



ANNO TRICESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1986

No. 113 of 1986

An Act to amend the Commercial Tribunal Act, 1982.

[Assented to 18 December 1986]

The Parliament of South Australia enacts as follows:

- Short title.** 1. (1) This Act may be cited as the "Commercial Tribunal Act Amendment Act, 1986".
- (2) The Commercial Tribunal Act, 1982, is in this Act referred to as "the principal Act".
- Commencement.** 2. This Act shall come into operation on a day to be fixed by proclamation.
- Interpretation.** 3. Section 4 of the principal Act is amended—
- (a) by inserting the following definition before the definition of "the Commissioner":
- "Commercial Registrar" means the person for the time being holding or acting in the office of the Commercial Registrar;
- and
- (b) by striking out the definition of "the Registrar" and substituting the following definitions:
- "Deputy Commercial Registrar" means a person for the time being holding or acting in the office of a Deputy Commercial Registrar:
- "registrar" means the Commercial Registrar or a Deputy Commercial Registrar.
- Repeal of s. 10 and substitution of new section.** 4. Section 10 of the principal Act is repealed and the following section is substituted:
10. (1) There shall be—
- (a) a Commercial Registrar;
- The Commercial Registrar and Deputy Commercial Registrar of the Tribunal.**

and

(b) one or more Deputy Commercial Registrars.

(2) The Commercial Registrar must be a legal practitioner.

(3) A registrar is a Public Service employee.

(4) A registrar is an executive officer of the Tribunal and—

(a) has, subject to paragraph (b), the powers, discretions and functions conferred on, or assigned to, registrars by or under this Act or any other Act;

and

(b) if the registrar is a legal practitioner—may with the approval of the Tribunal or the Chairman exercise the jurisdiction of the Tribunal in relation to matters of a prescribed class.

(5) Where a registrar exercises the jurisdiction of the Tribunal, the registrar may, and shall if the Tribunal or the Chairman so directs, refer the matter to the Tribunal for determination by the Tribunal.

5. Section 13 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

Amendment of s. 13—
Principles on which Tribunal is to make decisions.

(2) The Tribunal is bound by the rules of evidence in—

(a) disciplinary proceedings;

and

(b) proceedings related to a contempt of the Tribunal.

6. Section 15 of the principal Act is amended—

(a) by striking out from subsection (1) “the Registrar” wherever it occurs and substituting, in each case, “a registrar”;

Amendment of s. 15—
Powers of the Tribunal.

and

(b) by striking out subsections (2) and (3).

7. The heading immediately preceding section 19 of the principal Act is repealed and the following heading is substituted:

Amendment of heading.

DIVISION IV—CASES STATED, APPEALS AND REVIEWS.

8. Section 20 of the principal Act is amended—

(a) by striking out subsections (1) and (2) and substituting the following subsections:

(1) A party to proceedings before the Tribunal who is dissatisfied with a decision or order of the Tribunal in those proceedings is, subject to this section, entitled to appeal to the Supreme Court against the decision or order.

(2) The appeal lies as of right if it involves a question of law or arises from proceedings related to a contempt of the Tribunal but otherwise lies only by leave of the Tribunal or the Supreme Court;

and

(b) by inserting after subsection (4) the following subsection:

(5) The rights of appeal conferred by this section are subject to any limitations and exclusions contained in the relevant Acts.

Insertion of new s. 21a.

9. The following section is inserted after section 21 of the principal Act:

Certain divisions of the Tribunal are subject to review.

21a. (1) Where a registrar makes a decision or order in the exercise of the jurisdiction of the Tribunal, a party to the proceedings may, within one month of the date of the decision or order, apply to the Tribunal for a review of the decision or order.

(2) The Tribunal may, on reviewing a decision or order under this section, confirm, vary or set aside the decision or order.

Amendment of s. 22—
Registers, etc.

10. Section 22 of the principal Act is amended—

(a) by striking out from subsection (1) “The Registrar” and substituting “The Commercial Registrar”;

and

(b) by striking out from subsection (3) “the Registrar” and substituting “a registrar”.

Amendment of s. 24—
Proof of judgments and orders of the Tribunal.

11. Section 24 of the principal Act is amended by striking out “the Registrar” and substituting “a registrar”.

Amendment of s. 25—
Enforcement of orders.

12. Section 25 of the principal Act is amended by striking out from subsection (1) “the Registrar” and substituting “a registrar”.

Insertion of new ss. 25a and 25b.

13. The following sections are inserted after section 25:

Contempt of the Tribunal.

25a. A person who—

(a) fails without reasonable excuse to comply with a summons issued to attend, or to produce books, papers or documents, before the Tribunal;

(b) misbehaves before the Tribunal, wilfully insults the Tribunal or one or more of the members in the exercise of the member’s official duties, or interrupts the proceedings of the Tribunal;

(c) refuses to be sworn or to affirm, or to answer a relevant question when required to do so by the Tribunal;

or

(d) fails to comply with a judgment or order of the Tribunal (not being a judgment or order for the payment of a pecuniary sum),

is guilty of a contempt of the Tribunal.

How contempts of the Tribunal are dealt with.

25b. (1) A contempt of the Tribunal—

(a) may be prosecuted as a summary offence (punishable by a fine not exceeding \$10 000);

or

(b) may be dealt with by the Tribunal under this section.

(2) The Tribunal may punish a contempt by a fine not exceeding \$10 000.

(3) A fine imposed under this section may be recovered as a debt due to the Crown.

14. Section 26 of the principal Act is amended by striking out from paragraph (f) of subsection (2) "Registrar" and substituting "registrars".

Amendment of
s. 26—
Regulations.

15. The principal Act is amended as shown in the schedule.

Statute law
revision
amendments.

THE SCHEDULE

The principal Act is amended as follows:

Section Amended	How Amended
Section 3	Section 3 is repealed.
Section 6 (3)	Delete this subsection and substitute: <p>(3) Where proceedings (including proceedings founded on an application) involving the same or similar questions are commenced under 2 or more of the relevant Acts, the Chairman or a Deputy Chairman of the Tribunal, if of the opinion that it would be expedient to consolidate those proceedings and that the consolidation would not unfairly prejudice any party to the proceedings, may direct that the proceedings be consolidated accordingly and in that event a member shall be selected under subsection (1) (b) from each panel constituted in relation to the Acts under which the consolidated proceedings arise.</p>
Section 7 (3)	After "he" insert "or she".
Section 7 (5)	Delete "in his office".
Section 8 (5) (a)	Delete "the duties of his office" and substitute "official duties".
Section 8 (6)	Delete this subsection and substitute: <p>(6) A person ceases to be a member of a panel if the person—</p> <p>(a) dies;</p> <p>(b) completes a term of office and is not reappointed;</p> <p>(c) resigns by notice addressed to the Minister;</p> <p>or</p> <p>(d) is removed from office under subsection (5).</p>
Section 11 (1)	Delete "shall not be" and substitute "is not".
Section 11 (2)	Delete this subsection and substitute: <p>(2) No liability attaches to a member of the Tribunal for an act or omission by the member or the Tribunal in good faith and in the exercise of official powers or functions by the member or the Tribunal.</p>
Section 13 (1)	Delete "shall not be" and substitute "is not".
Section 13 (2)	Delete "shall be" and substitute "is".
Section 14 (2)	Delete "his" and substitute "that person's".
Section 15 (1) (d)	Delete this paragraph and substitute: <p>(d) require any person to make an oath or affirmation to answer truthfully all questions put by members of the Tribunal, or a person appearing before the Tribunal, relating to a matter before the Tribunal;</p>
Section 15 (1) (e)	Delete "he has been". Delete "to him".
Section 15 (4)	Delete "shall not be" and substitute "is not".
Section 15 (4) (a)	Delete "him" and substitute "that person of an offence".
Section 15 (4) (b)	Delete "he" and substitute "that person".
Section 15 (5)	Delete "therefrom" and substitute "from the evidence".

Section Amended	How Amended
Section 15 (6) (b)	Delete "he" and substitute "the other party".
Section 25 (3)	Delete "The court in which judgment or order is registered under this section shall be" and substitute "A judgment or order is registrable under this section in".

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

D. B. DUNSTAN, Governor