



# Legislative Assembly Courts Legislation Further Amendment Bill Hansard Extract

04/12/2001

## Second Reading

**Mr DEBUS** (Blue Mountains—Attorney General, Minister for the Environment, Minister for Emergency Services, and Minister Assisting the Premier on the Arts) [5.07 p.m.]: I move:

That this bill be now read a second time.

The Government seeks to amend certain Acts relating to courts and court procedures. These amendments are necessary to improve the operation of the courts of New South Wales. Schedule 1 amends the District Court Act 1973 to remove the restriction on referring "long and complex" matters to arbitration in the District Court. The removal of this blanket prohibition is designed to prevent lawyers from engaging in fruitless argument about the length and complexity of their cases and to focus discussion on the substantive aspects of the case that may or may not make it suitable for arbitration.

Schedule 1 also amends the District Court Act 1973 to permit matters to be referred to mediation or neutral evaluation without the consent of the parties. The amendment was requested by the Chief Judge. This power was granted to the Supreme Court by the Supreme Court Amendment (Referral of Proceedings) Act 2000. Members will recall that the Supreme Court amendment was supported by all members who spoke in the Parliament. It was an important initiative in encouraging the mediation and settlement of disputes, reducing court delays and minimising legal costs. It is anticipated that the amendment allowing the District Court to decide which matters would benefit from mediation and neutral evaluation will provide similar benefits for litigants.

Schedule 2 amends the Evidence on Commission Act 1995 to allow the District Court to take evidence on commission outside the State for the purpose of proceedings within the State, and to take evidence within the State for the purpose of proceedings outside the State. At present, the courts covered by the Evidence on Commission Act 1995 are the Supreme Court, the Industrial Relations Commission, the Compensation Court and the Dust Diseases Tribunal. As the jurisdiction of the District Court has increased, it is receiving more requests for evidence to be taken on commission. The amendment will allow the District Court to take evidence on commission interstate and overseas, saving expense and inconvenience for parties who may otherwise have to travel vast distances to court to give their evidence.

Schedule 3 amends the Judicial Officers Act 1986 to provide for magistrates to have the same compulsory retirement age as other New South Wales judicial officers. Currently magistrates are required to retire at 65 but acting magistrates can continue until the age of 70. This amendment means that all judicial officers must retire at the same age. Schedule 4 amends the Local Courts (Civil Claims) Act 1970 to remove the restriction on the Local Court sending "long and complex" cases to arbitration. This is consistent with the amendments made to the District Court Act 1973 in Schedule 1 to encourage early settlement of disputes.

Schedule 5 amends the Supreme Court Act 1970 to clarify the qualifications for appointment to judicial office. The amendment will ensure that a person who is a serving judge is eligible for appointment as a judge of the Supreme Court, and that a serving judge of another court of equivalent status is eligible for appointment as Chief Justice of the Supreme Court. The Chief Justice was concerned that the current provisions preclude the appointment of someone who is presently a judicial officer in another court. Similarly, the current qualifications for the position of Chief Justice appear to preclude the appointment of a judge from another court, for example, the Federal Court, as Chief Justice. The amendment clarifies the situation. All the amendments contained in the bill improve the operation of the courts of New South Wales. They enhance efficiency, promote uniformity between jurisdictions, and encourage greater use of alternate dispute resolution to reduce court delays and minimise costs. I commend the bill to the House.