

CONSUMER, TRADER AND TENANCY TRIBUNAL
COMMERCIAL DIVISION APPLICATION

Credit (Commonwealth Powers) Act 2010, Travel Agents Regulation 2011
and Property, Stock & Business Agents Act 2002



CTTT
Consumer, Trader &
Tenancy Tribunal

Important information about CTTT applications:

- The CTTT publication *What happens at the Tribunal?* should be read before completing this form. This publication and other CTTT forms are available at www.cttt.nsw.gov.au or from CTTT Registry offices.
- The CTTT fact sheet *Getting Help* lists a wide range of services in NSW that can help you with your legal questions
- A copy of this application and any attached information will be provided to the Respondent.

1. Place of contract

Street address of where contract, mortgage or lease was made or entered into

Postcode:

2. Date of contract

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3. Your Name

As shown on contract, mortgage or lease

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Your postal address:

Daytime telephone:	
Email address:	

Postcode:

4. Are you: (Tick where appropriate)

- Consumer Credit provider Debtor Guarantor Mortgagor Mortgagee Director-General
- Other (please specify)

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5. Who is the Respondent?

As shown on contract, mortgage, guarantee or agency agreement

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Respondent's postal address:

Daytime telephone:	
Email address:	

Postcode:

6. Is the Respondent:

- Credit provider Debtor Guarantor Mortgagor Mortgagee Director-General
- Property, Stock or Business Agent Travel Compensation Fund
- Other (please specify)

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7. Respondent's ACN (For companies only)

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8. Is an interpreter needed?



- Yes No

What language/s?

For Applicant

For Respondent

9. Other special needs? Such as hearing loop, wheelchair access etc

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10. Unavailable dates

Please indicate below when you are **not available** to attend a hearing in the next 6 weeks . Your unavailability may affect the timely listing of this matter.

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OFFICE USE ONLY:

File No:

Product Code:

Practice Code:

11. **List all CTTT reference numbers** For previous applications involving the same or related dispute

12. **Is this application part of other Court or Tribunal proceedings?**

Yes No

If Yes, name the Court/Tribunal and the file number

13. **Are you aware if the Respondent is an undischarged bankrupt or in liquidation?**

Yes No

14. **What order/s do you want?**

Time limits apply for certain applications. Before making the application, you should obtain information from NSW Fair Trading about the types of orders the CTTT can make.

- Credit (Commonwealth Powers) Act 2010*
- Property, Stock & Business Agents Act 2002*
- Travel Agents Regulation 2011*

Specify the order/s you want:

15. **What are your reasons for requesting the above order/s?**

You must describe why you are seeking the order so that the other party can be prepared for the hearing. If you do not provide this information your application may be dismissed or adjourned to a later date. Additional information may be attached to this application.

16. **Your Name/s** *(Please print)*

Your Signature/s

Your position title *(If company)*

Date

When you attend a hearing you should bring the original documents, including contracts and purchase agreement, any authority if you seek to represent a party and other relevant documents (such as correspondence between the parties).

Fee details: You must pay the application fee when lodging your application. Refer to the separate fee schedule. If a fee is not paid, the listing of your application may be delayed or dismissed. You may pay a reduced fee if you hold a Centrelink concession, Health Care Card, Veteran's Affairs Pension, NSW Seniors Card, or a full-time student allowance. You must enclose a photocopy of your current card or allowance advice with the application.

Return this application with fee to: Registrar, Consumer, Trader and Tenancy Tribunal

For all CTTT Registry Offices ☎ T: 1300 135 399 📠 F: 1300 135 247 🌐 www.cttt.nsw.gov.au

Sydney Registry

Level 12, 175 Castlereagh Street
Sydney NSW 2000
GPO Box 4005, Sydney NSW 2001

Hurstville Registry

Level 3, 4-8 Woodville Street
Hurstville NSW 2220
PO Box 148, Hurstville BC NSW 1481

Liverpool Registry

Level 3, 33 Moore Street
Liverpool NSW 2170
PO Box 723, Liverpool BC NSW 1871

Penrith Registry

Ground Floor, 2-6 Station Street
Penrith NSW 2750
PO Box 988, Penrith NSW 2751

Newcastle Registry

Level 1, 175 Scott Street
Newcastle NSW 2300
PO Box 792, Newcastle NSW 2300

Tamworth Registry

Suite 3-5, Kable Korner Complex
Cnr Kable Ave & Darling St
PO Box 1033, Tamworth NSW 2340

Wollongong Registry

Level 3, 43 Burelli Street
Wollongong NSW 2500
PO Box 319, Wollongong NSW 2520



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Commercial Division Application - Orders

Please read this information before completing the application form

An application should request at least one of the orders below. **This is a guide only.** You should refer to the legislation when making your application.

Orders under the operation of Schedule 3 of the *Credit (Commonwealth Powers) Act 2010*

IN RELATION TO THE MAXIMUM ANNUAL PERCENTAGE RATE FOR CREDIT CONTRACTS

Orders the CTTT can make	Who can apply?
To determine that the interest charged under the contract exceeds the maximum annual percentage rate for the contract and recover any amount thereby overpaid	Debtor

Orders under the *Property, Stock & Business Agents Act 2002*

REVIEW OF COMMISSIONS OR FEES

Orders the CTTT can make	Who can apply?
To determine reasonable fees (i.e. whether the licensee is entitled to the whole or any part of the amount specified in the statement of claim or itemised account)	Person served statement of claim or who received itemised account

Orders under the *Travel Agents Regulation 2011*

CONCERNING THE COMPENSATION SCHEME PRESCRIBED UNDER SECTION 57 OF THE *TRAVEL AGENTS ACT 1986*

Orders the CTTT can make	Who can apply?
An appeal against a decision of the Travel Compensation Fund Board under clause 16.7 that relates to any compensation referred to in clause 15.1	Applicant for compensation

Are there any time limits for lodging an application?

There are varying time limits in Commercial Division legislation. You should refer to the applicable legislation for time limits and ensure you comply with these limits.

Who is the party you are claiming against?

The Tribunal can only make orders against a legal entity. Your contract or invoice may not stipulate the full registered name of the company or business and may only state the trading name. For example: *John Smith Plumbing*.

However, a trading name is not a legal entity. The most common legal entities are:

- a corporation - '*Kenram Pty Ltd*'
- a sole trader - '*John Smith trading as John Smith Plumbing*'
- a natural person/s - '*John Smith*' or '*John Smith and Mary Smith trading as John & Mary Smith Plumbing*'
- an owners corporation - '*Owners Corp Strata Plan 00001*'
- an incorporated association - '*Kenram Inc.*'

It is your obligation and in your best interests to correctly identify the parties to an application and the address for service.

How do I do a 'legal entity' search?

A 'legal entity' search is also known as a business or company search. A recent company or business search will give the correct name and registered business address of the respondent. The Tribunal will serve copies of the application and all notices to this address.

Applicants may search on the ASIC National Names Index website www.asic.gov.au or contact NSW Fair Trading on 13 32 20 for further information.

The legislation requires that you must provide this information. If you do not give the Tribunal the correct name for the respondent, the Tribunal will not be able to deal with your application.

Preparing for conciliation and hearing

Bring written proof of the credit or home finance contract, guarantee, mortgage, lease or licensee fee arrangement etc. Also bring copies of other relevant documents such as:

- All correspondence between the parties
- Receipts and payment records
- Any enforcement action taken
- Any demands or claim for fees
- Any statements, statutory declarations or affidavits that support your case.

Additional information

Question 1 Place of contract

The Tribunal can hear matters where the contract was entered into in New South Wales. If the place of contract or where the service was provided is not clear, you should seek legal advice.

Question 5 Who is the Respondent?

The Respondent is the person you are asking the Tribunal to make orders against.

- If your claim is against an **individual**, provide the individual's full name and address.
- If your claim is against a **business or company** provide the owner's name and, if possible, the registered office and trading addresses.
- If your claim is against a **partnership**, provide the full name and address of all partners.
- If the claim is against an **association**, provide the name and address of the public officer of the association.

If you want to claim against more than one respondent, include these names and addresses on a separate sheet of paper.

Question 7 Respondent's ABN or ACN

If the respondent is a business or a company they will have an Australian Business Number (ABN) or Australian Company Number (ACN). If you require assistance to obtain the correct company or business name and its ABN and/or ACN you may search on the ASIC National Names Index website www.asic.gov.au or contact NSW Fair Trading on 13 32 20.

Question 13 Are you aware if the Respondent is an undisclosed bankrupt or in liquidation?

If you are claiming against a corporation, have you checked to see if the respondent is an undisclosed bankrupt or in liquidation?

The Tribunal cannot make orders against a company in liquidation or if bankrupt. You should seek independent legal advice before proceeding.

Privacy of personal information

All information contained in an application is provided to all parties, including home/business addresses, phone and email details.

The privacy of personal information is important to the Tribunal. The Tribunal collects personal information to register application forms and make decisions about disputes. The Tribunal may give personal information to another person or agency (e.g. NSW Fair Trading) as required or authorised by law.

Decisions by the Tribunal will generally be published, including on the internet, unless there are exceptional circumstances justifying the decision being withheld.

A person has a right to access their personal information and request the Registrar to correct any inaccuracies.