

1991 - No. 7

CONSUMER CLAIMS TRIBUNALS ACT 1987 - REGULATION

(Relating to claims concerning building goods
and services and to contempt of tribunals)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Consumer Claims Tribunals Act 1987, has been pleased to make the Regulation set forth hereunder.

G. B. PEACOCKE
Minister for Business and Consumer Affairs.

Commencement

1. This Regulation commences on the commencement of the Consumer Claims Tribunals (Building Disputes) Amendment Act 1989.

Amendments

2. The Consumer Claims Tribunals Regulation 1988 is amended:
(a) by omitting clause 6 and by inserting instead the following clause:

Limit of amount of order

6. For the purposes of section 32 of the Act, the prescribed amount is:

- (a) in relation to a building claim before a building disputes tribunal - \$10,000; and
- (b) in relation to any other consumer claim - \$6,000.

- (b) by inserting after Part 2 the following Part:

PART 2A - BUILDING DISPUTES

Definition of building goods or services

6A. For the purposes of paragraph (b) of the definition of "building goods or services" in section 12A of the Act, the prescribed circumstances are circumstances in which the goods or services are supplied:

- (a) to the person who contracts to do residential building work or specialist work; and
- (b) in relation to the carrying out of that work.

Claims not to be building claims

6B. For the purposes of section 12C of the Act, a claim is not to be considered to be a building claim if:

- (a) the claim is made by a supplier of building goods or services who is not required to hold a licence under the BSC Act in respect of the supply of those goods or services; or
- (b) the claim relates to specialist work other than specialist work in connection with residential building work.

Claims not to be referred to BSC

6C. The following building claims are prescribed as being exempt from section 12F of the Act:

- (a) claims against a person who, at the time at which a contract for the supply of building goods or services was entered into, did not hold a licence required to be held under the BSC Act to authorise the performance by that person of the work under the contract; or
- (b) claims for money only that are made by a holder of a licence under the BSC Act against a consumer or against another person who is the holder of a licence under the BSC Act; or

- (c) claims that have already been referred to or investigated by the BSC.
- (c) by omitting clause 9 and by inserting instead the following clause:

Claim form

9. The prescribed form for making a consumer claim is Form 1 in Schedule 1.

- (d) by omitting clause 16 and by inserting instead the following clause:

Contempt proceedings

16. For the purposes of section 38 (5) of the Act, each person for the time being holding or acting in any of the following offices in Business and Consumer Affairs is a prescribed officer:

- Managing Director
- Director, Management
- Director, Trading Standards
- Assistant Director, Legal

- (e) by omitting Forms 1 and 2 in Schedule 1 and by inserting instead the following form:

CONSUMER CLAIMS TRIBUNALS ACT 1987		Office Use Only
CLAIM FORM		
<u>Before Completing this Claim Form Please Read Information Provided</u>		
1. Indicate <input checked="" type="checkbox"/> <u>TYPE OF CLAIM</u>		
Consumer Claim <input type="checkbox"/>	Building Claim <input type="checkbox"/> Address of Lot No. Street No. Building Work Street..... Suburb..... Council.....	<input type="checkbox"/>
<u>PARTICULARS OF CLAIMANT</u>		
2. Indicate <input checked="" type="checkbox"/> Consumer <input type="checkbox"/> Building/Trade Contractor <input type="checkbox"/>		<input type="checkbox"/>
<u>NAME AND ADDRESS OF CLAIMANT</u>		
3. Please complete in block letters and leave space between names		
Name: <input style="width: 100%;" type="text"/>		<input type="checkbox"/>
(Please Read Information Brochure) <input style="width: 100%;" type="text"/>		
<input style="width: 100%;" type="text"/>		
Address for Service of Notices: <input style="width: 100%;" type="text"/>		<input type="checkbox"/>
<input style="width: 100%;" type="text"/>		
Telephone: Home <input style="width: 20%;" type="text"/> STD <input style="width: 30%;" type="text"/> Business <input style="width: 20%;" type="text"/> STD <input style="width: 30%;" type="text"/> Post Code <input style="width: 20%;" type="text"/>		<input type="checkbox"/>
Fax No.: <input style="width: 20%;" type="text"/> STD <input style="width: 30%;" type="text"/>		<input type="checkbox"/>
If you are a contractor, provide details of your Contractor Licence held under Building Services Corporation Act 1989		
Contractor Licence No. <input style="width: 20%;" type="text"/> Expiry Date <input style="width: 20%;" type="text"/>		<input type="checkbox"/>
4. Do you need an interpreter at the hearing Yes <input type="checkbox"/> No <input type="checkbox"/>		<input type="checkbox"/>
If yes, indicate language required <input style="width: 100%;" type="text"/>		<input type="checkbox"/>
<u>SIGNATURE OF CLAIMANT</u>		
5. Signature of Claimant: Date: <input style="width: 20%;" type="text"/>		<input type="checkbox"/>
Position (where appropriate) <input style="width: 100%;" type="text"/>		<input type="checkbox"/>
<i>(e.g. Partner, Director, Secretary, President, Executive Officer)</i>		

<u>PARTICULARS OF RESPONDENT/S</u>		Office Use Only
6. Indicate <input checked="" type="checkbox"/>	<input type="checkbox"/> Building/Trade Contractor <input type="checkbox"/> Consumer <input type="checkbox"/> Other Supplier	<input type="checkbox"/>
<u>NAME AND ADDRESS OF RESPONDENT/S</u>		
7. Please complete in block letters and leave space between names		
(i) Name:	<input type="text"/>	<input type="checkbox"/>
(Please Read Information Brochure)	<input type="text"/>	
	<input type="text"/>	
Address for Service of Notices	<input type="text"/>	<input type="checkbox"/>
	<input type="text"/>	
Telephone: Home	<input type="text"/> STD <input type="text"/>	
Business	<input type="text"/> STD <input type="text"/>	<input type="checkbox"/>
Fax No.:	<input type="text"/> STD <input type="text"/>	<input type="checkbox"/>
If applicable, provide details of Respondent Contractor's Licence held under Building Services Corporation Act 1989		
Respondent Contractor's Licence No.	<input type="text"/>	Expiry Date <input type="text"/>
		<input type="checkbox"/>
(ii) Name:	<input type="text"/>	<input type="checkbox"/>
(Please Read Information Brochure)	<input type="text"/>	
	<input type="text"/>	
Address for Service of Notices	<input type="text"/>	<input type="checkbox"/>
	<input type="text"/>	
Telephone: Home	<input type="text"/> STD <input type="text"/>	
Business	<input type="text"/> STD <input type="text"/>	<input type="checkbox"/>
Fax No.:	<input type="text"/> STD <input type="text"/>	<input type="checkbox"/>
If applicable, provide details of Respondent Contractor's Licence held under Building Services Corporation Act 1989		
Respondent Contractor's Licence No.	<input type="text"/>	Expiry Date <input type="text"/>
		<input type="checkbox"/>

PARTICULARS OF AGREEMENT/CONTRACT		Office Use Only
8. Give details about the agreement/contract.		
Was the Agreement/ Contract in Writing?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/>
Date of Agreement/Contract	<input style="width: 100px;" type="text"/>	<input type="checkbox"/>
Place where Agreement/ Contract was made:	<input style="width: 150px;" type="text"/> <input style="width: 50px;" type="text"/>	<input type="checkbox"/>
	Suburb/Town Post Code	
Contract Price/Price of goods or services:	\$ <input style="width: 80px;" type="text"/> Amount Paid \$ <input style="width: 80px;" type="text"/>	<input type="checkbox"/>
Is there a Warranty?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/>
If "Yes" who gave the Warranty?	<input style="width: 250px;" type="text"/>	<input type="checkbox"/>
Date of Supply of Goods or Services	<input style="width: 100px;" type="text"/>	<input type="checkbox"/>
ATTEMPT AT RESOLUTION		
9. Give details of any attempt to resolve the dispute.		
Was your complaint referred to the Respondent?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/>
Was there a Response?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/>
State particulars of response:	
Is any legal action pending in respect of this matter or has the complaint been referred to the Building Services Corporation?		<input type="checkbox"/>
If yes, state particulars:	
ORDERS SOUGHT		
10. Indicate the order(s) you think the Tribunal should make if a settlement cannot be reached (<i>More than one order may be sought</i>).		
<input checked="" type="radio"/> A money order for	\$ <input style="width: 80px;" type="text"/>	<input type="checkbox"/>
<input checked="" type="radio"/> An order to rectify faulty goods or services		<input type="checkbox"/>
<input checked="" type="radio"/> An order to provide specified services		<input type="checkbox"/>
<input checked="" type="radio"/> An order that I do not have to pay	\$ <input style="width: 80px;" type="text"/>	<input type="checkbox"/>
<input checked="" type="radio"/> An order to deliver goods		<input type="checkbox"/>
<input checked="" type="radio"/> An order to return goods to me		<input type="checkbox"/>
<input checked="" type="radio"/> An order to replace goods		<input type="checkbox"/>
	<i>Please turn over and complete</i>	<input type="checkbox"/>

DETAILS OF CLAIM

Office
Use
Only

11. Describe the goods or services and give details of your claim. (If a building claim you must give full details of faulty or incomplete work.) Attach additional sheet if necessary.

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The following voluntary details will assist the Tribunal to compile statistical information on the country of origin of users of its services
Place of Birth:..... First Language Spoken:.....

OFFICE USE ONLY

The prescribed fee of \$10/\$2 has been paid/waived in respect of this consumer/building claim.
Receipt Number
Issued on at : am/pm
Signature:..... Registrar/Clerk of the Local Court at

- (f) by omitting from Form 3 the matter "NOTE: A tribunal cannot make a money order for more than \$3,000, except for the return of goods."

EXPLANATORY NOTE

The object of this Regulation is to amend the Consumer Claims Tribunals Regulation 1988 so as:

- (a) to fix an upper limit of \$10,000 in respect of the jurisdiction of a building disputes tribunal, (the jurisdictional limitation for other consumer claims remaining at \$6,000); and
 - (b) to provide that goods and services supplied to a person who is contracted to carry out residential building work or specialist work constitute building goods and services and may therefore be the subject of a building claim by the person; and
 - (c) to provide that a supplier of building goods and services who is not required to be licenced under the Building Services Corporation Act 1989 cannot make a building claim in respect of any such supply of goods and services; and
 - (d) to provide that a claim relating to specialist work, other than specialist work connected with residential building work cannot be the subject of a building claim; and
 - (e) to provide that certain building claims need not be referred by the registrar of consumer claims tribunals to the Building Services Corporation for preliminary consideration; and
 - (f) to prescribe which office holders may institute proceedings in relation to contempt of a tribunal; and
 - (g) to substitute one claim form in place of the 2 forms presently prescribed and to omit reference to a jurisdictional limitation referred to in another form.
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