

# GENERAL DIVISION APPLICATION

## Consumer Claims about Second Hand Goods

(Pawnbrokers and Second-hand Dealers)

Under part 4A of the *Pawnbrokers and Second-hand Dealers Act 1996*



# CTTT

Consumer, Trader & Tenancy Tribunal

**PB**

The CTTT brochure titled 'What happens at the Tribunal?' must be read before completing this form. This brochure, other information and online application lodgement are available at [www.cttt.nsw.gov.au](http://www.cttt.nsw.gov.au).

### 1. Suburb or place where goods or services were purchased or supplied.

(OR if purchased through a website, what was the internet address?)

NSW

### 2. Your Name

(Your full name/s as shown on your purchase or service agreement)

**Your postal address for Notices**

NSW

Daytime telephone:

### 3. Who is the application against?

If more than one respondent attach a separate list.

**Refer to No. 5 of the Guidelines**

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**Respondent's postal address for Notices**

NSW

Daytime telephone:

### 4. Respondent's ACN

(Australian Company Number)

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### 5. Is an interpreter needed?

**What language/s?**

For Applicant	For Respondent
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Other special needs?

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### 6. What order or orders do you want ?

You must estimate a dollar amount for the order(s) you want. The monetary limit for a consumer claim is \$25,000. (You may tick more than one box)

- An order to pay to me the amount of
- An order that I do not have to pay the amount of
- \* An order to do work or provide services to the approximate value of
- \* An order to fix or replace faulty goods, or deliver or return goods (approximate value)

\$
\$
\$
\$

**Total value of claim**

\$
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\*You must also specify the work or what the goods or services are that you want provided or fixed.


### 7. Give as much information as possible about the agreement you have with the respondent.

(Describe briefly the goods or services, their price, the amount you paid, when you received the goods or services, the nature of any defect and the date you discovered the defect, the cost of repairs etc.)


### 8. List all Tribunal reference numbers

(For previous applications involving the same dispute)

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### 9. If there are any exceptional circumstances

which would stop you from attending a hearing in the next 28 days, provide details

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**For Office Use Only:**

File No: \_\_\_\_\_

Product Code: \_\_\_\_\_

Practice Code: \_\_\_\_\_



## Guidelines for completing an application Under part 4A of the Pawnbrokers and Second-hand Dealers Act 1996 in the General Division

### 1 Place of Contract or Supply

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

### 2 Before an application is made to the Tribunal

If a person identifies their goods in a pawnbroker's or second-hand dealer's ("the licensee") premises that have been stolen or otherwise unlawfully dealt with, that person can approach the local police and lodge what is known as a Restoration Notice. The Police then serves this Restoration Notice on the licensee.

### 3 Who can make an application to the Tribunal?

The licensee has 28 days to either return the goods to the claimant or lodge an application with the Tribunal. You must provide a copy of the restoration notice. The licensee must keep the goods, unaltered, until the matter is resolved. If criminal proceedings are commenced in relation to the goods, then the Tribunal process is suspended until those proceedings are concluded.

### 4 What orders can the Tribunal make?

- The Tribunal can make an order for the goods to be kept by the licensee, or delivered to the claimant, or be given to a third person if they appear to be the rightful owner.
- Alternatively, the Tribunal may make an order for goods to be delivered to the person who appears to be the rightful owner of the goods, but giving the licensee the option of keeping the goods and paying that person the value of the goods, as assessed by the Tribunal.
- The Tribunal may make an order for payment of the value of the goods, as assessed by the Tribunal, to the person who appears to be the rightful owner.
- The Tribunal may also make an order for payment by, or to, the licensee of an amount of money. This includes an order for the person by or on whose behalf the goods were pawned to pay the licensee money.

### 5 Who is the party you are claiming against?

**The Tribunal can only make orders against a legal entity.**

However, often your contract or invoice will not set out the full registered name of the company or business and may only state the trading name, eg John Smith Plumbing and this is not a legal entity.

- The most common legal entities are:
- A corporation, eg 'Kenram Pty Ltd' or
- A sole trader, eg 'John Smith trading as John Smith Plumbing', or
- A natural person, eg, 'John Smith', or
- Natural persons in a partnership, eg 'John Smith and Mary Smith trading as John & Mary Smith Plumbing', or
- An owners corporation, eg 'Owners Corp Strata Plan 00001', or
- An incorporated association, eg 'Kenram Inc'.

**It is your obligation to identify the parties to an application and the address for service.**

- Applicants may search on the ASIC National Names Index website: [www.asic.gov.au](http://www.asic.gov.au) or contact the Office of Fair Trading for further information.

- A recent company or business search will give the address of a company and this address will be the one to which the Tribunal will serve copies of the application. 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.

### Checklist for a licensee lodging an application in the General Division. Under part 4A of the *Pawnbrokers and Second-hand Dealers Act 1996*

#### Q1. Suburb or place where goods or services were purchased.

- Enter place of contract, or supply of goods or services (Refer to No. 1 in the Guideline).

#### Q2. Your name and your postal address for notices.

- Are you a licensee? (Refer to No.2 in the Guidelines).
- Have you entered your name as shown on the contract or purchase agreement?
- If you are a corporation or business lodging an application include your registered address or your principal place of business for the service of notices.

#### Q3. Who is the Application against?

- Is the Respondent a legal entity? (Refer to No.5 in the Guidelines).
- Have you conducted a company or business name search on the Respondent?
- Have you attached a copy of a recent corporation or business name search to your application?
- Have you included the Respondent's address/s for the service of notices?

#### Q4 & 7. Respondent's ACN

- If you are claiming against a corporation, have you checked to see if the Respondent is in liquidation? The Tribunal cannot make orders against a company in liquidation or under administration.

#### Q6. What order or orders do you want?

**(Refer to No 4 in the Guidelines.)**

- You should specify the order in the space provided.
- If you seek a payment of money you must estimate a total dollar amount for the order you want.
- You must provide a copy of the Restoration Notice.

#### Q10. What are your reasons for requesting this order or orders?

- Have you provided full details of the basis of your claim. These include:
- Briefly describe the goods
- The amount you have paid
- When you received the goods
- The nature of the dispute
- What you are claiming for, eg money compensation, retention of the goods etc.

#### Q11. Date or sale or supply of goods or services

- Enter date of contract or supply of goods or services
- Is the date more than 28 days after the Restoration Notice was served on you?

#### Q12. Your name

- Have you signed the application form?
- If you are a company, have you included your position?

