

Queensland



Subordinate Legislation 2003 No. 144

*Commercial and Consumer Tribunal Act 2003*

**COMMERCIAL AND CONSUMER TRIBUNAL  
REGULATION 2003**

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## **PART 1—PRELIMINARY**

### **1 Short title**

This regulation may be cited as the *Commercial and Consumer Tribunal Regulation 2003*.

### **2 Commencement**

This regulation commences on 1 July 2003.

## **PART 2—PERFORMANCE APPRAISAL**

### **3 Entering into performance agreement**

(1) As soon as practicable after a member is appointed, the member must enter into a performance agreement with—

- (a) if the member is the chairperson—the Minister; or
- (b) for another member—the chairperson.

(2) The agreement must be in writing and signed by—

- (a) the chairperson and the Minister; or
- (b) the member and the chairperson.

### **4 Review of member's performance against performance agreement**

(1) A member's performance against the performance agreement under section 3—

- (a) must be reviewed at least once each year during the term of the member's appointment; and
- (b) may be reviewed at intervals shorter than 1 year if the chairperson directs, or the member requests, that the member's performance be reviewed.

(2) The member's performance against the agreement must be reviewed by—

- (a) if the member is the chairperson—the Minister; or
  - (b) for another member—the chairperson.
- (3) After a review, the agreement must be renewed.

## **5 Code of conduct for member**

- (1) The chairperson may develop and approve a code of conduct for the members of the tribunal.
- (2) The code of conduct must be in writing.

## **PART 3—CASE MANAGER’S MATTERS**

### **6 Case manager’s matters**

An application or matter listed in schedule 1 is a case manager’s matter.

## **PART 4—FEES**

### **7 Fees**

- (1) The following fees are payable to a person required to appear as a witness in the tribunal—
- (a) an attendance fee of \$49 for each day;
  - (b) if the person travels to and from the tribunal by air and it is reasonable in the circumstances to travel by air—a travelling fee equal to the amount payable for economy class air travel by the person to and from the tribunal;
  - (c) if paragraph (b) does not apply—a travelling fee that is the lesser of the following amounts—
    - (i) the amount actually and properly paid for public transport fares;

- (ii) if there is no public transport available—40c per kilometre and \$10 for each day;
  - (d) if the person is required to attend to give evidence for more than 1 day, and it is not reasonably practicable for the person to return to the person’s place of residence on any day on which the person is required to attend at the tribunal—an accommodation fee of \$90 for each overnight stay.
- (2) The other fees payable under the Act are in schedule 2.

## **8 Waiver of application fee**

- (1) A party may apply to have an application fee waived.
- (2) The application must be made to the director in the approved form.
- (3) The director may waive the application fee.
- (4) In deciding whether to waive the application fee, the director may—
- (a) consider whether a party has the financial capacity to pay the fee, including, for example, by considering the following—
    - (i) if the party is an individual, whether the party holds a concession card;
    - (ii) whether the party is a non-profit organisation; and
  - (b) require a party to provide documentary evidence to support the application.

*Example of documentary evidence—*

- a concession card
- a copy of the non-profit organisation’s constitution

- (5) In this section—

**“concession card”** means—

- (a) a health care card or pensioner concession card under the *Social Security Act 1991* (Cwlth); or
- (b) a pensioner concession card issued by the Commonwealth Department of Veterans’ Affairs.

**“non-profit organisation”** means an organisation not carried on for the profit or gain of its individual members.

*Example—*

A charity, church, club or environmental protection society

## **PART 5—MISCELLANEOUS**

### **9 Registry is registry for other tribunals**

For section 20(3) of the Act,<sup>1</sup> the other tribunals are listed in schedule 3.

### **10 Interest**

(1) For sections 93(2)(c) and 115(2)(d) of the Act,<sup>2</sup> interest is payable on the amount ordered to be paid—

- (a) if the parties have entered into a contract—at the rate specified under the contract; or
- (b) at the rate agreed between the parties; or
- (c) otherwise—at the rate of 10%.

(2) The interest is payable on and from the day after the day that the amount became payable until and including the day the amount is paid.

### **11 Contact details and address for service of application or defence**

(1) An application<sup>3</sup> or a defence<sup>4</sup> must state—

- (a) if a solicitor acts for the party—
  - (i) the party's residential or business address; and
  - (ii) the name of the solicitor and, if the solicitor practises in a firm of solicitors, the name of the firm; and

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1 The Act, section 20(3) (Registry established)

2 The Act, section 93 (Registration and enforcement of decisions) and section 115 (Decision by default for debt)

3 The Act, section 31 (How to start proceedings) or section 32 (Unincorporated applicant's prescribed officer)

4 The Act, section 33 (Defence and counterclaim)

- (iii) the solicitor's business address; and
  - (iv) if the address specified under subparagraph (iii) is not the party's address for service or is not a Queensland address—an address for service in Queensland including, for example, an address approved by the tribunal as the address for service; and
  - (v) the solicitor's phone number; and
  - (vi) the solicitor's fax number; or
- (b) otherwise—
- (i) the party's residential or business address; and
  - (ii) the party's phone number, if any; and
  - (iii) if the party does not have a phone number—a phone number at which the party may be contacted; and
  - (iv) the party's fax number, if any.

(2) A solicitor may include the solicitor's email address or document exchange address with the details required under subsection (1)(a).

(3) A party may include the party's email address with the details required under subsection (1)(b).

(4) Notice of any change in a party's address for service must be filed in the tribunal and served on all other parties.

## **PART 6—REGULATIONS REPEALED**

### **12 Regulations repealed**

The following regulations are repealed—

- *Liquor (Tribunal) Regulation 2002*;
- *Property Agents and Motor Dealers (Tribunal) Regulation 2002*;
- *Queensland Building Tribunal Regulation 2000*;
- *Retirement Villages (Tribunal) Regulation 2002*.

**SCHEDULE 1****CASE MANAGER'S MATTERS**

section 6

Section 31(4)	(How to start proceedings)
Section 39(4)	(Amendment as to parties)
Section 41(1)(b)(i)	(Service of documents)
Section 44(2)	(Informal service)
Section 45(2)	(Tribunal to fix time and place for proceedings)
Section 47(5)	(Way tribunal is to conduct proceedings)
Section 50	(Directions and orders)
Section 52	(Extension of time and waiver of compliance)
Section 61(2)	(Withdrawal by applicant)
Section 61(3)	(Withdrawal by applicant)
Section 61(4)	(Withdrawal by applicant)
Section 62	(Withdrawal by respondent)
Section 76(2)(e)	(Who represents party at other proceedings)
Section 76(3)	(Who represents party at other proceedings)
Section 77	(Tribunal may require witness to attend)
Section 82	(Referral of matters for expert report)
Section 118(1)	(Method of mediation)

## SCHEDULE 2

### FEES

section 7(2)

#### PART 1—APPLICATION FEES

	\$
1. For an application under section 102 of the Act <sup>1</sup> for a review under—	
(a) <i>Architects Act 2002</i> , section 121(1) . . . . .	207.00
(b) <i>Building Act 1975</i> , section 41(2) . . . . .	207.00
(c) <i>Liquor Act 1992</i> , section 31(1)—	
(i) for an appellant who has a direct or indirect financial interest in licensed premises that may be affected by the outcome of the appeal . . . .	207.00
(ii) for another appellant . . . . .	51.50
(d) <i>Plumbing and Drainage Act 2002</i> , section 129(2) .	207.00
(e) <i>Professional Engineers Act 2002</i> , section 122(1) . .	207.00
(f) <i>Property Agents and Motor Dealers Act 2000</i> —	106.00
(i) section 483(1) . . . . .	51.50
(ii) section 501 . . . . .	106.00
(g) <i>Queensland Building Services Authority Act 1991</i> , section 87 . . . . .	207.00
(h) <i>Residential Services Accreditation Act 2002</i> , section 159(1) . . . . .	207.00
2. For an application under section 113 of the Act <sup>2</sup> —	
(a) for an extension of time under <i>Property Agents and Motor Dealers Act 2000</i> , section 511(1) . . . . .	51.50
(b) to hear and decide—	
(i) an application made to the tribunal under <i>Domestic Building Contracts Act 2000</i> —	
(A) section 18(6)(b) . . . . .	207.00
(B) section 55(4) . . . . .	207.00

## SCHEDULE 2 (continued)

(C) section 60(3) . . . . .	207.00
(D) section 84(2)(b) . . . . .	207.00
(E) section 84(3)(b) . . . . .	207.00
(ii) a building dispute under the <i>Queensland Building Services Authority Act 1991</i> , section 77(1) . . . . .	207.00
(iii) a retirement villages dispute under the <i>Retirement Villages Act 1999</i> , section 166 . . .	207.00

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- 1 The Act, section 102 (Application for review)  
 2 The Act, section 113 (Other matters)

**PART 2—MISCELLANEOUS FEES**

\$

**Copies**

1. For a black and white copy of a record or information, other than a plan or drawing, filed in the registry, for each page—
  - (a) for less than 20 pages. . . . . 1.20
  - (b) for 20 to 50 pages. . . . . 1.00
  - (c) for more than 50 pages . . . . . 0.80
2. For a colour copy of a record or information, other than a plan or drawing, filed in the registry, for each page—
  - (a) for an A4 page. . . . . 3.80
  - (b) for an A3 page. . . . . 4.10
3. For a copy of a plan or drawing, filed in the registry, for each page—
  - (a) for an A3 page . . . . . 3.20
  - (b) for an A2 page . . . . . 4.20
  - (c) for an A1 page . . . . . 5.20

## SCHEDULE 2 (continued)

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**Phone calls**

- 4.** For each call connected—
- |   |      |
|---|------|
| (a) for a local call .....                        | 0.50 |
| (b) for a STD call—for each minute. ....          | 0.50 |
| (c) for a mobile phone call—for each minute ..... | 1.00 |

**Inspection of register**

- 5.** Inspecting the register—
- |  |       |
|--|-------|
| (a) for each hour or part of an hour ..... | 10.50 |
| (b) maximum fee for a day .....            | 42.80 |

**Attendance notice**

- 6.** Issuing an attendance notice .....
- |  |       |
|--|-------|
|  | 12.70 |
|--|-------|

**Officer's attendance**

- 7.** For an officer of the tribunal to accompany a record or document at a place out of the tribunal building, for each day or part of a day the officer is necessarily absent from the building .....
- |  |   |
|--|---|
|  | 120.00  |
|  | plus the officer's reasonable travelling and other expenses |

**Certificate**

- 8.** Supplying a certificate as to the correctness of a matter in the register .....
- |  |                             |
|--|-----------------------------|
|  | 39.70                       |
|  | plus an amount under item 1 |

**SCHEDULE 3****REGISTRY FOR OTHER TRIBUNALS**

section 9

1. The Racing Appeals Tribunal established under the *Racing Act 2002*, section 150<sup>1</sup>

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1 *Racing Act 2002*, section 150 (Establishment of Racing Appeals Tribunal)

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**ENDNOTES**

1. Made by the Governor in Council on 26 June 2003.
2. Notified in the gazette on 27 June 2003.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Tourism, Racing and Fair Trading.