



ANNO TRICESIMO SECUNDO

ELIZABETHAE II REGINAE

A.D. 1983

No. 44 of 1983

An Act to amend the Commercial Tribunal Act, 1982.

[Assented to 16 June 1983]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Commercial Tribunal Act Amendment Act, 1983".

(2) The Commercial Tribunal Act, 1982, is in this Act referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Commercial Tribunal Act, 1982-1983".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Insertion of new s. 4a.

3. The following section is inserted in Part I of the principal Act after section 4:

Transitional provisions.

4a. (1) If, when the Tribunal acquires jurisdiction to hear and determine proceedings of a particular kind, any such proceedings have been commenced but not completed, the proceedings may be continued and determined by the Tribunal as if they had been commenced under the relevant Act by which the jurisdiction was conferred, as in force upon the conferral of that jurisdiction.

(2) The Chairman of the Tribunal may give directions in relation to the constitution of the Tribunal for the purpose of hearing and determining proceedings to which subsection (1) relates, and such directions shall have effect notwithstanding any conflict between those directions and the provisions of this Act.

(3) Where an order of a kind that the Tribunal has jurisdiction to make under the provisions of a relevant Act is in force immediately before the Tribunal acquires jurisdiction to make such an order, the order shall be deemed to be an order of the Tribunal and shall have effect as if made under the relevant Act by which the jurisdiction was conferred, as in force upon the conferral of that jurisdiction.

4. Section 6 of the principal Act is amended—

- (a) by inserting in subsection (1) after the passage “hearing of any proceedings” the passage “or the conduct of any other business”;
- (b) by striking out from subsection (1) the passage “to sit at the hearing of those proceedings”, twice occurring, and substituting, in each case, the passage “to be a member of the Tribunal for the purpose of the hearing of those proceedings or the conduct of that business”;
- (c) by striking out from subsection (4) the passage “rules of the Tribunal” and substituting the word “regulations”;
- (d) by striking out from subsection (4) the passage “where the rules” and substituting the passage “where the regulations”;
- (e) by inserting in subsection (5) after the word “proceedings” the passage “or conducting separate business of the Tribunal”;
- and
- (f) by inserting in subsection (6) after the word “proceedings” the passage “or any other business”.

Amendment of
s. 6—
Constitution of
the Tribunal.

5. Section 10 of the principal Act is amended by striking out subsections (4), (5), (6) and (7) and substituting the following subsections:

(4) The Commercial Registrar shall be the executive officer of the Tribunal and shall exercise such powers, discretions and functions as may be conferred on, or assigned to, him by or under this Act or any other Act.

(5) The Commercial Registrar may, with the approval of the Tribunal or the Chairman, exercise the powers, discretions and functions of the Tribunal in relation to matters of a prescribed class.

(6) Where the Commercial Registrar is exercising the powers, discretions and functions of the Tribunal in relation to any matter pursuant to subsection (5), he may, and shall if the Tribunal or the Chairman so directs, refer the matter to the Tribunal for determination by the Tribunal.

Amendment of
s. 10—
The Commercial
Registrar.

6. Section 12 of the principal Act is amended by striking out from paragraph (a) the passage “at the proceedings”.

Amendment of
s. 12—
Decisions in cases
where Tribunal
sits *in banco*.

7. Section 15 of the principal Act is amended—

- (a) by striking out from subsection (2) the passage “Subject to subsection (3), if” and substituting the word “If”;
- (b) by striking out from subsection (5) the passage “court or tribunal”, twice occurring, and substituting, in each case, the passage “court, tribunal or board”;

Amendment of
s. 15—
Powers of the
Tribunal.

and

- (c) by inserting after subsection (5) the following subsection:

(6) Where a person takes a proceeding before the Tribunal frivolously, vexatiously or for an improper purpose, the Tribunal may—

(a) dismiss or annul the proceeding;

and

(b) order the party by whom it was taken to pay to any other party compensation for any consequent embarrassment, inconvenience and expense that he has suffered or incurred.

Amendment of
s. 20—
Appeal.

8. Section 20 of the principal Act is amended by inserting in subsection (1) after the word “section” the passage “and any other relevant statutory provision”.

Repeal of
s. 25 and
substitution
of new
sections.

9. Section 25 of the principal Act is repealed and the following sections are substituted:

Enforcement
of orders.

25. (1) Where a judgment or order for payment of a pecuniary sum is given or made by the Tribunal, the Registrar shall, upon application by a party to the proceedings in which the judgment or order was given, or a person claiming through or under such a party, issue a certified copy of the judgment or order.

(2) Where—

(a) a certified copy of a judgment or order is lodged with the clerk of a local court;

and

(b) the fee (if any) payable upon lodgment is paid to the clerk,

the clerk shall register the judgment or order and proceedings may then be taken upon it as if it were a judgment or order of the court in which it is registered.

(3) The court in which judgment or order is registered under this section shall be—

(a) the Local Court of Adelaide;

or

(b) some other local court, being the local court nearest to the place at which the person who is liable upon the judgment or order resides.

Regulations.

26. (1) The Governor may make such regulations as are contemplated by this Act or any other Act conferring jurisdiction on the Tribunal, or as are necessary or expedient for the purposes of this Act or any other Act conferring jurisdiction on the Tribunal.

(2) Without limiting the generality of subsection (1), the regulations may—

(a) provide for the constitution of panels from which members of the Tribunal are to be drawn and require consultation with specified bodies in relation to the membership of such panels;

(b) prescribe matters relevant to the practice and procedure of the Tribunal;

- (c) provide for the settlement or attempted settlement, by conciliation, of disputes between parties to proceedings before the Tribunal;
 - (d) provide for the enforcement of judgments and orders of the Tribunal (other than judgments or orders for payment of pecuniary sums);
 - (e) prescribe information to be included in the registers to be kept under this Act;
 - (f) assign functions to the Registrar and regulate the manner in which they are to be carried out;
 - (g) prescribe and provide for the payment of fees;
- and
- (h) prescribe penalties (to be recoverable summarily) not exceeding five hundred dollars for contravention of, or non-compliance with, any regulation.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor