



New South Wales

Consumer, Trader and Tenancy Tribunal Amendment (Miscellaneous) Regulation 2005

under the

Consumer, Trader and Tenancy Tribunal Act 2001

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Consumer, Trader and Tenancy Tribunal Act 2001*.

DIANE BEAMER, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to make the following changes to the procedure of the Consumer, Trader and Tenancy Tribunal:

- (a) to update references to the Department of Fair Trading (now the Department of Commerce) (Schedule 1 [1] and [5]),
- (b) to provide Tribunal applications may also be lodged at Government Access Centres and Government Business Centres (Schedule 1 [2]),
- (c) to remove a reference to the Renting Services Office (Schedule 1 [3]),
- (d) to make it clear that applications made under the *Residential Parks Act 1998* by a park owner may be completed, signed, dated and lodged by the park manager appointed by the park owner under that Act (Schedule 1 [4]),
- (e) to include notes in the Regulation that explain provisions of the Act for the assistance of readers of the Regulation (Schedule 1 [6] and [8]),
- (f) to enable the Registrar of the Tribunal to partly or wholly waive an application fee for a summons (Schedule 1 [7]).

This Regulation is made under the *Consumer, Trader and Tenancy Tribunal Act 2001*, including sections 24, 40, 68 and 86 (the general regulation-making power).

2005 No 676

Consumer, Trader and Tenancy Tribunal Amendment (Miscellaneous)
Clause 1 Regulation 2005

**Consumer, Trader and Tenancy Tribunal Amendment
(Miscellaneous) Regulation 2005**

under the

Consumer, Trader and Tenancy Tribunal Act 2001

1 Name of Regulation

This Regulation is the *Consumer, Trader and Tenancy Tribunal Amendment (Miscellaneous) Regulation 2005*.

2 Amendment of Consumer, Trader and Tenancy Tribunal Regulation 2002

The *Consumer, Trader and Tenancy Tribunal Regulation 2002* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 2)

[1] Clause 8 Applications to Tribunal

Omit “Department of Fair Trading” wherever occurring in clause 8 (2) (b).
Insert instead “Department of Commerce”.

[2] Clause 8 (2) (c1)

Insert after clause 8 (2) (c):

- (cl) at any Government Access Centre or Government Business Centre established by the New South Wales Government, or

[3] Clause 8 (2) (e)

Omit the paragraph.

[4] Clause 8 (9A)

Insert after clause 8 (9):

- (9A) An application made under the *Residential Parks Act 1998* by a park owner may be completed, signed, dated and lodged by the park manager appointed by the park owner under that Act.

[5] Clause 10 Application fees

Omit “of the Department of Fair Trading” from clause 10 (3) (d).

[6] Part 6 Rehearings by Tribunal

Insert after the heading to Part 6:

Note. Section 68 of the Act provides that an application to have completed proceedings reheard by the Tribunal may be made on the ground that the applicant may have suffered a substantial injustice because:

- (a) the decision of the Tribunal in the completed proceedings was not fair and equitable, or
- (b) the decision of the Tribunal was against the weight of evidence, or
- (b) significant new evidence has arisen (being evidence that was not reasonably available at the time the completed proceedings were being heard).

An application for rehearing cannot be made on any other ground. However, section 67 of the Act enables a party to completed proceedings to appeal to the Supreme Court against the decision of the Tribunal on a question with respect to a matter of law.

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Schedule 1 Amendments

[7] Clause 30 Issue of summons

Insert after clause 30 (5):

- (6) If the Registrar considers that there are special reasons for doing so, the Registrar may:
 - (a) direct that the fee prescribed by subclause (5) be waived wholly or in part, and that any part of the fee waived that has been paid be refunded, or
 - (b) postpone the time for payment of the whole or a part of any such fee for a summons, on such conditions (if any) as the Registrar may impose.

[8] Clause 44 Objection to participation of member following preliminary conference

Insert at the end of clause 44:

Note. Section 55 (3) (b) of the Act provides that if proceedings are not determined under section 55 (Preliminary conferences) any member who presided over a preliminary conference in respect of the proceedings is not entitled to be a member of the Tribunal determining the proceedings if any party in the preliminary conference objects. Nothing in the Act or this Regulation prevents a member who was involved in attempting to bring the parties in proceedings to a settlement under section 54 (Tribunal to promote conciliation) of the Act from being a member of the Tribunal that later determines the proceedings.

BY AUTHORITY
