in subsection (1) (e) to a direction does not include a reference to an order made under section 30.

(3) If at a hearing of a tribunal it appears to the tribunal that a person is committing or has committed a contravention of subsection (1), the tribunal may direct the person to leave the place at which the hearing is being held.

(4) A person shall not fail to comply with a direction given under subsection (3).

Penalty: 5 penalty units.

(5) Only a person who holds a prescribed office, or a person authorised by a person who such an office, may act as informant in proceedings for an offence under this section.

Contracting out prohibited

39.(1) This Act has effect despite any stipulation to the contrary in any contract, agreement, arrangement or understanding.

(2) No contract, agreement, arrangement or understanding made or entered into either before or after the commencement of this Act has the effect of nullifying, varying or excluding any of the provisions of this Act.

Service of notices

40. Where, by or under this Act, the registrar is required to serve a notice or other document on a person, the posting of the notice or

該通知或文件者，即為本法所為之適當送達。

特定向資深仲裁人或局長報告之事項

41. (1) 第(2)項所指之仲裁人，係指資深仲裁人以外之仲裁人。

(2) 不論何時：

(a) 仲裁庭就消費者申訴審理或判斷所生之事項，及組成該仲裁庭之仲裁人認為該事項於消費者及提供人間係屬重要者，

(b) 仲裁人認為該事項與下列情形有關者：

(i) 本法之執行，

(ii) 仲裁庭之進行及程序，

應提報資深仲裁人知悉。

同時，該仲裁人應就該事項以書面之方式向資深仲裁人為報告。

(3) 不論何時：

(a) 由資深仲裁人所組成之仲裁庭就消費者申訴審理或判斷所生之事項，及資深仲裁人認為該事項於消費者及提供人間係屬重要者，

(b) 資深仲裁人認為該事項與下列情形有關者：

(i) 本法之執行，

(ii) 仲裁庭之進行及程序，

應提報局長知悉。

(c) 仲裁人依第(1)項規定向資深仲裁人提報之事項，而資深仲

document by pre-paid mail to that person at that person's usual address or the address of that person last known to the registrar shall be taken to be sufficient service for the purposes of this Act.

Certain matters to be reported to senior referee or Minister

41.(1) In subsection (2), a reference to a referee is a reference to a referee other than the senior referee.

(2) Whenever:

(a) a matter arises out of the hearing or determination of a consumer claim by a tribunal and the referee who constitutes the tribunal considers the matter to be of importance as regards the relationship of consumer and supplier; or

(b) a referee is of the opinion that a matter relevant to:

(i) the administration of this Act; or

(ii) the practices and procedures of tribunals,

should be brought to the attention of the senior referee,

the referee must make a report on the matter in writing to the senior referee.

(3) Whenever:

(a) a matter arises out of the hearing or determination of a consumer claim by a tribunal constituted by the senior referee and the senior referee considers the matter to be of importance as regards the relationship of consumer and supplier;

(b) the senior referee is of the opinion that a matter relevant to:

(i) the administration of this Act; or

(ii) the practices and procedures of tribunals,

should be brought to the attention of the Minister; or

(c) a referee reports a matter to the senior referee in accordance

裁人認為該事項屬第(a)款或第(b)款規定者，資深仲裁人應就該事項向局長為報告。

- (4) 若仲裁庭就消費者申訴審理程序中或結果，仲裁庭認為提供人於其與申訴人交易過程中，從事應提報予局長知悉之行為者，仲裁庭得以書面就該行為為報告，並將該報告提交予局長。

- (5) 若報告依第(4)項規定提交予局長，而局長認為提供人係：

- (a) 貨物或服務之提供人，須依法持有執照、註冊證書、職業證書、許可或其他授權，
- (b) 屬提供該提供人所提供之貨物或服務種類之大部份個人或個人組成之貿易組織之組成員。

局長得將報告之副本、或其他包含於報告之資料，移送至負責該法律執行之主管機關或貿易組織。

- (6) 依本條規定，局長因公布引起損害名譽之訴訟程序，有合法之豁免權。

局長建立並維持不合格提供人名單之權力

42. (1) 依本條規定，局長得為本法之目的建立並維持被稱為不合格提供人名單之名單。

with subsection (1) and the senior referee is of the opinion that the matter is of a kind referred to in paragraph (a) or (b), the senior referee must make a report on the matter to the Minister.

- (4) If, in the course of, or as a result of, the hearing of a consumer claim by a tribunal, it appears to the tribunal that a supplier has, in the course of the supplier's dealings with the claimant, engaged in conduct that should be brought to the attention of the Commissioner, the tribunal may make a report in writing on that conduct and transmit it to the Commissioner.

- (5) If a report transmitted to the Commissioner under subsection (4) relates to a supplier who appears to the Commissioner to be:

- (a) as a supplier of goods or services, required by law to be the holder of a licence, certificate of registration, practising certificate, permit or other authority; or
- (b) a member of a trade organisation comprised of persons or mostly of persons who supply goods or services of the kind supplied by the supplier,

the Commissioner may transmit a copy of the report, or any information contained in the report, to the authority responsible for the administration of the law or that trade organisation.

- (6) The Commissioner has qualified privilege in proceedings for defamation arising out of a communication made under this section.

Power of Commissioner to establish and maintain a list of unsatisfactory suppliers

- 42.(1) Subject to this section, the Commissioner may establish and maintain for the purposes of this Act a list to be known as the unsatisfactory suppliers list.

- (2) 局長得將下列提供人及其他特定事項計入不合格提供人名單中：
- (a) 任何依第 41 條規定做成非難報告對象之提供人。
 - (b) 任何於命令規定期間內，怠於遵守仲裁庭命令要求之提供人。
 - (c) 當本款規定之期間內，任何依本法第 30 條或舊法第 23 條規定做成之命令而不利於提供人。
- (3) 局長除給與該提供人有機會證明何以其姓名及特定事項不應列於該名單，並於被給與此等機會而於局長規定期間內（自給與該機會後不得少於七天），未提出證明者外，不得將該提供人之姓名及其他特定事項列於不合格提供人名單中。
- (4) 局長於規定情事發生或規定條件滿足者，應於規定期間屆滿時將提供人之姓名及其他特定事項自不合格名單中除去。
- (5) 局長得隨時以其認為適當之方式公布不合格名單之副本或現行載入該名單特定事項之副本。
- (6) 局長依第(5)項規定所為之公布引起損害名譽之訴訟程序，有合

- (2) The Commissioner may enter in the unsatisfactory suppliers list the name and other prescribed particulars (if any) of:
- (a) any supplier who has been the subject of an adverse report made under section 41;
 - (b) any supplier who has failed to comply with the requirements of an order of a tribunal within the period specified in the order; or
 - (c) any supplier against whom more than the prescribed number of orders has been made under section 30 of this Act, or under section 23 of the repealed Act, during the period prescribed for the purposes of this paragraph.
- (3) The Commissioner must not enter the name and other particulars of a supplier in the unsatisfactory suppliers list unless the supplier has first been given an opportunity to show cause as to why the name and particulars of the supplier should not be entered in the list and, having been given such an opportunity, has not shown cause within such period (being not less than 7 days after the opportunity was given) as the Commissioner may allow.
- (4) The Commissioner must remove the name and other prescribed particulars of a supplier from the unsatisfactory suppliers list at the end of the prescribed period, on the happening of a prescribed event or on fulfilment of prescribed conditions.
- (5) The Commissioner may from time to time publish in such manner as the Commissioner thinks fit a copy of the unsatisfactory suppliers list or of any particulars currently entered in the list.
- (6) The Commissioner has qualified privilege in proceedings for

消費者申訴之特定事項之公布

43. 書記長依局長指示或許可之方式，應公布局長於指示或許可中記載之與消費者請求案件有關之特定事項。

局長就特定案件介入之權力

44. (1) 如於任何程序中，一仲裁庭之命令或裁定於依法院程序中受反對、審查或質疑者，局長有權於法院程序中之任何階段以訴訟代理人、辯護人或代理人為程序介入。
- (2) 如局長行使第(1)項規定授與之權力而介入法院程序者，局長即成為該程序之當事人，並享有當事人所有之權能，包括就法院之命令或裁判為上訴之權利。

依本法所為事項之保護

45. 除本法有明文規定外，書記長、副書記長、仲裁人、請求人、提供人或其他人，就下列情事皆毋須於任何法律程序中負任何責任：
- (a) 任何程序、公佈或其他情事：
- (i) 依本法或條例授權而為者。
- (ii) 基於善意認為係依本條例或細則授權而為者。
- (b) 任何基於善意而怠於依本條例或細則之施行之行為或事項。

法律程序之證據

46. 任何法律程序中，除依證據而有必要時，不得就下列情事要求提

subsection (5).

Publication of particulars of consumer claims

43. The registrar must publish, in such manner as the Minister directs or approves, such particulars in relation to consumer claims as the Minister specifies in the direction or approval.

Power of Minister to intervene in certain cases

44. (1) If any proceeding, order or ruling of a tribunal is challenged, reviewed or called into question in proceedings before a court, the Minister is entitled to intervene at any stage of the proceedings before the court, by counsel, solicitor or agent.
- (2) If the Minister exercises the right conferred by subsection (1) to intervene in proceedings before a court, the Minister thereupon becomes a party to, and has all the rights of a party to, those proceedings, including the right to appeal against any order or judgment of the court.

Protection for things done under this Act

45. Except as expressly provided by this Act, neither the registrar, a deputy registrar, a referee, claimant, supplier nor any other person is liable in any legal proceeding on account of:
- (a) any proceedings, publication or other thing:
- (i) taken, made or done under the authority of this Act or the regulations; or
- (ii) taken, made or done in good faith under the purported authority of this Act or the regulations; or
- (b) any act or thing that in good faith has been omitted to be done in respect of the administration of this Act or the regulations.

Evidence in legal proceedings

46. In any legal proceedings, proof is not, until evidence is given to the

供證據：

- (a) 仲裁庭之組織。
- (b) 任何仲裁人或書記長或副書記長之任命或該職位之擔任。

違犯之程序

47. 就違犯本法之罪之程序，應由司法行政官獨任之地區法院以簡易程序審理之。

施行細則

48. (1) 省長於不違反本法規定下，得因本法規定或許可或為本法施行或效果上必要之任何事項，制定細則，包括：

- (a) 如消費者申訴之一方當事人為個人之非法人團體或一商號者，該當事人於仲裁庭審理程序中之代表及通知之送達。
- (b) 消費者申訴仲裁庭審理中應遵守之程序及規則。
- (c) 書記長或副書記長於職務上應遵守之程序及規則。
- (d) 授權書記長為使消費者申訴準備受仲裁庭審理所必要之步驟而為指示。
- (e) 書記長就任何案件於仲裁庭受審理有關或為此目的而應負之職務及應保有之記錄。
- (f) 仲裁庭之正式記錄及與消費者申訴事件有關之文件之保管及處分。

contrary, required to be given of:

- (a) the constitution of a tribunal; or
- (b) the appointment of, or the holding of office by, any referee or the registrar or a deputy registrar.

Proceedings for offences

47. Proceedings for an offence against this Act shall be dealt with summarily by a Local Court constituted by a Magistrate sitting alone.

Regulations

48.(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to:

- (a) if a party to a consumer claim is an unincorporated body of persons or a firm-the representation of, and the service of notices on, the party at hearings of the claim by a tribunal;
- (b) the procedure and practice to be followed at hearings before a tribunal of consumer claims;
- (c) the procedure and practice to be followed in the office of the registrar or any deputy registrar;
- (d) empowering the registrar to give directions as to the steps to be taken in order to make a consumer claim ready for hearing by a tribunal;
- (e) the duties of, and the records to be kept by, the registrar in relation to, or for the purposes of, the hearing of any claim before a tribunal;
- (f) the maintenance and disposal of official records of tribunals and other documents relating to consumer claims;

- (g) 關於適用本法目的所需之表格。
- (h) 關於適用本法目的所需通知之送達。
- (i) 依本法應付之規費。
- (j) 應付規費之免除，或規費已支付之情形時，該規費之全部或一部之返還。
- (k) 要求消費者申訴之當事人或其他人於審理該請求案件之仲裁庭給予證據或提供證據予該仲裁庭。
- (l) 仲裁庭命令之執行。
- (m) 於規定情形，就關於信用規定之程序，自商業仲裁庭移轉至消費者申訴事件之仲裁庭。

(2) 一條例得制定一刑罰不超過二罰金單位之罪。

廢止

49. 附則 2 中規定之各法，於規定範圍內予以廢止。

保留及過渡條款

50. 附則 3 仍有效力。

- (g) forms to be used for the purposes of this Act;
 - (h) the service of notices required for the purposes of this Act;
 - (i) fees to be paid under this Act;
 - (j) the waiver of fees to be so paid or, in the case of fees that have already been so paid, the refund of all or a part of those fees;
 - (k) the issue of summonses requiring parties to a consumer claim or other persons to give evidence before, or produce evidence to, the tribunal that is hearing the claim;
 - (l) the enforcement of orders of tribunals; and
 - (m) the transfer from the Commercial Tribunal to a consumer claims tribunal, in the prescribed circumstances, of proceedings relating to the provision of credit.
- (2) A regulation may create an offence punishable by a penalty not exceeding 2 penalty units.

Repeals

49. Each Act specified in Schedule 2 is, to the extent indicated, repealed.

Savings and transitional provisions

50. Schedule 3 has effect.

附則 1 關於仲裁人之條款

（第 4 條第(4)項）

1. * * * * *

代理仲裁人等

2. (1) 仲裁人患病或缺席時，省長得隨時任命一人代理仲裁人職務，而該人於代理時，擁有仲裁人所有之權能，並應被視為是仲裁人。
- (2) 資深仲裁人患病或缺席時，省長得隨時任命一仲裁人代理資深仲裁人職務，而該仲裁人於代理時，擁有資深仲裁人所有之豁免及權能。
- (3) 省長得隨時將依本條所任命之人，予以解職。
- (4) 代理仲裁人或資深仲裁人職務時，一人有權領取由部長隨時決定該人得領取之俸給（包括差旅及生活補貼）。
- (5) 關於適用本條之目的：
 - (a) 仲裁人或資深仲裁人職務懸缺時，應視為係仲裁人或資深仲裁人缺席。
 - (b) 仲裁人受第(1)項規定之認明而代理資深仲裁人期間，應被視為係缺席。

SCHEDULE 1 – PROVISIONS RELATING TO REFEREES

(Sec. 4 (4))

1. * * * * *

Acting referees etc.

- 2.(1)The Governor may, from time to time, appoint a person to act in the office of a referee during the illness or absence from office of a referee, and the person, while so acting, has all the functions of, and shall be deemed to be, a referee.
- (2)The Governor may, from time to time, appoint a referee to act in the office of senior referee during the illness or absence of the senior referee, and the referee, while so acting, has all the immunities and functions of the senior referee.
- (3)The Governor may, at any time, remove a person from any office to which the person was appointed under this clause.
- (4)A person while acting in the office of a referee or senior 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 the person.
- (5)For the purposes of this clause:
 - (a)a vacancy in the office of a referee or the senior referee shall be regarded as an absence from office of the referee or senior referee; and
 - (b)a referee shall be regarded as absent from office as a referee during any period when the referee acts in the office of the senior referee pursuant to an appointment under subclause

任職期間

3. 依本附則之規定，擔任職務之仲裁人：

- (a) 如係全職仲裁人—任職期間不超過七年，
- (b) 如係兼職仲裁人—任職期間不超過三年，

依仲裁人任命命令定之。但（如何於其他資格）得獲續行任命。

全職仲裁人

4. 全職仲裁人，除依本條例或局長所許可之範圍外，應將其所有時間用於履行其仲裁人職務上之職責。

俸給

5. (1) 全職仲裁人得領取下列俸給：

- (a) 依一九七五年法定及其他職務俸給法規定之俸給。
- (b) 局長隨時決定該仲裁人得領取之差旅及生活補貼。

(2) 兼職仲裁人，有權領取由局長隨時決定該人得領取之俸給（包括差旅及生活補貼）。

仲裁人職位之懸缺

6. (1) 仲裁人如有下列情事之一者，仲裁人職位即屬懸缺：

- (a) 死亡。
- (b) 職務任期屆滿而未獲再任命者。
- (c) 以書面向局長辭去該職務。

(1).

Terms of office

3. Subject to this Schedule, a referee holds office:

- (a) in the case of a full-time referee—for such not exceeding 7 years; or
- (b) in the case of a part-time referee—for such period not exceeding 3 years,

as may be specified in the referee's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Full-time referees

4. A full-time referee must devote the whole of his or her time to the duties of the office of referee, except to the extent permitted by this Act or by the Minister.

Remuneration

5. (1) A full-time referee is entitled to be paid:

- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act 1975; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of the referee.

(2) 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 the part-time referee.

Vacancy in office of referee

6. (1) The office of referee becomes vacant if the referee:

- (a) dies;
- (b) completes a term of office and is not re-appointed;
- (c) resigns the office by instrument in writing addressed to the Minister,

(d) 省長依本條規定予以解職者。

(e) * * * * * ;

(f) 全職仲裁人，連續缺席達二十八日。但於資深仲裁人時經局長准許或於仲裁人時經資深仲裁人准許者，不在此限。

(g) 破產、聲請破產救濟或成為無償債能力債務人以取得任何法律上利益、就其俸給為債權人之利益而與債權人達成和解或將其俸給移轉予債權人。

(h) 符合一九五八年心理健康法定義之暫時病患或持續接受治療病患、一九八三年心理健康法定義之法醫學病患或一九八三年受保護遺產法定義之被保護人。

(i) 於新南威爾斯被處本刑為刑事拘役或徒刑達十二個月以上之罪，或於新南威爾斯以外地區被處如於新南威爾斯犯者得處以上述刑罰之罪者。

(j) 全職仲裁人，除經部長許可外，不得從事仲裁人職務外之有償僱傭行為。

(2) 省長得因能力欠缺、不適任現職或有不當行為而將一仲裁人予以解職。

(3) * * * * *

仲裁人職位懸缺之遞補

7. 若資深仲裁人或仲裁人之職位懸缺時，依本條例規定，得被任命遞補該懸缺。

(d) is removed from office by the Governor under this clause;

(e) * * * * *

(f) being a full-time referee, is absent for a period of 28 consecutive days, except on leave granted, in the case of the senior referee, by the Minister or, in the case of any other referee, by the senior referee;

(g) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;

(h) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983;

(i) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable; or

(j) being a full-time referee, engages in any paid employment outside the duties of the office of referee, except with the consent of the Minister.

(2) The Governor may remove a referee from office for incapacity, incompetence or misbehaviour.

(3) * * * * *

Filling of vacancy in office of referee

7. If the office of senior referee or referee becomes vacant, a person may, subject to this Act, be appointed to fill the vacancy.

特定其他法令之效果

8. (1) 一九七九年公務人員法不適用於仲裁人或資深仲裁人之任命。但任命後，除與本法相抵觸者外，依該法及該法所定之細則，就下列人員適用之：

- (a) 全職仲裁人。
- (b) 兼職仲裁人於執行仲裁人職務時，其效果如同上述人員已依該法而被任命。

(2) 若依其他法令規定：

- (a) 擔任特定職務之人應將其所有時間用於履行其職務上之職責。

- (b) 禁止該人從事職務外之僱傭行為。

此規定並不使擔任該職務外亦擔任兼職仲裁人之之人，喪失其擔任該職務及兼職仲裁人之資格。

先前為公務員之仲裁人之權利之保留

9. (1) 本條規定適用於全職仲裁人被任命為仲裁人前，即擔任：

- (a) 公職或教職。
- (b) 退休計畫之分擔人。
- (c) 經公告成立之法定團體僱用之官員。
- (d) 依法取得官員或受僱人權力之人。

(2) 任職期間內，全職仲裁人：

- (a) 保有其做為官員、分擔人或個人已取得或現時取得之任何

Effect of certain other Acts

8.(1)The Public Service Act 1979 does not apply to the appointment of a person as a referee or as the senior referee, but after appointment that Act and the Regulations under that Act, except in so far as they are inconsistent with Act, apply:

- (a)to a full-time referee; and
- (b)to a part-time referee while exercising the functions of a referee, as if they had been appointed under the first-mentioned Act.

(2)If provision is made by or under any other Act:

- (a)requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or

- (b)prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of part-time referee.

Preservation of rights of a referee who was previously a public servant etc.

9.(1)This clause applies where a full-time referee was, immediately before being appointed as such a referee:

- (a)an officer of the Public Service or a Teaching Service;
- (b)a contributor to a superannuation scheme;
- (c)an officer employed by a proclaimed statutory body; or
- (d)a person in respect of whom provision was made by any Act for the retention of any rights accrued or accruing to the person as an officer or employee.

(2)Subject to the terms of appointment, a full-time referee:

- (a)retains any rights accrued or accruing to him or her as such

權利。

- (b) 得繼續對其被任命前為分擔人之退休計畫為分擔。
 - (c) 有權享有年休或特休及任何款項、退休金或慰撫金，如同其於擔任全職仲裁人期間仍繼續為該官員、分擔人或個人。
- (3) 全職仲裁人之職務，就下列事項所依據之法律之目的而言，應被視為官員或受僱人之職務：
- (a) 依第(2)項規定取得或當時取得之權利。
 - (b) 其繼續為分攤。
 - (c) 權能之授與。
- (4) 為適用全職仲裁人依本條有權為分擔之退休計畫之目的，該全職仲裁人應被視為官員或受僱人，而部長應被視為僱用人。
- (5) 若全職仲裁人，除本條例規定外，依第(2)項規定有權分擔退休計畫或依該計畫得收取款項、退休金或慰撫金者：
- (a) 仲裁人（不論被任命為仲裁人時或擔任仲裁人職位期間）即不具備成為任何其他退休計畫之分擔人之資格。
 - (b) 仲裁人成為其他退休計畫之分擔人者，第(4)項之條款即不適用於該仲裁人及局長。
- (6) 第(5)項規定不禁止全職仲裁人收取其（於其停止做為退休計畫之分擔人時）為該計畫之目的而以辭職方式停止做為官員或受

an officer, contributor or person;

- (b) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before being appointed as a full-time referee; and
 - (c) is entitled to receive any deferred or extended leave and any payment, pension or gratuity.
- (3) Service as a full-time referee shall be regarded as service as an officer or employee for the purposes of any law:
- (a) under which the rights referred to in subclause (2) accrued or were accruing;
 - (b) under which he or she continues to contribute; or
 - (c) by which that entitlement is conferred.
- (4) A full-time referee shall be regarded as an officer or employee, and the Minister shall be regarded as the employer, for the purposes of the superannuation scheme to which he or she is entitled to contribute under this clause.
- (5) If a full-time referee would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive a payment, pension or gratuity under the scheme:
- (a) he or she is not so entitled on becoming (whether on appointment as a referee or any later time while holding office as a referee) a contributor to any other superannuation scheme; and
 - (b) the provisions of subclause (4) cease to apply to or in respect of him or her and the Minister in any case where he or she becomes a contributor to any such other superannuation scheme.
- (6) Subclause (5) does not prevent the payment to a full-time referee (on his or her ceasing to be a contributor to a

僱人而得取得之金額之付款。

(7) 同一任職期間，全職仲裁人不得因本條之適用而有權取得雙重相同之利益。

(8) 本條中：

「經公告成立之法定團體」指任何依法由省長以公告方式為本條之目的而宣告設立之法定團體。

「退休計畫」指提供退職金或退休金利益而依本法設立之計畫、基金或安排。

全職仲裁人於特定情形下有權再擔任原先職務

10. (1) 一人：

(a) 因任職期間屆滿或因辭職而不再為全職仲裁人。

(b) 被任命為仲裁人前為：

(i) 公職或教職之官員，

(ii) 經公告成立之法定團體之官員或受僱人，

(c) * * * * *

有權被任命擔任公職、教職、經公告成立之法定團體中之某些職位，且職等、薪資不得低於該人被任命為全職仲裁人前所持有者。

superannuation scheme) of such amount as would have been payable to him or her if he or she had ceased, because of resignation, to be an officer or employee for the purposes of the scheme.

(7) A full-time referee is not, in respect of the same period of service, entitled to dual benefits of the same kind through the operation of this clause.

(8) In this clause:

“proclaimed statutory body” means any body constituted by or under an Act that is declared by the Governor, by proclamation, to be a statutory body for the purposes of this clause;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act.

Full-time referee entitled to re-appointment to former employment in certain cases

10.(1) A person who:

(a) ceases to be a full-time referee because the period for which the person was appointed has ended or because of resignation;

(b) was, immediately before being appointed as such a referee:

(i) an officer of the Public Service or a Teaching Service; or

(ii) an officer or employee of a proclaimed statutory body,

(c) * * * * *

is entitled to be appointed to some position in the Public Service, the Teaching Service or the service of that proclaimed statutory body, as the case may be, not lower in classification and salary than that which the person held immediately before being appointed as a full-time referee.

(2) 第(1)項規定不適用於下列人員：

(a) 被任命擔任本法設立之全職職位前，為第(1)項第(b)款規定之官員或受僱人。

(b) 任命後復被任命為全職仲裁人。

該人於不再做為全職仲裁人之情形時，此等被任命為前述官員或受僱人之權利，依任命其為全職仲裁人之命令定之，或依該人員與政府間之協議定之。

(3) 於任命仲裁人或資深仲裁人之命令中，省長得加入否定或變更本條就仲裁人或資深仲裁人之效果之內容。

(4) 本條中：

「經公告成立之法定團體」指任何依法建立團體係由省長以公告方式為本條之目的而宣告設立之法定團體。

附則 2 廢止

(第 49 條)

一九七四年第 16 號消費者申訴仲裁庭條例一條文全部

一九七七年第 44 號不動產租賃（租賃契約）條例—第 35 條

一九八五年第 66 號消費者申訴仲裁庭（租賃契約）修正條例一條文全部

一九八七年第 26 號居住承租戶條例—第 136 條

(2) If subclause (1) does not apply to a person who:

(a) was, immediately before being appointed to a full-time office constituted by an Act, an officer or employee referred to in subclause (1) (b); and

(b) is after that appointment appointed as a full-time referee, the person has, in the event of ceasing to be a full-time referee, such rights (if any) to appointment as such an officer or employee as are specified in the instrument of appointment as a full-time referee or as are agreed on by the person and by or on behalf of the Government.

(3) The Governor may, in the instrument of appointment of a referee or senior referee, insert terms that negate or vary the effect of this clause in relation to the referee or senior referee.

(4) In this clause:

“proclaimed statutory body” means any body constituted by or under an Act that is declared by the Governor, by proclamation, to be a statutory body for the purposes of this clause.

SCHEDULE 2—REPELS

(Sec. 49)

Consumer Claims Tribunals Act 1974 No. 16—the whole Act

Landlord and Tenant (Rental Bonds) Act 1977 No. 44—section 35

Consumer Claims Tribunals (Rental Bonds) Amendment Act 1985 No. 66—the whole Act

Residential Tenancies Act 1987 No. 26—section 136

附則 3 保留及過渡條款

（第 50 條）

第 1 部份 法例

保留及過渡細則

1A.(1) 細則得包含因下列法令之立法而為必要之保留或過渡性質之規定：

一九九二年消費者申訴仲裁庭（修正）條例

(2) 若細則確有規定者，第(1)項所稱之規定，應自相關法令通過之日或次日起生效。

(3) 第(1)項所稱之規定於其於公報公佈之日前生效者，該規定不生效力：

(a) 以不利於任何人之方式（除國家或國家之主管機關外），影響該人於該規定公佈之日前既有之權利。

(b) 使任何人（除國家或國家之主管機關外）就於該規定公佈之日前已作為或怠於作為之行為負擔責任。

第 2 部份 一九八七年消費者申訴仲裁庭條例

定義

1. 本附則中：

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 50)

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

Definition

1. In this Schedule:

「施行日」指第 2 條規定指定之日。

仲裁人

2. 任何於施行日前依舊法仍擔任仲裁人或資深仲裁人職位之個人，仍依本法規定，依該職位於該日後應適用之規定及條件，於該日起繼續擔任仲裁人或資深仲裁人。

消費者申訴仲裁庭書記處

3. 依本條例設立之消費者申訴仲裁庭書記處，與依舊法第 11 條第(1)項規定設立之消費者申訴仲裁庭書記處為延續且同一之法定團體。

消費者申訴仲裁庭登記處之職員

4. 一於施行日前依一九七九年公務人員法規定仍擔任消費者申訴仲裁庭書記原或依該舊法被要求行使消費者申訴書記處之適當職務之人，仍依一九七九年公職服務法及該直位於該日後應適用之規定及條件，於該日起繼續擔任該職務。

消費者申訴仲裁庭

5. 施行日前，若消費者申訴仲裁庭尚未裁定依已廢止條例而提出至消費者申訴仲裁庭之消費者申訴，則仲裁庭：
 - (a) 應如同依舊（已廢止）條例被組成一般之繼續組成。
 - (b) 應如同此申訴依舊條例被提出一般之審理並判斷之。

“commencement day” means the day appointed under section 2.

Referees

2. Any person who, immediately before the commencement day, held office under the repealed Act as a referee or as the senior referee continues on and after that day as a referee or as the senior referee under and subject to this Act on the terms and conditions on which the office was held immediately before that day.

Registry of consumer claims tribunals

3. The registry of consumer claims tribunals, as established by this Act, is a continuation of, and the same legal entity as, the registry of consumer claims tribunals established by section 11 (1) of the repealed Act.

Staff of the registry of consumer claims tribunals

4. A person who, immediately before the commencement day, held office under the Public Service Act 1979 as registrar of consumer claims tribunals or as a person required for the proper functioning of the registry of consumer claims tribunals maintained under the repealed Act continues on and after that day to hold that office subject to the Public Service Act 1979 and to the terms and conditions applicable to the holder of that office immediately before that day.

Consumer claims tribunals

5. If, immediately before the commencement day, a consumer claims tribunal has not determined a consumer claim that has been referred to it in accordance with the repealed Act, the tribunal:
 - (a) continues to be constituted as if it had been constituted under this Act; and
 - (b) shall hear and determine the claim as if the claim had been made under this Act.

一九七六年消費者申訴細則

6. 一九七六年消費者申訴細則廢止之。

一九八七年解釋條例第 30 條規定之效力（法律及法規之修正條款等之效力）

7. 第 50 條及本附則於一九八七年解釋條例第 30 條有附加之效力，但不影響該條之適用。

規定中提及舊條例

8. 任何其他條例或公文中提及舊條例者，應解釋為係指本條例。

通則

9.(1) 若

(a) 任何於施行日前依舊條例規定而做成之命令或完成或開始進行之事項，於施行日時仍有效或為完成者，

(b) 該命令或事項得依本條例規定做成、完成或進行，而與該命令做成、完成或開始進行時同樣有效者，

經做成之命令或已完成之事項仍有效，或已進行之事項仍得繼續進行至完成，如同其係依本條例而做成、完成或進行一般。

(2) 第(1)項於本附則另有條款者，不適用之。

關於租賃契約申訴之處理

10.(1) 本條中：

(a) 本條例者，指下列規定以外之本條例規定：

(i) 第 10 條第(3)項；

(ii) 第 30 條第(1)項第(b)款至第(g)款，及第(2)項第(c)款；

Consumer Claims Regulation 1976

6.The Consumer Claims Regulation 1976 is repealed.

Effect of section 30 of Interpretation Act 1987 (Effect of amendments etc. of Acts and statutory rules)

7.Section 50 and this Schedule have effect in addition to, and do not derogate from the operation of, section 30 of the Interpretation Act 1987.

References to the repealed Act

8.A reference in any other Act or instrument to the repealed Act shall be construed as a reference to this Act.

General

9.(1)If:

(a)any order made or other thing done or begun under the repealed Act before the commencement day still has effect immediately before, or is not completed before, the commencement day; and

(b)that order or thing could have been made, done or begun under this Act if it had been in force when the order was made or the thing was done or begun,

the order made or the thing done continues to have effect, or the thing begun may be completed, as if had been made, done or begun under this Act.

(2)Subclause (1) does not apply to any thing for which other provision is made by this Schedule.

Disposal of claims in respect of rental bonds

10.(1)In this clause:

(a)a reference to this Act is a reference to this Act excluding:

(i)section 10 (3);

(ii)section 30 (1) (b)-(g) and (2) (c);

- (iii) 第 36 條。
- (iv) 第 41 條第(2)項第(a)款及第(3)項第(a)款。
- (b) 所謂出租人、承租人或租賃契約者，指依一九七七年不動產租賃（租賃契約）條例定義之出租人、承租人或租賃契約。
- (c) 所謂相關期日者，指一九八七年住宅承租戶法第 83 條第(3)項規定生效之期日。

(2) 至相關期日前，本條例以其適用於一消費者申訴之相同方式，適用於一依本條例第 13 條或舊條例第 13 條規定而由出租人或承租人基於一涉及租賃契約之不動產租賃所提出之請求案件，包括與不動產租賃之內容或條件相關而如無一九七七年不動產租賃（租賃契約）條例者得以之對已依該內容或條件處分或支付之租賃契約提起請求之任何事項相關之請求案件。

- (3) 相關期日屆至時，第(2)項即失其效力。
- (4) 如一適用第(2)項規定之請求案件，已依本條例第 13 條或舊條例第 13 條規定於相關期日前提起，但於該日前尚未受判斷者，該申訴之審理及判斷仍得繼續至完成，如同該項仍為失其效力。

第 3 部份 一九九二年消費者申訴仲裁庭（增修）條例

「增修條例」之意義

11. 於本部份中，「增修條例」指一九九二年消費者申訴仲裁庭（增修）條例。

- (iii) section 36; and
- (iv) section 41 (2) (a) and (3) (a);
- (b) a reference to a lessor, lessee or rental bond is a reference to a lessor, lessee or rental bond as defined in the Landlord and Tenant (Rental Bonds) Act 1977; and
- (c) a reference to the relevant day is a reference to the day on which section 83 (3) of the Residential Tenancies Act 1987 commences.

(2) Until the relevant day, this Act applies to a claim, whether made under section 13 of this Act or section 13 of the repealed Act, by a lessor or a lessee under a lease in relation to a rental bond, including a claim in relation to any matter which, under the terms or conditions of the lease, could, but for the Landlord and Tenant (Rental Bonds) Act 1977, have given rise to a claim against a rental bond deposited or paid in accordance with those terms or conditions, in the same way as it applies to a consumer claim.

- (3) On the relevant day subclause (2) ceases to have effect.
- (4) If a claim to which subclause (2) applies is lodged under section 13 of this Act or section 13 of the repealed Act before the relevant day and is not determined before that day, the hearing and determination of the claim may be completed as if that subclause had not ceased to have effect.

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.

「消費者」定義之擴張

12. 增修條例附則第(1)項之增修條款，關於增修條款施行前所生之情事而提起之消費者申訴，不適用之。

仲裁庭金錢命令之利息之支付

13. 增修條例附則 1 第(14)項所為之增修條款，就於該增修條款施行生效前做成之命令，不適用之。

註釋

條例目錄

一九八七年第 206 號消費者申訴仲裁庭條例，一九八七年十二月八日通過，一九八八年三月一日施行，一九八八年二月二十六日第 41 號公報，一一五〇頁。本條例因下列法令而重印增修：

一九八九年第 148 號消費者申訴仲裁庭（營建糾紛）增修條例，一九八九年十一月七日通過，一九九一年二月二十五日施行，一九九一年二月十五日第 31 號公報，一二三三頁。

一九九〇年第 99 號反歧視（強制退休）增修條例，一九九〇年十二月十三日通過，一九九一年一月一日施行。

一九九二年第 26 號消費者申訴仲裁庭（增修）條例，一九九二年五月十八日通過，為一九九二年八月一日施行，一九九二年七月三十一日第 93 號公報，五二九一頁。

增修條件目錄

Extension of definition of “consumer”

12. The amendments by Schedule (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.

NOTES

Table of Acts

Consumer Claims Tribunals Act 1987 No. 206. Assented to, 8.12.1987. Date of commencement, 1.3.1988, sec. 2 and Gazette No. 41 of 26.2.1988, p.1150. This Act is reprinted as amended by:

Consumer Claims Tribunals (Building Disputes) Amendment Act 1989 No. 148. Assented to, 7.11.1989. Date of commencement, 25.2.1991, sec. 2 and Gazette No. 31 of 15.2.1991, P. 1233.

Anti-Discrimination (Compulsory Retirement) Amendment Act 1990 No. 99. Assented to, 13.12.1990. Date of commencement, 1.1.1991, sec.2.

Consumer Claims Tribunals (Amendment) Act 1992 No.26. Assented to, 18.5.1992. Date of commencement, 1.8.1992, sec. 2 and Gazette No. 93 of 31.7.1992, P. 5291.

Table of Amendments

Sec. 3—Am. 1989 No.148, Sch. 1 (1); 1992 No. 26, Sch. 1 (1) (2) (3).

- Sec. 4A—Ins. 1989 No.148, Sch. 1 (2).
Sec. 7—Am. 1992 No.26, Sch. 1 (4).
Sec. 8—Am. 1992 No. 26, Sch. 1 (5).
Sec. 9—Am. 1992 No. 26, Sch. 1 (6) (10)
Sec. 3A—Ins. 1989 No. 148, Sch. 1 (3).
Sec.12A—12H—Ins. 1989 No. 148, Sch. 1 (3)
Sec. 12I—Ins. 1989 No. 148, Sch. 1 (3). Am. 1992 No. 26, Sch. 1
(12).
Sec. 12J—Ins. 1989 No. 148, Sch. 1 (3).
Sec. 13—Am. 1992 No. 26, Sch. 1 (7).
Sec. 25—Am. 1992 No. 26, Sch. 1 (8).
Sec. 34—Subst. 1992 No. 26, Sch. 1 (13).
Sec. 34A—Ins. 1992 No. 26, Sch. 1 (11).
Sec. 35—Am. 1992 No. 26, Sch. 1 (15).
Sec. 35A—Ins. 1992 No.26, Sch. 1 (14).
Sec. 36—Am. 1989 No. 148, Sch. 1 (4); 1992 No. 26, Sch. 1 (9).
Sec. 1—Am. 1990 No. 99, Sch 4.
Sec. 3—Am. 1992 No. 26, Sch.1 (16).