

THE SINGAPORE SMALL CLAIMS TRIBUNALS - ACCESSIBLE JUSTICE TO THE COMMUNITY

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A. INTRODUCTION

The Small Claims Tribunals in Singapore have been in operation since 1 February 1985. In the past 14 years, the Tribunals have fulfilled an integral role in providing the community with accessible justice for civil claims involving small amounts. This paper will explore the various features and programmes which have been put in place, to enhance access to justice for the community, by removing barriers such as of cost, delay, distance, time and inconvenience.

B. BACKGROUND

The Tribunals, constituted as part of the Subordinate Courts of Singapore, were established for the primary purpose of providing a quick and inexpensive avenue for the resolution of small claims arising from disputes between consumers and suppliers.

Before 1985, consumers who had purchased defective products or had been provided shoddy services, had only 2 avenues of redress. Firstly, they could seek assistance from the Consumer Association of Singapore (“CASE”). However, CASE had no powers to make orders against errant parties. It could only help to mediate a settlement between the parties to a dispute. There was no machinery in CASE to compel compliance with a settlement agreement. Secondly, consumers could seek redress in the courts. However, court proceedings were expensive, time consuming and subject to technical and procedural complexities. In addition, legal cost was involved and this could, where claims were for small amounts, exceed the amount which a successful claimant could recover.

There was therefore a need for a less expensive and less formal forum to deal with such small claims. Hence, in 1985, the Small Claims Tribunals Act,² (“the Act”), was passed, which authorised the setting up of one or more Tribunals to help consumers who had claims of up to \$2,000 relating to disputes arising from contracts for the sale of goods or the provision of services. It was hoped that through the tribunals, such small claims could be settled quickly to the satisfaction of the parties concerned.

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² Cap 308, Statutes of the Republic of Singapore, Revised Edition 1998.

C. THE CONSTITUTION AND JURISDICTION OF THE TRIBUNALS

The Tribunals are presided over by the Referees, who are appointed by the President on the recommendation of the Chief Justice.³ A Registrar and Assistant Registrars have been appointed by the Chief Justice to ensure the proper functioning of the Tribunals.⁴

Since 1985, the jurisdiction of the Tribunals has been increased significantly. Currently, the Tribunals have jurisdiction to hear and determine claims not exceeding \$10,000 which relate to disputes arising from:⁵

- (a) A Contract for the sale of goods;
- (b) A Contract for the provision of services; or
- (c) Tortious damage caused to any property (except where the damage was caused by an accident arising out of or in connection with the use of a motor vehicle).

The jurisdiction of the Tribunals to hear such claims can be extended to \$20,000 if both parties to the dispute consent in writing.⁶ However, if a claim exceeds the prescribed limit of \$10,000 and there is no agreement reached between the parties to extend the Tribunals' jurisdiction, a claimant may abandon the excess and limit his claim to \$10,000.⁷

The Act also provides for a limitation period for claims brought before the Tribunals. The Tribunals will not hear claims lodged after the expiration of one (1) year from the date on which the cause of action accrued.⁸

D. HOW THE TRIBUNALS FUNCTION

The Tribunals are equipped to perform 2 functions – mediation and adjudication. All disputes are first mediated and adjudication is only carried out when mediation fails.

- (1) **Mediation** – The primary function of the Tribunals is to attempt to bring parties to a dispute to an agreed settlement.⁹ Mediation is conducted at the first stage of the proceedings, which is known as the Consultation. The Consultation is conducted by the Registrar and the Assistant Registrars of the Tribunals, who have all received training in mediation techniques. The Consultation is a mandatory first stage.

³ Section 4 of the Small Claims Tribunals Act, Cap 308.

⁴ Section 14(1) of the Act.

⁵ Section 5 of the Act. See the definition of “prescribed limit” under section 2 of the Act.

⁶ Section 5(4) of the Act.

⁷ Section 9 of the Act.

⁸ Section 5(3)(b) of the Act.

⁹ Section 12 of the Act.

The Act provides that when a claim has been filed, the Registrar shall invite all parties to a dispute for a Consultation with a view to effecting a settlement acceptable to all parties.¹⁰

- (2) **Adjudication** – A Hearing is held to adjudicate a claim only when the claim cannot be settled within a reasonable time through mediation at the Consultation.¹¹ A Referee, who is a legally qualified person, presides during a Hearing.¹² At present, the Referees who preside in the Tribunals are usually concurrently Magistrates and District Judges of the Subordinate Courts.

It is provided in section 12(4) of the Act that “the Tribunals shall determine [disputes] according to the substantial merits and justice of the case, and in doing so shall have regard to the law but [they] shall not be bound to give effect to strict legal forms and technicalities.”

(3) **The Tribunals can make any of the following Orders:**

- i. Discontinue the proceedings for lack of jurisdiction.
- ii. Dismiss the claim with disbursements and or costs
- iii. Grant a Money Order
- iv. Grant a Work Order – which directs the errant party to perform works which he had agreed to do but had failed to do so.
- v. Grant a Work Order with an alternative Money Order – which directs the errant party to pay a sum of money if he defaults in carrying out the Work Order.

All Money Orders are deemed to be Orders of a Magistrate’s Court for the purposes of enforcement.¹³ The most common type of enforcement process used would be the Writ of Seizure and Sale. Work Orders, on the other hand, are enforced only by the Tribunals.¹⁴ Parties are only required to fill up a form requesting for enforcement of their Work Orders. At the enforcement hearing before the Referee, the Work Order may be discharged, varied or substituted with a Money Order.

E. PROCEDURE AT THE TRIBUNALS

The procedure at the Tribunals has been kept simple. The same procedure applies to all types of claimants.

The claimant begins the process by lodging a claim which is in a prescribed form.¹⁵ He need only provide his own particulars of his claim together with copies of his supporting documents (if any). If a claim is being made against a

¹⁰ Section 17(1) of the Act.

¹¹ Section 12(3) of the Act.

¹² Section 4 of the Act.

¹³ Section 36 of the Act.

¹⁴ Section 37 of the Act.

¹⁵ Section 15 of the Act. See also Rule 9 of the Small Claims Tribunals Rules, R 1, Cap 308 (“the SCT Rules”).

company, the claimant will also have to attach to the claim form, an “instant information” search on the company which is easily available from the Registry of Companies and Businesses.

A small fee is payable upon the lodgment of a claim. Where the claim is for \$5,000 or less, the fee is \$10 for each claim lodged by a consumer claimant and \$50 for a non-consumer claimant. For claims exceeding \$5,000 and up to 10,000, a fee of \$20 is charged for each consumer claim and \$100 for each non-consumer claim. For claims which exceed \$10,000 and up to \$20,000, the fees are then pegged at a percentage of the claim amount.¹⁶

After a claim is lodged, the claim would be fixed for a Consultation before the Registrar or Assistant Registrar. A Consultation Notice is sent to both parties requiring them to appear before the Registrar at an appointed date and time. At the Consultation, the Registrar or Assistant Registrar will mediate the claim, to help parties achieve an amicable resolution of the dispute. If a settlement is reached, the matter is concluded and an order is made which gives effect to the terms of settlement. If the parties are unable to settle the matter, they will be directed to attend a Hearing before a Referee at an appointed date and time.

The Hearing is a more formal and structured process than the Consultation. During the Hearing, the Referee will first try to help parties achieve an amicable settlement. If parties are still unable to resolve the matter amicably, the Referee will hear the arguments of both parties, examine the witnesses and call for the production of relevant documents. At the conclusion of the Hearing, the Referee will make an order which is enforceable by the successful party. If either party is absent at the Consultation or Hearing stage, the Registrar or the Referee may enter a Default Order or dismiss the claim.

Mediation at the Consultations has been very effective thus far. In 1998, only 4.6% of all claims lodged proceeded to Hearings before the Referees.

F. ACCESSIBILITY TO JUSTICE

The caseload of the Tribunals has increased steadily over the years, increasing from 3,788 claims in 1985, to 39,860 claims in 1998. In accordance with the underlying objective of the Tribunals, the Tribunals have established numerous programmes and processes to enhance the accessibility to justice for the users. As earlier stated, speed, cost, and inconvenience are some of the important factors which affect the accessibility to justice for intending claimants.

This paper will discuss how the programmes and processes of the Tribunals have sought to eliminate or minimise the following barriers to justice:

- i. Economic barriers
- ii. Procedural barriers

¹⁶ Rule 9 (2) of the SCT Rules. For claims exceeding \$10,000, the lodgment fees are 1% of the claim amount for a consumer claim, and 3% of the claim amount for a non-consumer claim.

- iii. Physical barriers
- iv. Temporal barriers

G. ECONOMIC BARRIERS

i. Low Cost

One of the original aims of the Tribunals, was to provide an inexpensive avenue for the resolution of claims involving small amounts. Especially in cases where the claim amount is small, high cost of legal proceedings can be a significant barrier to justice. At the Tribunals, a consumer can have his claim for up to \$10,000 adjudicated for the payment of a small fee of \$20.

ii. No legal representation allowed

To ensure that costs are kept to a minimum and that a litigant will not be at a disadvantage because he is unable to afford legal representation, parties must present their own case. Legal representation is expressly excluded by the Act.¹⁷ A party is also not permitted to be represented by an agent, except in limited exceptions specified in the Act. For example, a corporation or a partnership must be represented by an authorised representative who must be at least a full time employee of the partnership or corporation.¹⁸ Where a party is a minor, or where a party is unable to present his claim because of old age, illiteracy or infirmity of body or mind etc, the party can be represented by an agent.¹⁹

iii. No costs are awarded

The Tribunals adopt a “no-cost” rule. A successful claimant is not awarded any costs. An unsuccessful claimant also does not have to pay costs unless his claim is dismissed by the Referee on the ground that it is frivolous or vexatious.²⁰ However, the Tribunals can award disbursements to parties. The disbursements are the “out of pocket” expenses, and they include fees that the winning party has paid in the process of lodging and defending the claim. The Referee has the discretion to assess the validity of such claims.

H. PROCEDURAL BARRIERS

i. Delays and Backlogs

Delay has been recognised as a significant barrier to justice. We are all familiar with the saying that “Justice delayed is justice denied”. Many judiciaries around the world have been making efforts to reduce backlog of cases and shorten waiting periods for trials. In Singapore, the Magistrate’s and District Courts eliminated all their backlog cases by 1993. At the Tribunals, we have no backlog of

¹⁷ Section 23(3) of the Act.

¹⁸ Section 23(2)(c) and (d) of the Act.

¹⁹ Section 23(2)(f) and (h) of the Act.

²⁰ Section 31 and 32 of the Act.

cases, and all cases are disposed of without delay. We have achieved this through careful case management, and the implementation of strict time-lines.

Strict time-lines have been established and maintained for all claims lodged at the Tribunals. The Tribunals will fix a claim for Consultation within 7 to 14 days from the date of its lodgment. If there is no settlement of the claim, a Hearing before a Referee is usually fixed within the next 7 days. In other words, claims are disposed of within 7 to 21 days in most cases.

In the case of claims lodged by visitors to Singapore, the Consultations and Hearings are normally held within 24 hours from the time the claims are first lodged at the Tribunals. To do this, the Tribunals' process server, accompanied by the claimant, will serve the Consultation Notice personally on the respondent(s) as soon as possible, on the same day after the claim is lodged. Ordinarily, the Consultation Notices are served by post.²¹ For such cases, the Hearing is usually conducted immediately after the Consultation, if the parties fail to settle the claim at the Consultation.

ii. Informal and simple procedure

The informality of the Tribunals and its simplified procedure enable any lay person to present his own case. All proceedings before the Tribunals are conducted in an informal manner.²² The Tribunals are also not bound by strict rules of evidence.²³ They have control over their procedure subject only to rules of natural justice.²⁴ Although all proceedings are conducted in English, an interpreter will be made available if any party indicates that one is required.

iii. Private judicial proceedings

All proceedings at the Tribunals are conducted in private to the exclusion of persons not parties to the dispute.²⁵ This is so that the parties will not feel intimidated when presenting their cases. Although conducted informally and in private, they are deemed judicial proceedings. Parties who misbehave during the proceedings can therefore be prosecuted for contempt of the Tribunals, which is punishable with a fine of up to \$2000 or imprisonment of up to 6 months.²⁶

iv. Illiterate claimants

For claimants who are unable to complete their claim forms due to, for example, illiteracy, the Act provides that the Registrar may permit a claim to be made orally and cause it to be reduced to writing.²⁷

²¹ Rule 12 of the SCT Rules.

²² Section 22 of the Act.

²³ Section 28 of the Act.

²⁴ Section 30 of the Act.

²⁵ Section 24 of the Act.

²⁶ Section 43 of the Act.

²⁷ Section 15(3) of the Act.

v. Public education

We have also recognised that ignorance can be an impediment to justice. In order to educate the public on the use of Tribunals, we have published a series of informational pamphlets explaining the various processes. These pamphlets are distributed free of charge at the Tribunals' campuses, the Subordinate Courts complex, neighbourhood police posts and other locations around Singapore.

Users may also access an automated teleresponse system by telephone, to obtain information on the Tribunals' processes. This informational service is available 24 hours a day. Users are also able to request for a written information sheet to be faxed to them.

I. PHYSICAL BARRIERS

i. Regionalisation

Another recognised barrier to justice is the physical location of the courthouse. Although Singapore is a country of small geographical area, the Tribunals have since 1996, embarked on a regionalisation programme, to bring the Tribunals' services to the doorstep of the members of the public. In April 1996, the first regional centre was set up to make the Tribunals more accessible to residents in the northern part of Singapore.²⁸ In September 1998, the second Regional Centre was launched in the East.²⁹ Plans are underway for a third Regional Centre to be located in the West region.

ii. Virtual Tribunals services

Inconvenience can also be a significant barrier to justice. The Tribunals have therefore continually sought to make the Tribunals services more conveniently accessible, through the application of technology.

a. Lodgment of Claims by Facsimile

Since July 1997, claimants have been able to lodge their claims by facsimile.³⁰ They can obtain the prescribed claim forms by using the fax-on-demand service in the teleresponse system. After completing the forms, claimants are only required to fax the forms together with a transmission sheet. Upon receipt of the forms by the Tribunals, the Registrar will inform the claimant whether his forms are in order and have been properly transmitted. The claimant will also be informed of the amount of filing fees to pay. All filing fees are to be paid within 7 days of the transmission date, failing which the claim will be deemed withdrawn.³¹ If the claim has been accepted as lodged

²⁸ Small Claims Tribunals (Regional North), at Ang Mo Kio.

²⁹ Small Claims Tribunals (Regional East), at Marine Parade.

³⁰ Small Claims Tribunals (Amendment) Rules 1997.

³¹ Rule 11L(3) of the SCT Rules.

by the Registrar, a notice will be sent to the parties to attend a Consultation.

b. Lodgment of Claims by Direct Dial-In or through the Internet

Since September 1997, the Tribunals have allowed approved users to lodge their claims via electronic means. Electronic filing is currently available via the Internet and a Direct Dial-In access. The Tribunals' electronic filing system provides customised claim forms for different users of the Tribunals, as well as a generic claim form. The system also provides a Consultation calendar which permits authorised claimants to select the Consultation date from a list of available dates. The claim is deemed lodged on the day it is transmitted electronically as recorded in the Registrar's computer account. Currently, in this first phase, only bulk users of the Tribunals, such as town councils and utilities companies, have been authorised to use the electronic filing system. Authorised users are required to comply with the conditions set out in the Small Claims Tribunals Rules, and will be assigned authentication codes for purposes of access.

c. A 24-hour Automated Telephone Admission System

Since March 1998, respondents can now admit claims lodged against them either in writing or by telephone, without having to attend at the Tribunals in person.³² The Tribunals have implemented a 24-hour automated telephone admission system, through which respondents can admit the claims using a confidential Personal Identification Number (PIN) which would be issued to them. An interactive voice response system will guide the respondent through the admission process. The identity of the respondent is verified by means of the PIN issued, as well as a voice recording of the caller. Once the claim is admitted, the PIN is deactivated.

d. Hearings and Consultations via Telephone and Video Conferencing

Since March 1998, the Tribunals have also enabled Consultations and Hearings to be conducted via telephone or video conferencing. In this first phase, a party will be able to attend the Consultation or Hearing through a telephone or video link while being at a different campus of the Tribunals, at his convenience. Document cameras enable documents and exhibits to be shown via the video link. As a safeguard, the Registrar or Referee has a discretion to discontinue the telephone or video link session, and direct parties to attend in person, if necessary. This is another step towards achieving the vision of a virtual court.

³² Amendments introduced by the Small Claims Tribunals (Amendment) Act 1998.

J. TEMPORAL BARRIERS

This fourth category of barriers refers to the opening hours of the court. Users have traditionally needed to take leave from their work and other activities, to attend court hearings. At the Tribunals, we have sought to make services available outside the normal working hours.

i. Automated services

Automated systems such as the electronic filing system, the 24 hour automated teleresponse system, and the 24 hour telephone admission system, are accessible to users after normal office hours.

ii. Night mediation

The Tribunals have conducted night mediation services for users since 1997. These mediation sessions are conducted at 6.00 pm on designated weekdays. These sessions enable users to have the dispute resolved without the need to take leave of absence from work. If parties reach a settlement after mediation, they will attend before a Registrar to have a consent Order recorded.

iii. Night Consultations

In addition to night mediation, the Tribunals also conduct Night Consultation sessions. For the convenience of the public, the operational hours of the Regional Centres during weekdays have been extended to 9.00 pm. Consultations are conducted daily at the Regional Centres, from 6.00 pm to 9.00 pm on weekdays.

K. COMMUNITY-ORIENTED JUSTICE

In line with the Tribunals' focus on accessible justice to the community, we have also involved the community in some of the Tribunals' processes. This seeks to promote the ownership of the justice process by the community.

i. Volunteer mediators

Volunteer mediators from the Tribunals' Court Support Group conduct evening mediation sessions approximately twice a week. These volunteers include lawyers, lecturers, and professionals, and they bring with them a wealth of experience from their respective backgrounds.

ii. Justices of the Peace

Since April 1996, Justices of the Peace have also been appointed as Assistant Registrars, to conduct Consultations on a rotational basis. These Justices of the Peace are community leaders appointed by the President. The Justices of the Peace on this programme are also senior lawyers in private practice.

The Tribunals are in the process of launching a pilot programme, in which a number of Justices of the Peace will be appointed as Referees. These senior lawyers will then be able to discharge judicial duties by conducting hearings. We expect the first batch of Justices of the Peace to receive their appointments as Referees next month.

L. FUTURE DEVELOPMENTS

In an era of a rapid change, the Tribunals must review and improve their processes and facilities, to meet the growing needs of their users. Some of the programmes which are currently being undertaken to further improve the services of the Tribunals, include the second phase of the electronic filing system, electronic payment of fees, lodgment of claims by post, and the provision of forms and comprehensive information on the Internet.

i. Second phase of electronic filing system

In the second phase of the electronic filing system, we will make electronic filing available to all members of the public, via the Internet. Users will be able to lodge their claims through either a Web Form, or through electronic mail to a designated electronic mail account. This will also enable foreign users to lodge their claims electronically by accessing the Tribunals' Internet web site.

ii. Electronic payment of fees

We will also incorporate electronic payment technology on the Internet web site, to enable users to pay their claim fees via a variety of electronic means, such as the cash card, the credit card, the debit card, or EFTPOS.³³

iii. Lodgment of claims by post

At present, users are able to lodge their claims by facsimile and by electronic means. The next logical step would be to permit users to lodge their claims by post. We are in the process of preparing the necessary legislative provisions to make this a reality.

iv. Forms and comprehensive information on the Internet

We will provide the Tribunals' forms and comprehensive information on the Internet web site, so that these material would be accessible by all users who have access to the Internet.

³³ Electronic Fund Transfer at Point of Sale (EFTPOS).

M. CONCLUSION

We are encouraged that other jurisdictions have acknowledged the work and achievements of the Singapore Small Claims Tribunals. Recently, the World Bank studied the Tribunals as part of a judiciary development programme for the Latin-American judiciaries. The Tribunals are also being used as a model for the development of the European small claims courts.³⁴

More importantly, the Tribunals have earned the trust and confidence of their users, as clearly reflected in the steady increase in the number of claims filed across the years. We have also received quite a number of claims lodged by foreign claimants, who subsequently fly to Singapore to attend the proceedings.

We hope to maintain the public trust and confidence that the Tribunals have achieved, and to continually improve their services and processes. With a constant will, I am confident that the Singapore Small Claims Tribunals will be able to do so.

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10 SEPTEMBER 1999

³⁴ “Resolving Small Claims Across European Borders”, 22-23 June 1998, United Kingdom