

2002

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

# Consumer and Trader Tribunal Bill 2003

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FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

# **Consumer and Trader Tribunal Bill 2003**

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## **A Bill for**

An Act to establish a consumer and trader tribunal, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Consumer and Trader Tribunal Act 2003*.

4 **2 Commencement**

5 This Act commences on a day fixed by the Minister by written  
6 notice.

7 *Note 1* The naming and commencement provisions automatically commence on  
8 the notification day (see Legislation Act, s 75 (1)).

9 *Note 2* A single day or time may be fixed, or different days or times may be  
10 fixed, for the commencement of different provisions (see Legislation  
11 Act, s 77 (1)).

12 *Note 3* If a provision has not commenced within 6 months beginning on the  
13 notification day, it automatically commences on the first day after that  
14 period (see Legislation Act, s 79).

15 **3 Dictionary**

16 The dictionary at the end of this Act is part of this Act.

17 *Note 1* The dictionary at the end of this Act defines certain words and  
18 expressions used in this Act.

19 *Note 2* A definition in the dictionary applies to the entire Act unless the  
20 definition, or another provision of the Act, provides otherwise or the  
21 contrary intention otherwise appears (see Legislation Act, s 155 and  
22 s 156 (1)).

23 **4 Notes**

24 A note included in this Act is explanatory and is not part of this Act.

25 *Note* See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

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1    **5    Offences against Act—application of Criminal Code etc**

2    Other legislation applies in relation to offences against this Act.

3    *Note 1    Criminal Code*

4            The Criminal Code, ch 2 applies to all offences against this Act (see  
5            Code, pt 2.1).

6            The chapter sets out the general principles of criminal responsibility  
7            (including burdens of proof and general defences), and defines terms  
8            used for offences to which the Code applies (eg *conduct*, *intention*,  
9            *recklessness* and *strict liability*).

10    *Note 2    Penalty units*

11            The Legislation Act, s 133 deals with the meaning of offence penalties  
12            that are expressed in penalty units.

13    **6    Objects of Act**

14    The objects of this Act are—

15    (a) to establish a consumer and trader tribunal to—

16            (i) review decisions by decision-makers under other Acts if  
17            authorised under the Acts; and

18            (ii) make decisions about the disciplinary action to be taken  
19            against licensees under other Acts if authorised under the  
20            Acts; and

21    (b) to ensure that the tribunal is accessible; and

22    (c) to ensure that proceedings in the tribunal are as simple, quick,  
23    inexpensive and as informal as possible (see section 21); and

24    (d) to ensure that decisions of the tribunal are fair.

1     **Part 2**                    **The consumer and trader**  
2                                    **tribunal**

3     **Division 2.1**             **Establishment and constitution**

4     **7**            **Establishment of tribunal**

- 5       (1) The Consumer and Trader Tribunal (the *tribunal*) is established.  
6       (2) The tribunal has a general division.  
7       (3) The regulations may create other tribunal divisions.

8     **8**            **Constitution of tribunal**

- 9       (1) The tribunal consists of—  
10       (a) the president; or  
11       (b) the president and members appointed by the president under  
12             subsection (2); or  
13       (c) 1 or more members appointed by the president under  
14             subsection (2).  
15       (2) After considering the nature and complexity of a matter to be  
16       decided by the tribunal, the president may appoint from the tribunal  
17       panel 1 or more members of the tribunal for the hearing of the  
18       matter.

19       *Note*   For the making of appointments (including acting appointments), see  
20             Legislation Act, div 19.3.

- 21       (3) If the president appoints more than 1 member for subsection (1) (c)  
22       for a hearing, the president must nominate one of the members to be  
23       the presiding member.



1 **Division 2.2 Tribunal members and staff**

2 **9 Appointment of president**

- 3 (1) The Executive may appoint a person to be the president of the  
4 tribunal.

5 *Note* For the making of appointments (including acting appointments), see  
6 Legislation Act, div 19.3.

- 7 (2) However, the Executive may not appoint a person under  
8 subsection (1) unless the person is a lawyer and has been a lawyer  
9 for 5 years or more.

- 10 (3) An appointment must be for a term of not longer than 5 years.

11 *Note* A person may be reappointed to a position if the person is eligible to be  
12 appointed to the position (see Legislation Act, s 208 and dict, pt 1,  
13 def *appoint*).

14 **10 Appointment of deputy president**

- 15 (1) The Executive may appoint a person as a deputy president for a  
16 stated division of the tribunal if satisfied that the person's  
17 experience or expertise qualify the person to exercise the functions  
18 of deputy president.

19 *Note* For the making of appointments (including acting appointments), see  
20 Legislation Act, div 19.3.

- 21 (2) The Executive may not appoint more than 1 deputy president for a  
22 division of the tribunal.

- 23 (3) An appointment must be for a term of not longer than 3 years.

24 **11 Appointment of tribunal panel**

- 25 (1) The Executive may appoint a person to a tribunal panel if satisfied  
26 that the person's experience or expertise qualify the person to be a  
27 member of the tribunal.

- 28 (2) An appointment must be for a term of not longer than 3 years.

1     **12     Appointment of tribunal registrar**

2     (1) The chief executive may appoint a public servant to be the tribunal  
3     registrar (the *registrar*).

4     *Note 1* For the making of appointments (including acting appointments), see  
5     Legislation Act, div 19.3.

6     *Note 2* In particular, an appointment may be made by naming a person or  
7     nominating the occupant of a position (see s 207).

8     (2) The registrar may delegate any function to a public servant.

9     *Note*     For the making of delegations and the exercise of delegated functions,  
10     see Legislation Act, pt 19.4.

11    **13     Appointment of deputy tribunal registrars**

12    (1) The chief executive may appoint 1 or more public servants to be  
13    deputy registrars for the tribunal.

14    (2) A deputy registrar may exercise a function of the registrar, subject  
15    to any direction of the registrar.

16    **14     Ending appointments**

17    The Executive may end the appointment of a person as a tribunal  
18    member or tribunal panel member—

19    (a) for misbehaviour; or

20    (b) for physical or mental incapacity, if the incapacity affects the  
21    exercise of the person's functions.

22    *Note*     A person's appointment also ends if the person resigns (see Legislation  
23    Act, s 210).

## **Part 3 Applications to tribunal**

### **15 What applications may be made?**

An Act may provide that an application may be made to the tribunal—

- (a) for review of a decision made in the exercise of a function under the Act; or
- (b) for disciplinary action to be taken against a person under the Act.

*Note* The following Acts provide that applications may be made to the tribunal:

- *Agents Act 2003*
- *Security Industry Act 2003*.

### **16 Acts providing for application for review**

- (1) This section applies if an Act makes provision under section 15 (a).
- (2) The Act—
  - (a) must state the person whose decisions may be reviewed; and
  - (b) may be expressed to apply to all decisions of a person, or to stated decisions of the person; and
  - (c) may state conditions subject to which applications may be made.
- (3) A failure by a person to do something required or allowed to be done within the period prescribed by the Act for doing the thing is taken to be a decision by the person not to do the thing.
- (4) A decision mentioned in subsection (3) is taken to have been made at the end of the prescribed period mentioned in subsection (3).

1    **17    Making an application**

2           An application must—

- 3           (a) be in writing; and
- 4           (b) contain a statement of reasons for making the application; and
- 5           (c) contain the details (if any) prescribed under the regulations; and
- 6           (d) for an application for review of a decision—be made within
- 7                 60 days after the day the decision to which the application
- 8                 relates is made; and
- 9           (e) be given to the registrar.

10          *Note 1*   If a form is approved under s 62 (Approved forms) for an application,

11                 the form must be used.

12          *Note 2*   A fee may be determined under s 63 (Determination of fees) for this

13                 section.

14    **18    Help with applications etc**

15           The registrar may give a person making an application, or

16           considering making an application, the help the registrar considers

17           appropriate.

18           **Example**

19           The registrar may advise the person about the role of the tribunal.

20          *Note*       An example is part of the Act, is not exhaustive and may extend, but

21                 does not limit, the meaning of the provision in which it appears (see

22                 Legislation Act, s 126 and s 132).

23    **19    Withdrawal of application**

- 24           (1) An applicant may withdraw an application at any time by giving
- 25                 written notice of the withdrawal to the registrar.
- 26           (2) As soon as practicable after receiving notice of withdrawal of an
- 27                 application, the registrar must give a copy of the notice to each other
- 28                 party to the application.

1 **20 Preliminary conferences**

2 (1) The registrar may require the parties to an application to attend a  
3 preliminary conference.

4 (2) The registrar may make inquiries, or require further information  
5 from a party, for or during a preliminary conference.

6 **Example**

7 The registrar may talk to the consumer who made a complaint to which an  
8 application for disciplinary action relates.

9 *Note* An example is part of the Act, is not exhaustive and may extend, but  
10 does not limit, the meaning of the provision in which it appears (see  
11 Legislation Act, s 126 and s 132).

1 **Part 4 Tribunal procedures**

2 **Division 4.1 Procedures generally**

3 **21 Principles about tribunal procedures**

4 The procedures of the tribunal are to be as simple, quick and  
5 inexpensive as is consistent with achieving justice.

6 **22 Natural justice**

7 The tribunal must observe natural justice.

8 **23 Procedure generally**

9 (1) The tribunal may decide its own procedure in relation to a particular  
10 matter in a hearing or a step in a proceeding if no procedure is  
11 prescribed under this Act.

12 *Note* A reference to an Act includes a reference to the statutory instruments  
13 made or in force under the Act, including regulations (see Legislation  
14 Act, s 104).

15 (2) However, tribunal proceedings should be as informal as possible.

16 **24 Arrangement of business**

17 (1) The president is responsible for ensuring the orderly and prompt  
18 discharge of tribunal business.

19 (2) Without limiting subsection (1), the president may give directions  
20 that are not inconsistent with this Act about any of the following:

21 (a) the arrangement of tribunal business;

22 (b) the procedure of the tribunal generally.

23 **25 Time and place of proceedings**

24 The tribunal is to sit at the times and places the president decides.

1 **Division 4.2** **Tribunal proceedings**

2 **26** **Laws of evidence**

3 The tribunal is not required to apply the laws of evidence, subject to  
4 section 22 (Natural justice).

5 **27** **Tribunal may inform itself**

6 The tribunal may inform itself in any way it considers appropriate in  
7 a particular proceeding, subject to section 22 (Natural justice).

8 **28** **Parties**

9 (1) The parties to a tribunal proceeding are—

10 (a) for an application for review of a decision—the applicant and  
11 the decision-maker; or

12 (b) for an application in relation to disciplinary action—the  
13 commissioner and the person to whom the application relates.

14 (2) Also, the tribunal may join any person as a party to the proceeding.

15 **29** **Representation**

16 A person may be represented in a proceeding by a lawyer or  
17 someone else.

18 **30** **Appearance by corporation**

19 A corporation may appear before the tribunal by a director or an  
20 authorised officer.

21 **31** **Hearings**

22 (1) The tribunal must hear each application made to it, unless the  
23 tribunal—

24 (a) decides not to conduct a hearing under section 41 (Decision  
25 without hearing); or

1 (b) refuses to hear the application, or dismisses it, under  
2 section 44 (1) (a) (Other actions by tribunal).

3 (2) A tribunal hearing must be in public unless there are exceptional  
4 circumstances that, in the tribunal's opinion, justify the hearing  
5 being closed.

6 **32 Procedure in absence of party**

7 (1) This section applies if, at the time set for the hearing of an  
8 application, a party to the application fails to appear either  
9 personally or by a representative.

10 (2) The tribunal may—

11 (a) order that the application be set down for hearing at another  
12 time; or

13 (b) order that stated other steps be taken before the hearing  
14 proceeds as the tribunal directs; or

15 (c) adjourn the proceeding; or

16 (d) if the party is the applicant—dismiss the application; or

17 (e) proceed with the hearing in the absence of the party either  
18 generally or in relation to any relief claimed in the proceeding.

19 **33 Witnesses**

20 (1) For a tribunal hearing, the member presiding, the registrar or a  
21 deputy registrar may summon a person to appear as a witness  
22 before the tribunal—

23 (a) to give evidence; or

24 (b) to give evidence and produce a document or thing stated in the  
25 summons that is in the person's possession, custody or control;  
26 or

27 (c) to produce a document or thing stated in the summons that is in  
28 the person's possession, custody or control.



- 1 (2) The tribunal may give a party leave to inspect a document produced  
2 under a summons.
- 3 (3) A person is taken to have complied with a summons to produce a  
4 document or thing if the person gives the document or thing to the  
5 registrar before the date stated in the summons.
- 6 (4) A summons must be in writing and served on the person named in  
7 the summons.
- 8 (5) A person commits an offence if—  
9 (a) a summons is served on the person; and  
10 (b) the person does not comply with the summons.
- 11 Maximum penalty: 50 penalty units, imprisonment for 6 months or  
12 both.
- 13 (6) An offence against subsection (5) is a strict liability offence.

14 **34 Taking part by telephone etc**

15 The registrar at a preliminary conference, or the tribunal hearing a  
16 proceeding, may allow a person to take part or give evidence by  
17 telephone, closed-circuit television or other means of  
18 communication.

19 **35 Amendments**

- 20 At any stage of a proceeding, the tribunal may—  
21 (a) on application by a party or on its own initiative, order that a  
22 document in the proceeding be amended; or  
23 (b) with the agreement of the parties, give leave to a party to  
24 amend a document of the party.

1 **36 Costs**

2 The parties to a hearing must bear their own costs unless the tribunal  
3 requires otherwise under section 44 (1) (b) (Other actions by  
4 tribunal).

5 **37 Disclosure of interests by members**

6 (1) This section applies if—

7 (a) a person is, or is to be, a tribunal member for a proceeding; and

8 (b) the person has or acquires an interest, financial or otherwise,  
9 that could conflict with the exercise of the member's functions  
10 in relation to the proceeding.

11 (2) The person—

12 (a) must tell the parties to the proceeding about the interest; and

13 (b) must not take part, or continue to take part, in the proceeding,  
14 or exercise any function in relation to the proceeding, unless  
15 each party consents to the person taking part, or continuing to  
16 take part, in the proceeding.

17 (3) If the president becomes aware that a person is, or is to be, a tribunal  
18 member for a proceeding and that the member has an interest  
19 mentioned in subsection (1) (b) in relation to the proceeding—

20 (a) if the president considers that the person should not take part,  
21 or should not continue to take part, in the proceeding—the  
22 president must direct the person not to take part or continue to  
23 take part; or

24 (b) in any other case—the president must cause the interest of the  
25 person to be disclosed to the parties to the proceeding.

26 (4) In this section:

27 *interest* means a direct or indirect interest.

1 **38 Adjourment of proceedings**

2 The tribunal may, at any time, adjourn the hearing of, or the further  
3 hearing of, an application in the way and on the conditions the  
4 tribunal considers appropriate.

1 **Part 5** **Decisions and powers of**  
2 **tribunal**

3 **39 Decisions by majority or president**

- 4 (1) Questions for decision by the tribunal may be decided by a majority  
5 of the votes of tribunal members.
- 6 (2) If the votes of tribunal members on a question are equally divided,  
7 the decision of the president or, if the president is not a tribunal  
8 member, the presiding member is the decision of the tribunal on the  
9 question.

10 **40 Applications to extend time or amend orders**

- 11 (1) This section applies if the tribunal is constituted by the president or  
12 the president and other members.

13 *Note* **President**, for a proceeding in a tribunal division, includes the deputy  
14 president of the division (see dict).

- 15 (2) The tribunal may, on application—  
16 (a) extend the time for compliance with a tribunal order; or  
17 (b) amend an interim tribunal order.

18 **41 Decision without hearing**

- 19 (1) The tribunal may give each party to the proceeding on an  
20 application written notice to the effect that—  
21 (a) the tribunal proposes to make a decision on the application  
22 without conducting a hearing; and  
23 (b) if the party wishes to make representations about the  
24 proposal—the party must make the representations within  
25 21 days after the day the notice is given.

- 1 (2) The tribunal may decide not to conduct a hearing in relation to the  
2 application only if the tribunal—
- 3 (a) has given notice under subsection (1); and
- 4 (b) has taken into consideration any representation made by a  
5 party to the proceeding on the application within the 21 days;  
6 and
- 7 (c) is satisfied that it is in the public interest not to conduct a  
8 hearing; and
- 9 (d) is satisfied that it has sufficient information to make an  
10 informed decision on the application.

11 **42 Review of decisions on application**

- 12 (1) This section applies if the tribunal is reviewing a decision on  
13 application.
- 14 (2) The tribunal may exercise the powers and discretions given by any  
15 relevant Act to the person who made the decision.
- 16 (3) The tribunal must make a decision in writing—
- 17 (a) confirming the decision under review; or
- 18 (b) varying the decision under review; or
- 19 (c) setting aside the decision under review and—
- 20 (i) making a decision in substitution for the decision set  
21 aside; or
- 22 (ii) remitting the matter for reconsideration in accordance  
23 with any direction or recommendation of the tribunal.

1   **43   Orders for disciplinary action**

2   (1) This section applies if the tribunal is considering an application for  
3   disciplinary action against a person.

4   (2) The tribunal may make an order for disciplinary action in relation to  
5   the person if satisfied on reasonable grounds that grounds for  
6   disciplinary action against the person exist.

7   (3) In considering what disciplinary action to take against the person,  
8   the tribunal must consider the following:

9       (a) whether the person took reasonable steps to avoid the action  
10      (the *contravention*) that is the grounds for disciplinary action;

11      (b) whether disciplinary action has previously been taken against  
12      the person for a similar act;

13      (c) whether the person has taken steps to mitigate the effect of the  
14      contravention;

15      (d) the impact of the contravention on any consumer;

16      (e) the likelihood that the person will act in a way that is grounds  
17      for disciplinary action in the future;

18      (f) whether the commissioner has applied for particular  
19      disciplinary action to be taken and, if so, the kind of  
20      disciplinary action applied for.

21   **Example for par (e)**

22   The trader has changed a method of work or given a direction to staff to prevent  
23   further contraventions.

24   *Note*     An example is part of the Act, is not exhaustive and may extend, but  
25              does not limit, the meaning of the provision in which it appears (see  
26              Legislation Act, s 126 and s 132).

27   (4) The tribunal may consider any other relevant matter.

---

**44 Other actions by tribunal**

(1) The tribunal may—

- (a) if the tribunal considers an application is frivolous or vexatious—refuse to hear the application, or dismiss it; or
- (b) if the tribunal considers that a party to a proceeding caused unreasonable delay or obstruction before or during the proceeding—require the party to pay the reasonable costs of the other party arising from the delay or obstruction; or
- (c) hear an application jointly with another application that arises from the same or similar facts; or
- (d) with the president’s consent, amend or set aside a tribunal order.

(2) The tribunal may take any other action it considers appropriate that is consistent with this Act and the Act under which the decision appealed from was made or under which the person against whom disciplinary action is sought is licensed or registered.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see Legislation Act, s 104).

(3) This section does not limit any other power given to the tribunal under this Act or another Territory law.

**45 Interim orders**

(1) This section applies if, before a hearing—

- (a) a party to the proceeding applies to the tribunal for an order under this section; and
- (b) the tribunal is satisfied that, if an order under this section were not made before the beginning of the hearing, the party applying for the order would be disadvantaged or suffer harm.

- 1 (2) The tribunal may make any order (an *interim order*) it considers  
2 appropriate to protect the position of the party that applied for the  
3 order.
- 4 (3) An interim order remains in force until the earliest of the following  
5 happens:
- 6 (a) the end of 2 weeks after the day it is made;
- 7 (b) the tribunal orders otherwise;
- 8 (c) the tribunal makes an order at the conclusion of the hearing to  
9 which the interim order relates.
- 10 (4) The tribunal may, on application by a party while an interim order is  
11 in force—
- 12 (a) vary the order; or
- 13 (b) revoke the order; or
- 14 (c) extend the order for a further 2 weeks.
- 15 (5) If the person against whom an interim order is made is not present  
16 when the order is made, the registrar must arrange for a copy of the  
17 order to be served on the person as soon as practicable after the  
18 order is made.

19 **46 Other disciplinary action**

- 20 (1) In addition to any other order the tribunal may make, the tribunal  
21 may, in relation to a person who is the subject of a disciplinary  
22 proceeding—
- 23 (a) order the person to pay an amount to the Territory or someone  
24 else; or
- 25 (b) reprimand the person; or
- 26 (c) order the person to give a written undertaking; or



- 
- 1 (d) direct the commissioner to—
- 2 (i) place a condition on the person’s licence or registration;
- 3 or
- 4 (ii) remove or amend a condition placed on the person’s
- 5 licence or registration; or
- 6 (e) give the person directions.
- 7 (2) The tribunal must not give a direction for subsection (1) (d) that
- 8 would result in inconsistency with an express requirement placed on
- 9 the person’s licence or registration by the Act under which the
- 10 person is licensed or registered.
- 11 *Note* A reference to an Act includes a reference to the statutory instruments
- 12 made or in force under the Act, including regulations (see Legislation
- 13 Act, s 104).

#### 14 **47 Kinds of directions**

- 15 (1) The tribunal may issue the kinds of directions under section 46 (e)
- 16 that the tribunal considers appropriate in a particular case.
- 17 (2) The directions the tribunal may issue include a direction to comply
- 18 with a requirement under an Act or a licence.
- 19 (3) A direction must state the period within which the person is to
- 20 comply with the direction.
- 21 (4) The tribunal may, on application, extend the period for compliance
- 22 stated in a direction either before or after the end of the stated
- 23 period.

#### 24 **48 Notice of orders**

25 The tribunal must give each party to a proceeding written notice

26 setting out the terms of any order made under this part within 7 days

27 after the day the tribunal makes the order.

1 **49 Statement of reasons**

2 (1) This section applies if—

3 (a) the tribunal makes an order; and

4 (b) within 14 days after the day the order is made a party to the  
5 proceeding asks for a statement of reasons for the making of  
6 the order.

7 (2) The tribunal must give the party a written statement of reasons for  
8 the making of the order.

9 *Note* The Legislation Act, s 179 deals with what must be included in a  
10 statement of reasons.

1 **Part 6** **Referrals and appeals to**  
2 **Supreme Court**

3 **50 Referral of questions of law**

- 4 (1) If the tribunal considers that a question of law raises an issue of  
5 public importance, the tribunal may refer the question to the  
6 Supreme Court.
- 7 (2) The tribunal may act under subsection (1) on its own initiative or on  
8 application by a party.

9 **51 Appeals from decisions of tribunal**

- 10 (1) A party to a tribunal proceeding may, with the Supreme Court's  
11 leave, appeal to the court on a question of law from a decision of the  
12 tribunal in the proceeding.
- 13 (2) An appeal by a person under subsection (1) must be begun within—  
14 (a) 28 days after the day when a notice under section 48 is given to  
15 the person; or  
16 (b) if the person has asked for a statement of reasons under  
17 section 49—28 days after the day the statement is given to the  
18 person; or  
19 (c) any further time the Supreme Court allows (whether on, before  
20 or after a day mentioned in paragraph (a) or (b)).
- 21 (3) The Supreme Court must decide the appeal, and may make any of  
22 the following orders:  
23 (a) an order confirming or setting aside the decision of the  
24 tribunal;  
25 (b) an order remitting the case to be heard and decided again,  
26 either with or without the hearing of further evidence, by the  
27 tribunal in accordance with the court's directions;

**Part 6** Referrals and appeals to Supreme Court

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- 1 (c) an order for costs.
- 2 (4) The Supreme Court may also make any other order the court
- 3 considers appropriate.

## 1 **Part 7** **Enforcement and offences**

### 2 **52 Contravention of requirement to take oath**

3 (1) A person commits an offence if—

- 4 (a) the person is required to take an oath or make an affirmation  
5 before the tribunal; and  
6 (b) the person does not take an oath or make an affirmation.

7 Maximum penalty: 50 penalty units, imprisonment for 6 months or  
8 both.

### 9 **53 Failure to comply**

10 (1) A party to a hearing must not, without reasonable excuse, fail to  
11 comply with a tribunal order or direction.

12 (2) If a person contravenes subsection (1), the tribunal may order the  
13 person to pay a stated amount (not larger than the amount (if any)  
14 prescribed under the regulations) to the Territory.

### 15 **54 Orders for payment of amounts**

16 If the tribunal orders a person to pay an amount, the tribunal must  
17 tell the person about the effect of section 55.

### 18 **55 Nonpayment of amounts ordered to be paid**

19 (1) This section applies if—

- 20 (a) the tribunal orders the payment within a stated period of an  
21 amount by a person who is licensed or registered under an Act  
22 mentioned in section 15 (b); and  
23 (b) the person does not make the payment within the period, or any  
24 further period allowed by the tribunal, for payment.

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1 (2) The registrar must give the person written notice that the person's  
2 licence or registration will be automatically cancelled if the person  
3 does not make the payment within 7 days after the day the person  
4 receives the notice.

5 (3) If the person does not make the payment within the period  
6 mentioned in subsection (2), the person's licence or registration is  
7 automatically cancelled on the day after the end of the period.

**8 56 Obstruction and hindering**

9 (1) A person commits an offence if the person obstructs or hinders the  
10 tribunal, a tribunal member, the registrar or a deputy registrar, in the  
11 exercise of the tribunal's, member's, registrar's or deputy registrar's  
12 functions.

13 Maximum penalty: 50 penalty units, imprisonment for 6 months or  
14 both.

15 (2) An offence against this section is a strict liability offence.

**16 57 False or misleading information**

17 (1) A person commits an offence if—

18 (a) the person gives information to the tribunal, the registrar or a  
19 deputy registrar; and

20 (b) the person does so knowing that the information—

21 (i) is false or misleading; or

22 (ii) omits something without which the information is false  
23 or misleading.

24 Maximum penalty: 200 penalty units, imprisonment for 2 years or  
25 both.

26 (2) Subsection (1) (b) (i) does not apply if the information is not false or  
27 misleading in a material particular.

- 1 (3) Subsection (1) (b) (ii) does not apply if the omission does not make  
2 the information false or misleading in a material particular.

3 **58 False or misleading documents**

- 4 (1) A person commits an offence if—  
5 (a) the person produces a document to the tribunal, the registrar or  
6 a deputy registrar; and  
7 (b) the person does so knowing that the document is false or  
8 misleading.

9 Maximum penalty: 200 penalty units, imprisonment for 2 years or  
10 both.

- 11 (2) Subsection (1) does not apply if the document is not false or  
12 misleading in a material particular.

- 13 (3) Subsection (1) also does not apply to a person who produces a  
14 document if the document is accompanied by a written statement  
15 signed by the person (or, for a corporation, by a competent officer of  
16 the corporation)—

- 17 (a) stating that the document is, to the person's knowledge, false  
18 or misleading in a material particular; and  
19 (b) setting out, or referring to, the material particular in which the  
20 document is, to the person's knowledge, false or misleading.

21 **59 Secrecy**

- 22 (1) In this section:

23 *court* includes any tribunal, authority or person with power to  
24 require the production of documents or the answering of questions.

25 *informed person* means anyone who is, or has been—

- 26 (a) a tribunal member; or  
27 (b) a member of the staff of the tribunal; or

1 (c) acting under the direction or authority of the tribunal; or

2 (d) providing advice or expertise to the tribunal.

3 *produce* includes allow access to.

4 *protected information* means information about a person that is  
5 disclosed to, or obtained by, an informed person because of the  
6 exercise of a function under this Act.

7 (2) An informed person commits an offence if the person—

8 (a) makes a record of protected information; or

9 (b) directly or indirectly, divulges or communicates protected  
10 information about someone else.

11 Maximum penalty: 50 penalty units, imprisonment for 6 months or  
12 both.

13 (3) Subsection (2) does not apply if the record is made, or the  
14 information is divulged or communicated—

15 (a) under this or any other Act; or

16 (b) in relation to the exercise of a function, as an informed person,  
17 under this or any other Act; or

18 (c) with the consent of the person from whom the information was  
19 obtained; or

20 (d) to a person administering or enforcing a corresponding law of a  
21 local jurisdiction; or

22 (e) to a law enforcement authority.

23 (4) An informed person need not divulge or communicate protected  
24 information to a court, or produce a document containing protected  
25 information to a court, unless it is necessary to do so for this or  
26 another Act.



## 1 Part 8 Miscellaneous

### 2 **60 Protection of members etc**

3 (1) This section applies to a person who is, or has been—

4 (a) a tribunal member; or

5 (b) the registrar or deputy registrar; or

6 (c) acting under the direction or authority of the tribunal; or

7 (d) taking part in a proceeding; or

8 (e) a public servant providing administrative assistance to the  
9 tribunal.

10 (2) A civil proceeding does not lie against a person to whom this  
11 section applies in relation to loss, damage or injury of any kind to  
12 someone else because of an act done, or omitted to be done honestly  
13 in the exercise (or purported exercise) of a function under this Act.

### 14 **61 Admissibility of evidence**

15 (1) Evidence given before the registrar during a preliminary conference  
16 is not admissible against a person in a criminal proceeding.

17 (2) Evidence of any words spoken at a preliminary conference must not  
18 be admitted in a civil proceeding under this Act.

### 19 **62 Approved forms**

20 (1) The president may, in writing, approve forms for this Act.

21 (2) If the president approves a form for a particular purpose, the  
22 approved form must be used for that purpose.

23 *Note* For other provisions about forms, see Legislation Act, s 255.

24 (3) An approved form is a notifiable instrument.

25 *Note* A notifiable instrument must be notified under the Legislation Act.

1    **63    Determination of fees**

2       (1) The Minister may, in writing, determine fees for this Act.

3           *Note*    The Legislation Act contains provisions about the making of  
4                    determinations and regulations relating to fees (see pt 6.3)

5       (2) A determination is a disallowable instrument.

6           *Note*    A disallowable instrument must be notified, and presented to the  
7                    Legislative Assembly, under the Legislation Act.

8    **64    Regulation-making power**

9       (1) The Executive may make regulations for this Act.

10           *Note*    Regulations must be notified, and presented to the Legislative  
11                    Assembly, under the Legislation Act.

12       (2) The regulations may make provision in relation to the following:

13           (a) preliminary conferences;

14           (b) giving notice to parties before a tribunal hearing;

15           (c) record-keeping;

16           (d) tribunal practice and procedures.

1 **Part 9** **Transitional provisions and**  
2 **consequential amendments**

3 **65 Definitions for pt 9**

4 In this part:

5 *commencement day* means the day this part commences.

6 *Agents Act* means the *Agents Act 1968* (repealed).

7 *agents board* means the Agents Board of the Australian Capital  
8 Territory established under the Agents Act, section 8 (1).

9 *agents board chairperson* means the chairperson of the board  
10 appointed under the Agents Act, section 10 (1).

11 **66 Agents board members**

12 (1) This section applies to a person other than the agents board  
13 chairperson who was, immediately before commencement day, a  
14 member of the agents board.

15 (2) The person is taken to be a tribunal panel member.

16 (3) The person remains a tribunal panel member until the day the person  
17 would have stopped being a member of the agents board if the  
18 Agents Act had not been repealed.

19 **67 Agents board chairperson**

20 (1) The agents board chairperson is taken to be the deputy president of  
21 the general division of the tribunal.

22 (2) The agents board chairperson remains deputy chairperson until the  
23 day the chairperson would have stopped being chairperson if the  
24 Agents Act had not been repealed.

1 **68 Court Security Act 2001**  
2 **dictionary, definition of *court*, new paragraph (ea)**

3 *insert*

4 (ea) the consumer and trader tribunal; or

5 **69 Court Security Act 2001**  
6 **Dictionary, definition of *court***

7 *renumber paragraphs when Act next republished under Legislation*  
8 *Act 2001*

9 **70 Legislation Act 2001**  
10 **dictionary, part 1, new definition of *consumer and trader***  
11 ***tribunal***

12 *insert*

13 *consumer and trader tribunal* means the Consumer and Trader  
14 Tribunal under the *Consumer and Trader Tribunal Act 2003*.

15 **71 Modification of pt 9's operation**

16 The regulations may modify the operation of this part to make  
17 provision in relation to any matter that is not already, or is not (in  
18 the Executive's opinion) adequately, dealt with in this part.

19 **72 Expiry of pt 9**

20 This part expires 2 years after the commencement day.

# Dictionary

(see s 3)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* In particular, the Legislation Act, dict, pt 1, defines the following terms:

- appoint
- chief executive
- contravene
- Executive
- exercise
- function
- interest
- lawyer
- public servant.

***commissioner*** means the commissioner for fair trading.

***deputy president***, for a tribunal division, means the deputy president appointed under section 10 for the division.

***disciplinary action***, in relation to a person who is licensed or registered under an Act mentioned in section 15 (b)—

- (a) means any action the tribunal may take in relation to the person under that Act; and
- (b) includes action under section 46 (Other disciplinary action).

***grounds for disciplinary action***, in relation to a person who is licensed or registered under an Act mentioned in section 15 (b)—see that Act, dictionary.

***president***—

- (a) means the president appointed under section 9; and
- (b) for a proceeding in a tribunal division—includes the deputy president for the division.

1            ***tribunal*** means the Consumer and Trader Tribunal established under  
2            section 7.

3            ***tribunal member***, for a hearing on an application, means a person  
4            making up the tribunal for the hearing.

5            ***tribunal panel*** means the people appointed by the Executive under  
6            section 11.

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## Endnote

### Republications of amended laws

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).