

SOUTH AUSTRALIA

COMMERCIAL TRIBUNAL REGULATIONS, 1987

REGULATIONS UNDER THE COMMERCIAL TRIBUNAL ACT, 1982

Commercial Tribunal Regulations, 1987

being

No. 193 of 1987: *Gaz.* 20 August 1987, p. 570

as varied by

- No. 145 of 1988: *Gaz.* 28 July 1988, p. 567¹
- No. 22 of 1989: *Gaz.* 16 February 1989, p. 473²
- No. 102 of 1989: *Gaz.* 29 June 1989, p. 1766³
- No. 105 of 1990: *Gaz.* 21 June 1990, p. 1674⁴
- No. 134 of 1991: *Gaz.* 27 June 1991, p. 2240⁵
- No. 186 of 1991: *Gaz.* 29 August 1991, p. 705⁶
- No. 280 of 1991: *Gaz.* 19 December 1991, p. 2001⁷
- No. 3 of 1992: *Gaz.* 16 January 1992, p. 170⁸
- No. 141 of 1992: *Gaz.* 25 June 1992, p. 2017⁹
- No. 196 of 1992: *Gaz.* 22 October 1992, p. 1383¹⁰
- No. 132 of 1993: *Gaz.* 24 June 1993, p. 2087¹¹
- No. 150 of 1993: *Gaz.* 24 June 1993, p. 2130¹²
- No. 67 of 1994: *Gaz.* 2 June 1994, p. 1618¹³
- No. 51 of 1995: *Gaz.* 10 May 1995, p. 1994¹⁴
- No. 83 of 1996: *Gaz.* 30 May 1996, p. 2654¹⁵

- ¹ Came into operation 1 August 1988: reg. 2.
- ² Came into operation 19 February 1989: reg. 2.
- ³ Came into operation 1 July 1989: reg. 2.
- ⁴ Came into operation 1 July 1990: reg. 2.
- ⁵ Came into operation 1 July 1991: reg. 2.
- ⁶ Came into operation 1 September 1991: reg. 2.
- ⁷ Came into operation 1 February 1992: reg. 2.
- ⁸ Came into operation 1 February 1992: reg. 2.
- ⁹ Came into operation 1 July 1992: reg. 2.
- ¹⁰ Came into operation 22 October 1992: reg. 2.
- ¹¹ Came into operation 1 July 1993: reg. 2.
- ¹² Came into operation 24 June 1993: reg. 2.
- ¹³ Came into operation 1 July 1994: reg. 2.
- ¹⁴ Came into operation 1 July 1995: reg. 2.
- ¹⁵ Came into operation 1 July 1996: reg. 2.

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.

2.

Citation

1. These regulations may be cited as the *Commercial Tribunal Regulations, 1987*.

Revocation

2. All regulations previously made under the *Commercial Tribunal Act, 1982*, are revoked.

Interpretation

3. In these regulations, unless the contrary intention appears—

"the Act" means the *Commercial Tribunal Act, 1982*:

"application" includes an appeal:

"directions hearing" means a hearing pursuant to regulation 12.

Constitution of Tribunal

4. (1) The Tribunal may be constituted solely of the Chairman or a Deputy Chairman in relation to any of the matters specified in Schedule 1 (see section 6(4) of the Act).

(2) A registrar who is a legal practitioner may, with the approval of the Tribunal or the Chairman, exercise the jurisdiction of the Tribunal in relation to the matters specified in Part 2 of Schedule 1 (see section 10(4)(b) of the Act).

Panels

5. (1) The Commercial Registrar must maintain a register of persons appointed to panels under section 8 of the Act.

(2) The following information must be entered in the register in respect of each person:

(a) name;

(b) address;

(c) date of appointment to panel;

(d) term of appointment to panel;

(e) qualifications;

(f) where appropriate, the name of the body nominating the person.

(3) Any person may inspect the register at any reasonable time.

3.

Registers

6. The information specified in schedule 3 must be included in the registers kept under section 22 of the Act.

Fees

7. (1) Fees are payable to the Commercial Registrar in accordance with schedule 4.

(2) Where the Commercial Registrar is satisfied that in the circumstances of a particular case it is appropriate to do so, the Registrar may waive or order the refund of a fee or default penalty, or part of a fee or default penalty, payable or paid under the Act or any relevant Act.

Forms

8. (1) A complaint setting out matters alleged to constitute grounds for disciplinary action under a relevant Act must be in the form set out in schedule 5.

(2) Where a form is not otherwise prescribed for an application to the Tribunal under a relevant Act, the Commercial Registrar—

(a) may approve a form for use in all such applications;

and

(b) must make the form available to intending applicants.

Institution of applications

9. (1) An application is made by filing with the Commercial Registrar the appropriate application form duly completed.

(2) The Commercial Registrar must record the date of filing on each filed application form.

(3) Where an application to the Tribunal (other than an application under which there is no other party) is filed with the Commercial Registrar—

(a) the applicant must furnish the Commercial Registrar with a copy of the application to be returned to the applicant and as many further copies as are necessary for service on all other parties;

and

(b) the Commercial Registrar must ensure that—

(i) a number is assigned to the application;

(ii) the application and all copies are stamped, endorsed with the application number and the date and time of receipt, and signed by or on behalf of the Commercial Registrar;

4.

(iii) all copies of the application are returned to the applicant;

and

(iv) where the application relates to proceedings in respect of which a respondent is required to file a notice of defence if the respondent opposes the order sought by the applicant, the applicant is furnished with as many copies of an approved form for that notice of defence as are necessary for service on all respondents.

Withdrawal of applications

9a. (1) An applicant may withdraw any application made to the Tribunal by written notice to the Commercial Registrar and any other party to the application.

(2) The withdrawal of an application does not prevent—

(a) the applicant making a subsequent application in the same or similar terms;

or

(b) any other party who has been served with the application applying to the Tribunal for an order for payment by the applicant to that party of costs incurred by that party in consequence of the service of the application on that party.

Address for service

10. (1) A party to proceedings before the Tribunal who does not have an address for service under a relevant Act may establish an address for service for the purposes of those proceedings by giving written notice of the address to the Tribunal and to each other party to the proceedings.

(1a) Where a party to proceedings before the Tribunal includes his or her address (other than a temporary address) in a document filed in or sent to the Tribunal in connection with those proceedings, he or she will be taken to have established that address as his or her address for service for the purposes of those proceedings unless he or she gives some other address as his or her address for service.

(2) A party may, from time to time, vary or revoke an address for service established under these regulations by subsequent written notice to the Tribunal and to each other party.

(3) Where a document relating to proceedings before the Tribunal is filed by a legal practitioner on behalf of a party to the proceedings, the address of the legal practitioner will be taken to be the address for service of that party.

(4) The address of a legal practitioner for a party ceases to be the address for service of that party if the legal practitioner gives written notice to the Tribunal and to each other party that the legal practitioner is no longer acting for that party.

5.

Service

11. (1) Subject to subregulation (2), an applicant to the Tribunal must serve a copy of the application (stamped and signed by the Commercial Registrar) on each other party within one year after the date on which the application was filed.

(1a) Where an application relates to proceedings in respect of which a respondent is required to file a notice of defence if the respondent opposes the order sought by the applicant, a form approved by the Commercial Registrar for such notice of defence must be attached to the copy of the application served on a respondent.

(2) The Chairman or a Deputy Chairman may, *ex parte*—

- (a) direct an applicant to serve the application on additional persons;
- (b) dispense with service of an application on such terms and conditions as he or she considers appropriate;
- (c) order substituted service to be effected in such manner as he or she considers appropriate;
- (d) extend the time within which service must be effected.

(3) Any notice or document required or authorized by the Act or a relevant Act to be given to or served on any person may be served on that person—

- (a) by posting the notice or document by prepaid ordinary mail to an address at which service is authorized under subregulation (3a);
- (b) by leaving the notice or document with a person apparently at least 16 years of age at an address at which service is authorized under subregulation (3a);
- (c) in the case of a natural person, by handing the notice or document to that person personally;
- (d) in the case of a company, in any manner authorized by section 220 of the *Corporations Law*;

or

- (e) in the case of a body corporate other than a company, in any manner authorized by the Act under which the body is incorporated.

(3a) For the purposes of this regulation, the following addresses are authorized for service of a notice or document:

- (a) where the person to be served has an address for service under a relevant Act or under these regulations, that address;
- (b) the last known place of residence or business of the person to be served;

6.

(c) in the case of an unincorporated association, the office of the association or any other place at which the association carries on its activities.

(3b) Where—

(a) an application is served on a legal practitioner who acts for a respondent to the application;

(b) the legal practitioner signs an endorsement on a copy of the application to the effect that the legal practitioner accepts service of the application on behalf of that respondent;

and

(c) the applicant files with the Commercial Registrar the copy of the application bearing that endorsement,

then

(d) the application will be taken to have been served on that respondent;

and

(e) the address of the legal practitioner will be taken to be the address for service of that respondent.

(4) Proof of service of an application must be given by oral evidence before the Tribunal or by the affidavit of a person who swears to the facts necessary to prove service either to that person's knowledge or to that person's information and belief based on records kept in the ordinary course of business.

(5) An application, notice or other document served on a person in the manner authorized by these regulations will, in the absence of proof to the contrary, be taken to have been received by that person.

Directions hearings

12. (1) The Chairman, a Deputy Chairman or the Commercial Registrar may direct that any proceedings before the Tribunal be the subject of a directions hearing before the Chairman, a Deputy Chairman or the Commercial Registrar.

(2) In any proceedings a directions hearing does not affect the constitution of the Tribunal for any subsequent hearing of the proceedings.

(3) At a directions hearing, the Chairman, Deputy Chairman or Commercial Registrar—

(a) may give directions on the practice or procedure of the Tribunal;

(b) may order a party to the proceedings to provide to any other party or to the Tribunal further particulars of any claim made in the proceedings;

(c) may order any party to file further documents;

7.

- (d) may order a party to make available to any other party a copy of a specified document (not being a document that is privileged from production);
- (e) may attempt to settle any matter in dispute by conciliation;
- (f) may direct the parties to attend a conference presided over by the Chairman, a Deputy Chairman, a registrar or any other person for the purpose of attempting to settle any matter in dispute by conciliation;
- (g) may order that an application, defence, complaint, claim or counterclaim, or any part thereof, be struck out in default of compliance with a previous order made by the Tribunal or by the Chairman, a Deputy Chairman or the Commercial Registrar;
- (h) may make any other order that the justice of the case requires or that will conduce to the expeditious determination of the proceedings.

Date, time and place of hearing

13. A registrar—

- (a) must fix the date, time and place of—
 - (i) any directions hearing in relation to an application to the Tribunal;
 - (ii) the hearing of any application;

and

- (b) must give reasonable notice of that date, time and place to each party and each person on whom the application has been served.

Additional information

14. The Tribunal may, at any time before or during the hearing of an application, require the applicant, any other party or any person appearing before the Tribunal to supply such further information in relation to the subject matter of the application as it may specify.

Conciliation conference

15. The Tribunal may, before making a decision or order in relation to any proceedings involving a dispute between the parties, direct that the parties attend a conference presided over by the Chairman, a Deputy Chairman, a registrar or any other person for the purpose of attempting to settle the dispute by conciliation.

Proceedings after attempt to settle by conciliation

16. (1) Nothing said or done in an attempt to settle a dispute by conciliation under regulation 12 or 15 is subsequently admissible in evidence before the Tribunal.

(2) Where the Chairman, a Deputy Chairman or a registrar presides over a conference held pursuant to regulation 12 or 15, he or she is not disqualified from hearing or determining the proceedings.

Orders by consent

16a. Where—

(a) the parties to an application before the Tribunal agree upon the terms of the order which should be made by the Tribunal on the application;

and

(b) a document signed by the parties (or by legal practitioners on their behalf) and recording their consent to such order being made is filed in the Tribunal,

the Commercial Registrar may, without conducting a hearing or receiving any evidence, make an order of the Tribunal in terms of the consent recorded in that document.

Judgments and orders of the Tribunal

17. (1) The Commercial Registrar must ensure that all judgments and orders of the Tribunal are properly recorded.

(2) Where—

(a) a person requests a copy of a judgment or order of the Tribunal;

or

(b) a judgment or order of the Tribunal affects any term or condition of, or the operation of, any registered instrument,

the Commercial Registrar must draw up and sign the judgment or order.

(3) A registrar must, on request and payment of the prescribed fee, issue a certified copy of a judgment or order of the Tribunal or any licence, registration or document issued by the Tribunal.

(4) Where any judgment or order of the Tribunal affects any term or condition of, or the operation of, any registered instrument—

(a) (i) when directed so to do by the Chairman or a Deputy Chairman, a registrar must cause a certified copy of the judgment or order to be served on the officer in charge of the appropriate registry;

and

(ii) that officer must cause a note or memorandum to be made on the registered instrument of the judgment or order, and must attach the certified copy to the instrument;

and

9.

- (b) the Tribunal may order any person having a duplicate of the instrument to deliver it to a registrar and, in that event, the registrar must cause a note or memorandum of the judgment or order, to be made on the duplicate instrument and attach a certified copy of the judgment or order to the duplicate instrument, and return it to that person.

Enforcement of judgments and orders of the Tribunal

18. (1) The Rules of the Supreme Court relating to the enforcement and execution of judgments and orders apply, with necessary adaptations, to judgments and orders of the Tribunal other than judgments or orders for the payment of pecuniary sums.

(2) For the purposes of this regulation, in the Rules of the Supreme Court—

- (a) a reference to the Court will be taken to be a reference to the Tribunal;
- (b) a reference to a Judge will be taken to be a reference to the Chairman or a Deputy Chairman;

and

- (c) a reference to a Master will be taken to be a reference to a registrar who is a legal practitioner.

Enforcement of fines imposed by the Tribunal

19. The Commercial Registrar may enforce payment of a fine imposed by the Tribunal in disciplinary proceedings as if he or she were a party to the proceedings.

False statements or representations

20. A person who makes a false statement or representation in—

- (a) an application;
- (b) an annual return lodged with a registrar under a relevant Act;

or

- (c) in any other document supplied to the Tribunal or a registrar in connection with an application or return,

is guilty of an offence.

Penalty: \$500.

Application of provisions

21. (1) Regulations 21a to 21c (inclusive) apply only to proceedings commenced under Part IV of the *Landlord and Tenant Act 1936*.

* * * * *

Notices of defence

21a. (1) If a respondent to proceedings to which this regulation applies wishes to oppose an order sought by the applicant, the respondent must—

- (a) file with the Commercial Registrar a notice of defence, in a form approved by the Commercial Registrar, within 14 days after the day on which a copy of the application was served on the respondent;

and

- (b) attend (either personally or by a legal practitioner or other authorized representative) any hearing in relation to the proceedings.

(1a) If a respondent to proceedings to which this regulation applies fails to file a notice of defence as required by subregulation (1), the respondent will not be permitted to be heard at any hearing in relation to the proceedings except with the leave of the Tribunal (which leave may be granted subject to conditions).

(2) As soon as practicable after receiving a notice of defence from a respondent, the Commercial Registrar must cause a copy of the notice to be served on the applicant in the proceedings and must endorse the original notice of defence with the date and manner of service (which endorsement will, in the absence of proof to the contrary, be sufficient proof of service of the notice).

(3) Where a notice of defence is filed by a respondent in relation to an application to the Tribunal, the application will be taken to have been served on that respondent and it will not be necessary for the applicant to provide proof of service of the application on that respondent.

Request for hearing or default order

21aa. Where an applicant in proceedings to which this regulation applies requires that an order of the Tribunal be made in the proceedings, the applicant must—

- (a) file with the Commercial Registrar a request that the application be listed for hearing;

or

- (b) file a request under regulation 21b for an order to be made in default of filing a notice of defence.

Orders in default

21b. (1) An applicant in proceedings to which this regulation applies may file with the Commercial Registrar, in a form approved by the Commercial Registrar, a request for an order to be made under this regulation in default of filing a notice of defence if—

- (a) the time for filing the notice has expired;
- (b) the order is requested only against a respondent or respondents who have been served with an application and who have failed to file a notice of defence;

and

(c) the applicant withdraws the application as against—

(i) any respondent who has not been served with the application;

and

(ii) any respondent who has filed a notice of defence.

(2) A request filed under this regulation must include full particulars of the order sought from the Tribunal and, in the case of an order sought for the payment of an amount of money, must include the total amount and particulars sufficient to establish how the amount has been calculated.

(3) Where a request filed under this regulation is for an order for payment by a respondent of an amount of money and no other order, and the Commercial Registrar is satisfied that the amount claimed in the request—

(a) is specified in the application or in a notice served on the respondent after the application was issued, or has been calculated by reference to particulars given in the application or in any such notice;

(b) is claimed to be payable under or in respect of an agreement between the parties;

and

(c) does not require assessment of damages claimed by the applicant,

the Commercial Registrar may, without conducting a hearing or receiving any evidence, make an order of the Tribunal for payment by the respondent to the applicant of the amount referred to in the request plus prescribed costs.

(4) Where a request filed under this regulation is for an order for payment by a respondent of an amount of money and no other order, and the Commercial Registrar is not satisfied of one or more of the matters referred to in subregulation (3)(a), (b) or (c), the Commercial Registrar may, without conducting a hearing or receiving any evidence, make an order for payment by the respondent to the applicant of an amount to be assessed by the Tribunal, and must then refer the request to the Tribunal to assess the amount payable under the order.

* * * * *

(6) Where a request is filed under this regulation and the Commercial Registrar declines to make an order under subregulation (3) or (4), the Commercial Registrar must refer the request to the Chairman or a Deputy Chairman, who may give (*ex parte* if the Chairman or Deputy Chairman thinks fit) such directions as to the manner in which the request will be determined as he or she thinks appropriate in the circumstances, including a direction as to the extent to which (if at all) the respondent should be permitted to be heard in relation to the request.

(7) Where a request is filed under this regulation, the Commercial Registrar may require the person making the request to provide further information in support of the request.

(8) In this regulation—

"prescribed costs" means—

(a) the fee paid to file the application;

and

(b) costs incurred in respect of preparing and filing the application, serving the application and proving service and filing a request under this regulation, limited to—

(i) where the application is filed by a legal practitioner on behalf of the applicant, costs according to the following scale:

order over \$2 000 up to \$5 000 \$150

order over \$5 000 up to \$10 000 \$200

order over \$10 000 up to \$15 000 \$250

order over \$15 000 up to \$20 000 \$300

order over \$20 000 \$400;

(ii) where the application is not filed by a legal practitioner on behalf of the applicant—\$50.

Power to set aside order

21c. (1) An order of the Tribunal made by the Commercial Registrar against a respondent under regulation 21b(3) may, on the application of the respondent, be set aside by the Tribunal under this regulation if the Tribunal is satisfied that the respondent has a genuine defence to the whole or a part of the claim in respect of which the order was made and that—

(a) the application did not come to the notice of the respondent before the date on which a notice of defence should have been filed;

(b) the respondent has a satisfactory explanation for failing to file a notice of defence within the required time;

or

(c) other grounds exist which justify an order under this regulation.

(2) An order made under this regulation may be made subject to such conditions as the Tribunal considers appropriate in the circumstances.

(3) An application by a respondent under this regulation must be instituted by filing an application in a form approved by the Commercial Registrar.

(4) An application made by a respondent under this regulation to set aside an order will, as from the date on which a copy is served on the person in whose favour the order was made, operate as a stay of any proceedings to enforce the order until the application is determined by the Tribunal.

(5) Where an application by a respondent is made under this regulation—

(a) it is not necessary for the respondent to serve the application;

and

(b) the Commercial Registrar must, as soon as practicable after receiving the application, cause a copy of the application to be served on the person in whose favour the order was made and must endorse the original of that application with the date and manner of service (which endorsement will, in the absence of proof to the contrary, be sufficient proof of service of the application).

(6) Where an application under this regulation to set aside an order of the Tribunal has been determined, the Commercial Registrar must—

(a) where the person in whose favour the original order was made was not present when the application was determined, give written notification to that person of the result of the application;

and

(b) where the Commercial Registrar has received notification of registration of the order in a local court, given written notification to the Clerk of that court of the result of the application.

Failure to attend hearing

21d. Where a respondent fails to attend a hearing in relation to an application to the Tribunal and the Tribunal is satisfied that the respondent—

(a) has been served with the application in accordance with these regulations;

and

(b) has been given reasonable notice of the time and place of the hearing,

the Tribunal may, at the request of the applicant, either without hearing evidence or upon hearing such evidence as it thinks proper, make any order that it could have made upon the hearing of the matter (including an order as to costs).

Interim orders

22. (1) Where an application for a judgment or order is made to the Tribunal and the Tribunal is satisfied by a party that an interim order is justified by the urgent circumstances of the case, the Tribunal may make an interim order to safeguard the position of any party pending its final decision.

(2) An interim order—

- (a) has effect for such period as the Tribunal may determine and specifies in the order, and may be renewed by the Tribunal from time to time;
- (b) may be made subject to such conditions (if any) as the Tribunal thinks fit;
- (c) may be made or renewed notwithstanding that the respondent has not filed a notice of defence in the matter or that the time for filing a notice of defence has not expired;
- (ca) may be made *ex parte* if the Tribunal is satisfied that an *ex parte* order is justified in the urgent circumstances of the case;

and

- (d) unless sooner revoked, ceases to have effect on the determination or resolution of the application.

(2a) An *ex parte* order made under subregulation (2)—

- (a) has no effect until a copy of the order is served on the respondent;
- (b) will, by force of this regulation, lapse if not confirmed by the Tribunal within 14 days after the order is made;

and

- (c) must not be confirmed or renewed unless reasonable notice has been given to the respondent of the time and place at which the Tribunal will hear an application to confirm or renew the order.

(3) Pursuant to section 6(4) of the Act, the Tribunal may, for the purpose of exercising any power under this regulation, be constituted solely of the Chairman or a Deputy Chairman.

SCHEDULE 1
Constitution of Tribunal
(Regulation 4)

PART 1
TRIBUNAL CONSTITUTED OF CHAIRMAN OR DEPUTY CHAIRMAN

The Tribunal, constituted of the Chairman or a Deputy Chairman—

- (a) may exercise any of the powers specified in regulations 21a to 21d (inclusive);
- (b) in relation to matters generally under the relevant Acts, may—
 - (i) receive and consider (by way of a hearing or otherwise) submissions in any proceedings before the Tribunal for the purpose of determining any question relating to the admissibility of evidence and any other question of law or procedure;
 - (ii) give directions in relation to the conduct of any business of the Tribunal in relation to particular proceedings or by a general practice direction;
 - (iii) decide whether to hold an inquiry under the provisions of a relevant Act;
 - (iv) order the adjournment of proceedings;
 - (v) order the taking of any action which the Tribunal is empowered to take on its own initiative;
 - (vi) make any determination, order or finding that is a prerequisite to the exercise of a function referred to in this Schedule or that is ancillary to the exercise of any such function;
 - (vii) exercise any power conferred on the Tribunal—
 - (A) to vary, revoke or suspend an order of the Tribunal or a condition attached to such an order; or
 - (B) to impose a further condition;
 - (viii) hear and determine any proceedings in respect of which, in the opinion of the Chairman or a Deputy Chairman, the determination primarily involves a question or questions of law;
 - (ix) hear and determine any proceedings in respect of which, in the opinion of the Chairman or a Deputy Chairman, the delay involved in convening a Tribunal constituted otherwise than solely by the Chairman or a Deputy Chairman may prejudice the interests of a party to the proceedings;
 - (x) exercise any power conferred on the Tribunal to hear and determine an application—
 - (A) in the absence of one of the parties to the proceedings;
 - (B) for an interim order;
 - (xi) order that a person be joined as a party to proceedings;

16.

- (xii) hear and determine any other proceedings where each of the parties has consented to the Tribunal being constituted solely of the Chairman or a Deputy Chairman;
- (c) in relation to the *Builders Licensing Act 1986*, may—
- (i) make an order for the performance of remedial work or for the payment of compensation (s. 32(6) and (9));
 - (ii) make an order in respect of a harsh or unconscionable term or condition of a domestic building work contract (s. 33);
- (d) in relation to the *Commercial Tribunal Act 1982*, may—
- (i) grant leave to a party to proceedings before the Tribunal to be represented otherwise than by counsel (s. 14(4));
 - (ii) dismiss or annul proceedings and make orders for payment of compensation (s. 15(6));
 - (iii) make orders for costs (s. 16);
 - (iv) deliver or publish the reasons for any decision or order of the Tribunal (s. 17);
 - (v) suspend the operation of an order until the determination of an appeal or terminate the suspension of an order (s. 18);
 - (vi) state a case for the opinion of the Supreme Court (s. 19);
 - (vii) grant leave to appeal to the Supreme Court (s. 20(2)) or dispense with the requirement that an appeal to the Supreme Court be instituted within one month (s. 20(3));
 - (viii) review a decision or order of a registrar (s. 21a);
 - (ix) order that a requirement of any Act or law be dispensed with (s. 23(1));
 - (x) punish a contempt of the Tribunal (s. 25b);
 - (xi) direct parties to proceedings to attend a conciliation conference (reg. 15);
- (e) in relation to the *Consumer Credit Act 1982*, may—
- (i) vary a condition on which a person is authorised to provide credit by means of revolving charge accounts (s. 6(6));
 - (ii) order that a credit contract is to be taken to comply with—
 - (A) section 40 (s. 40(4));
 - (B) section 41 (s. 41(3));
 - (iii) grant relief to an aggrieved person (s. 46);
- (f) in relation to the *Consumer Transactions Act 1972*, may—
- (i) declare that the rescission of a consumer contract is invalid (s. 15(5)(d));
 - (ii) decide a dispute arising from the rescission of a consumer contract (s. 18);

- (iii) order that a consumer lease be taken to comply with section 20 (s. 20(4));
- (iv) avoid or modify a term or condition of a consumer lease (s. 22(1));
- (v) authorise—
 - (A) a supplier to take possession of goods (s. 21(2)(b));
 - (B) a mortgagee to take possession of goods (s. 27(2)(b));
 - (C) a mortgagee to sell, dispose of or part with possession of goods (s. 27(4));
 - (D) the early sale, disposal of or parting with goods (s. 28(1));
- (vii) order the delivery up of goods detained by a consumer without just cause (s. 34(1));
- (viii) grant, on a consumer's application, relief against the consequences of a breach of a consumer contract, lease or mortgage (s. 38(6));
- (ix) settle any difference or dispute arising out of a prescribed contract of insurance (s. 41(2));
- (g) in relation to the *Fair Trading Act 1987*, may—
 - (i) hear and determine an appeal against the failure of a reporting agency to delete, amend or supplement information compiled by it (s. 34(6));
 - (ii) hear and determine an application for an order to be made against a reporting agency or trader (s. 37);
- (h) in relation to the *Goods Securities Act 1986*, may hear and determine an application for compensation (s. 14);
- (i) in relation to the *Land Agents, Brokers and Valuers Act 1973*, may—
 - (i) grant an exemption from the provisions of section 61(2) (s. 61(5));
 - (ii) vary the period of an exemption under section 61(5) or vary or revoke a condition of such exemption (s. 61(6));
 - (iii) appoint a person to administer a trust account (s. 66);
 - (iv) determine the amount of compensation to which a claimant is entitled (s. 76b(6));
 - (v) accept a claim from an agent against the *Agents Indemnity Fund* (s. 76d);
 - (vi) make, vary or revoke a common rule as to educational qualifications for licensing or registration (s. 97);
- (j) in relation to the *Landlord and Tenant Act 1936*, may—
 - (i) approve a contractual provision that purports to create a liability to which section 63 applies (s. 63(2));
 - (ii) order repayment by a landlord to a tenant of an amount paid under a provision of a commercial tenancy agreement that is void by virtue of section 63(2) (s. 63(4));

- (iii) hear and determine—
 - (A) an application by a tenant in relation to a breach of section 62 (s. 62(10));
 - (B) an application for extension of a tenancy (s. 66a(8));
 - (C) an application for relief from a requirement to move a business to other premises (s. 66ab(4));
 - (D) an application for payment to a person of an amount paid into the *Commercial Tenancies Fund* (s. 67a(10));
 - (E) a dispute in respect of goods to which section 67a applies (s. 67a(12));
 - (F) an application made under section 68 (s. 68(2));
- (iv) make a determination as to the extension or renewal of the term of a tenancy (s. 67(1));
- (v) grant an exemption from the provisions of Part IV (s. 73);
- (k) in relation to the *Second-hand Motor Vehicles Act 1983*, may—
 - (i) determine an extension of the period covered by a duty to repair (s. 25(5)(b));
 - (ii) make an order against a dealer in relation to a duty to repair (s. 26);
- (l) in relation to the *Travel Agents Act 1986*, may hear and determine an appeal from a decision of the trustees of the *Travel Compensation Fund* (s. 21).

PART 2
TRIBUNAL CONSTITUTED OF CHAIRMAN, DEPUTY CHAIRMAN OR
REGISTRAR WHO IS LEGAL PRACTITIONER

The Tribunal, constituted of the Chairman, a Deputy Chairman or a registrar who is a legal practitioner—

- (a) in relation to matters generally under the relevant Acts, may—
 - (i) extend the time within which—
 - (A) any notice or other document must be given or served or proceedings commenced; or
 - (B) any other thing that is required or permitted to be done under a relevant Act may be done;
 - (ii) make any order in any proceedings before the Tribunal with the consent of each of the parties to the proceedings;
 - (iii) require the furnishing of further information by an applicant for a licence, registration or authorisation, and require such information to be verified by statutory declaration;
 - (iv) make any determination, order or finding that is a prerequisite to the exercise of a function referred to in this Part of this Schedule or that is ancillary to the exercise of any such function;

- (v) exercise any power conferred on the Tribunal—
 - (A) to vary, revoke or suspend an order of the Tribunal or a condition attached to such an order;
 - (B) to impose a further condition in respect of an order of the Tribunal,

where the order in question was made by the Tribunal constituted of the Commercial Registrar;
- (vi) grant an application for the grant or renewal of a licence, registration (of a person or place), authorisation or endorsement, and any related application, where no objection has been lodged;
- (vii) consent to the surrender of a licence, registration, authorisation or endorsement;
- (viii) approve a person to carry on the business of a deceased licensee;
- (ix) authorise the name under which a licensee may carry on business;
- (b) in relation to the *Builders Licensing Act 1986*, may—
 - (i) attach, vary or revoke conditions of a licence or registration (ss. 8, 10(10) and 13);
 - (ii) approve a person as a building work supervisor (s. 18(1));
- (c) in relation to the *Commercial Tribunal Act 1982*, may terminate the suspension of an order made under section 18 (s. 18(2));
- (d) in relation to the *Consumer Credit Act 1972*, may—
 - (i) renew an authorisation to provide credit by means of revolving charge accounts (s. 6(6));
 - (ii) alter the registered address of a licensed credit provider (s. 37(2));
 - (iii) approve the manager of a body corporate (s. 39);
- (e) in relation to the *Consumer Transactions Act 1972*, may—
 - (i) vary the agreed place of return of goods on early termination of a consumer lease (s. 22(2));
 - (ii) fix the place where goods under a consumer mortgage should be returned prior to sale at request of consumer (s. 30(2));
 - (iii) authorise the removal of mortgaged or leased goods from the place agreed (s. 32(1));
- (f) in relation to the *Land Agents, Brokers and Valuers Act 1973*, may—
 - (i) grant an exemption from the provisions of section 16(2)(b) (s. 16(4));
 - (ii) vary or revoke a condition of an exemption under section 16(4) (s. 16(6));
 - (iii) consent to the employment of a sales representative who is not employed full-time (s. 22(2));

- (iv) approve a person as a stock and station agent (s. 24(2));
- (v) consent to the employment of a manager who is not employed full-time (s. 30(6));
- (vi) exempt a person from the application of section 46(2) (s. 46(2a));
- (vii) give directions to a company licensed as a land broker to ensure its compliance with a required stipulation (s. 59(2));
- (viii) determine that a claim against the *Agents Indemnity Fund* should not be barred by reason of a late lodgment (s. 76a(2));
- (ix) approve a person to exercise the functions of a qualified accountant (s. 87a(1));
- (x) grant an endorsement under regulation 8(3) of the *Land Agents, Brokers and Valuers Regulations 1986*;
- (g) in relation to the *Landlord and Tenant Act 1936*, may—
 - (i) order that proceedings be transferred to a court (s. 56(3) and (4));
 - (ii) order payments under section 61 (s. 61);
- (h) in relation to the *Second-hand Motor Vehicles Act 1983*, may—
 - (i) refer a matter to the Commissioner or a person appointed by the Commissioner to assist the parties to resolve the matter (s. 27(1));
 - (ii) authorise payment out of the *Second-hand Vehicles Compensation Fund* of the amount specified in an order of the Tribunal (s. 30);
- (i) in relation to the *Travel Agents Act 1986*, may—
 - (i) authorise a name in which a licensee may carry on business (s. 3);
 - (ii) fix a date for the purposes of section 12 (s. 12).

* * * * *

SCHEDULE 3

*Information that must be included in the registers
kept under section 22 of the Act*

BUILDERS LICENSING ACT, 1986

In respect of each licensee—

- (a) name;
- (b) residential address or the address of the licensee's registered corporate office;
- (c) address for service;
- (d) business name (if applicable);
- (e) date of issue of licence;
- (f) licence number;
- (g) category of licence and relevant classified trade;
- (h) conditions of licence (if any);
- (i) name, registration number and category of registration of the building work supervisor approved in relation to the licensee's business;
- (j) the date and conditions (if any) of approval of the supervisor;
- (k) any suspension or cancellation of the licence;
- (l) any disciplinary action taken by the Tribunal.

In respect of each registered building work supervisor—

- (a) name;
- (b) residential address;
- (c) date of registration;
- (d) category of registration and relevant classified trade;
- (e) conditions of registration (if any);
- (f) name and licence number of licensee in relation to whose business the supervisor is approved;
- (g) any suspension or cancellation of registration;
- (h) any disciplinary action taken by the Tribunal.

COMMERCIAL AND PRIVATE AGENTS ACT, 1986

In respect of each licensee—

- (a) name;
- (b) residential address or the address of the licensee's registered corporate office;
- (c) address of licensee's principal place of business or, in the case of a licensee who is an employee, address for service;
- (d) business name (if applicable);
- (e) name of each partner (if applicable);
- (f) name and address of employer (if applicable);
- (g) if the licensee is a body corporate, the name of the licensed manager;
- (h) endorsements to the licence and the date on which the licence was so endorsed;
- (i) conditions of licence (if any);
- (j) any suspension or cancellation of licence;
- (k) any disciplinary action taken by the Tribunal.

CONSUMER CREDIT ACT, 1972

In respect of each licensed credit provider—

- (a) name;
- (b) registered address;
- (c) if the licensee is a body corporate, the name of the approved manager;
- (d) each authorized address;
- (e) any suspension or cancellation of the licence;
- (f) any disciplinary action taken by the Tribunal.

LAND AGENTS, BROKERS AND VALUERS ACT, 1973

In respect of each licensed land agent—

- (a) name;
- (b) residential address or the address of the licensee's registered corporate office;
- (c) date of issue of the licence;
- (d) address of the registered office and each registered branch office of the agent under the Act;
- (e) date on which the agent commenced business as an agent;

23.

- (f) date on which the agent ceased business as an agent;
- (g) business or trading name of the agent (if applicable);
- (h) name of each nominated manager of the agent;
- (i) date on which the licence was endorsed to authorize the agent to act as a hotel broker (if applicable);
- (j) date on which such an endorsement was removed from the licence (if applicable);
- (k) any suspension or cancellation of the licence;
- (l) any disciplinary action taken by the Tribunal.

In respect of each licensed land broker and each licensed land valuer—

- (a) name;
- (b) residential address;
- (c) date of issue of licence;
- (d) any suspension or cancellation of the licence;
- (e) any disciplinary action taken by the Tribunal.

In respect of each registered salesperson and each registered manager—

- (a) name;
- (b) residential address;
- (c) date of registration;
- (d) name of the licensed land agent by whom the sales person or manager is employed, the address of the registered office of that agent, the date of commencement of employment with that agent and the date of termination of employment with that agent;
- (e) any suspension or cancellation of registration;
- (f) any disciplinary action taken by the Tribunal.

SECOND—HAND GOODS ACT, 1985

In respect of each licensed second-hand dealer—

- (a) name;
- (b) residential address or the address of the licensee's registered corporate office;
- (c) address of each registered premises;
- (d) name and address of registered manager of each registered premises;
- (e) address for service;

24.

- (f) any suspension or cancellation of the licence or the registration of the premises;
- (g) any disciplinary action taken by the Tribunal.

In respect of each registered manager—

- (a) name;
- (b) residential address;
- (c) address of registered premises of which the manager is the registered manager;
- (d) name of licensee who employs the manager;
- (e) any suspension or cancellation of registration;
- (f) any disciplinary action taken by the Tribunal.

SECOND-HAND MOTOR VEHICLES ACT, 1983

In respect of each licensed second-hand vehicle dealer—

- (a) name;
- (b) residential address or the address of the licensee's registered corporate office;
- (c) address of registered premises;
- (d) address of registered place of repair;
- (e) any suspension or cancellation of the licence;
- (f) any disciplinary action taken by the Tribunal.

TRAVEL AGENTS ACT, 1986

In respect of each licensee—

- (a) name;
- (b) residential address or the address of the licensee's registered corporate office;
- (c) address for service;
- (d) date of issue of licence;
- (e) licence number;
- (f) any suspension or cancellation of the licence;
- (g) any disciplinary action taken by the Tribunal.

SCHEDULE 4*Fees*

1.	For inspection of any register kept under s. 22	\$4.00
2.	For providing—	
	(a) a certified copy of any judgment or order of the Tribunal	\$19.00
	(b) a copy (not certified) of any judgment, order, reasons for decision, etc. (per page)	\$2.00
	(c) a certified copy of an extract from any register kept by the Commercial Registrar	\$19.00
	(d) a certificate under s. 22(3)	\$19.00
	(e) a certified copy of any licence, certificate of registration or authorisation—	
	(i) first page	\$10.00
	(ii) each subsequent page	\$2.00
	(f) a copy (not certified) of any licence, certificate of registration or authorisation—	
	(i) first page	\$4.00
	(ii) each subsequent page	\$2.00
3.	For a copy of evidence taken in any proceedings before the Tribunal (per page)	\$5.00
4.	For a complaint setting out matters alleged to constitute grounds for disciplinary action under a relevant Act	\$26.00
5.	For issuing a summons under s. 15(1)(a) or (b)	\$13.00

SCHEDULE 5
Forms

SOUTH AUSTRALIA

COMMERCIAL TRIBUNAL

COMPLAINT

Name and address of person
lodging complaint

Name.....
Address.....
.....
.....
..... (Complainant)

Name and address of person against whom
complaint is made

Name.....
Address.....
.....
.....
..... (Respondent)

The matters set out below are alleged to constitute grounds for disciplinary action against the abovenamed respondent:

(here set out relevant matters in full)

.....
.....
.....
.....
.....
.....
.....

Dated 19

Signed

Complainant

OFFICE USE ONLY

APPENDIX**LEGISLATIVE HISTORY**

Regulation 4(1):	varied by 150, 1993, reg. 3(a)
Regulation 4(2):	varied by 150, 1993, reg. 3(b)
Regulation 9(3):	substituted by 280, 1991, reg. 3
Regulation 9a:	inserted by 280, 1991, reg. 4
Regulation 10(1a):	inserted by 280, 1991, reg. 5(a)
Regulation 10(2):	varied by 280, 1991, reg. 5(b)
Regulation 10(3) and (4):	inserted by 280, 1991, reg. 5(c)
Regulation 11(1a):	inserted by 280, 1991, reg. 6(a)
Regulation 11(3):	substituted by 280, 1991, reg. 6(b)
Regulation 11(3a) and (3b):	inserted by 280, 1991, reg. 6(b)
Regulation 11(4):	varied by 280, 1991, reg. 6(c)
Regulation 11(5):	inserted by 280, 1991, reg. 6(d)
Regulation 12(3):	varied by 280, 1991, reg. 7; 150, 1993, reg. 4
Regulation 16a:	inserted by 280, 1991, reg. 8
Regulation 21:	inserted by 186, 1991, reg. 3; substituted by 280, 1991, reg. 9
Regulation 21(1):	varied by 150, 1993, reg. 5(a)
Regulation 21(2):	revoked by 150, 1993, reg. 5(b)
Regulation 21a:	inserted by 280, 1991, reg. 9
Regulation 21a(1a):	inserted by 3, 1992, reg. 3
Regulation 21aa:	inserted by 3, 1992, reg. 4
Regulation 21b:	inserted by 280, 1991, reg. 9
Regulation 21b(1):	varied by 3, 1992, reg. 5(a)
Regulation 21b(5):	revoked by 3, 1992, reg. 5(b)
Regulation 21b(7):	varied by 3, 1992, reg. 5(c)
Regulation 21b(8):	varied by 3, 1992, reg. 5(d); 150, 1993, reg. 6
Regulations 21c and 21d:	inserted by 280, 1991, reg. 9
Regulation 22:	inserted by 186, 1991, reg. 3
Regulation 22(2):	varied by 280, 1991, reg. 10(a)
Regulation 22(2a):	inserted by 280, 1991, reg. 10(b)
Schedule 1:	substituted by 150, 1993, reg. 7
Schedule 2:	varied by 22, 1989, reg. 3; revoked by 150, 1993, reg. 7
Schedule 3:	varied by 22, 1989, reg. 4
Schedule 4:	varied by 145, 1988, reg. 3; 102, 1989, reg. 3; 105, 1990, reg. 3; substituted by 134, 1991, reg. 3; 141, 1992, reg. 3; varied by 196, 1992, reg. 3; substituted by 132, 1993, reg. 3; varied by 67, 1994, reg. 3; substituted by 51, 1995, reg. 3; 83, 1996, reg. 3