

CONCURRENCE COPY

MISCELLANEOUS ACTS (ARBITRATION) AMENDMENT BILL, 1982

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Commercial Arbitration Bill, 1982.

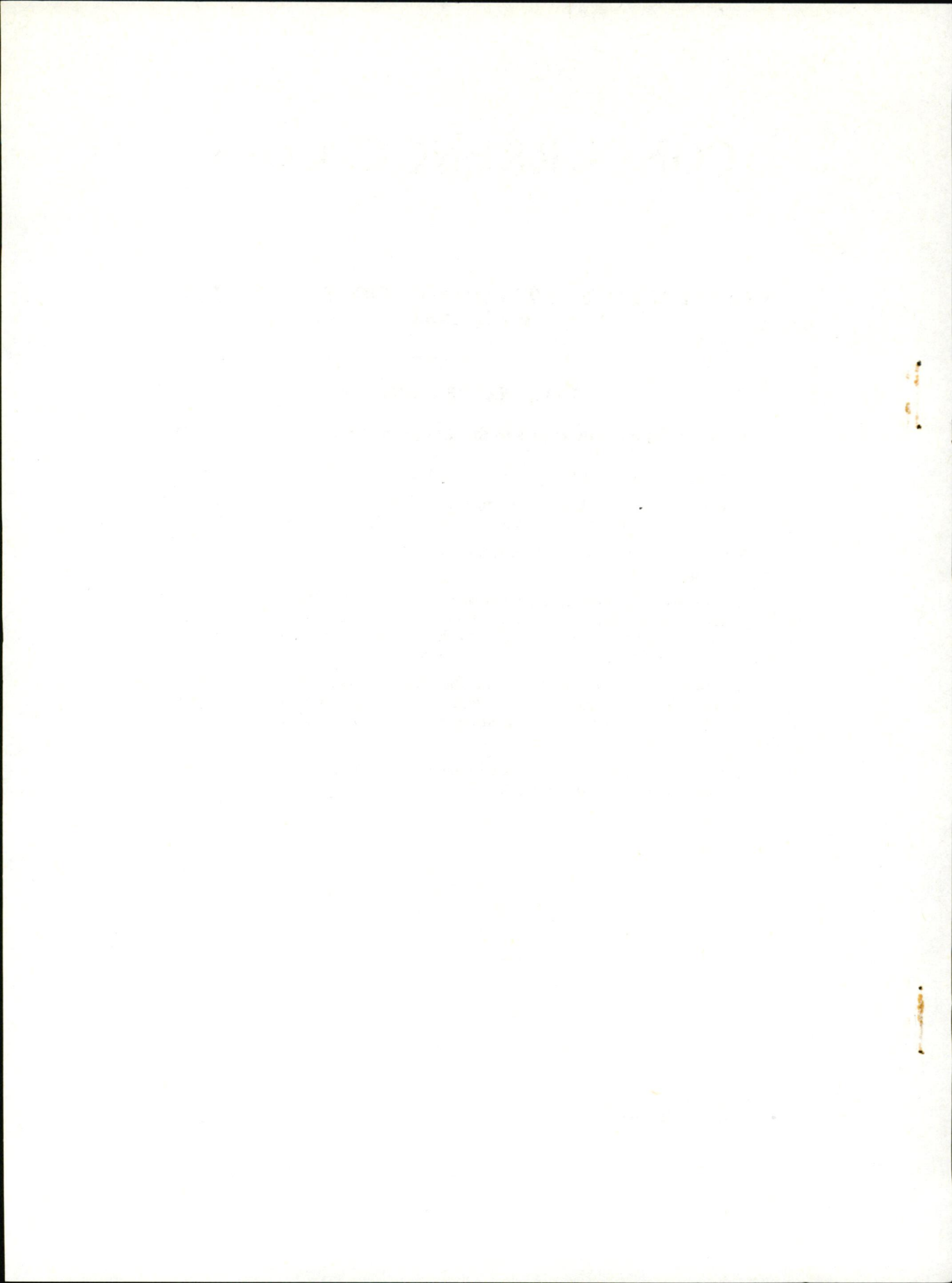
The object of this Bill is to amend certain Acts consequent upon and in connection with the enactment of the Commercial Arbitration Bill, 1982.

Various references to the Arbitration Act, 1902, are amended so as to refer to the proposed new Act.

The Oaths Act, 1900, is amended so that section 26 of that Act, which relates to the persons before whom oaths, declarations and affidavits may be given, extends to arbitrators (clause 18 of the Commercial Arbitration Bill, 1982, provides for evidence to be given in an arbitration on oath or by affidavit).

The Supreme Court Act, 1970, and the District Court Act, 1973, are amended so that appeals from a Judge of the Supreme Court or District Court in proceedings under the proposed Commercial Arbitration Act, 1982, may be made only by leave of the Court of Appeal.

Other consequential or ancillary amendments are included, and Schedule 2 deals with savings and transitional matters.



**MISCELLANEOUS ACTS (ARBITRATION) AMENDMENT
BILL, 1982**

No. , 1982.

A BILL FOR

An Act to amend certain Acts consequent upon the enactment of the
Commercial Arbitration Act, 1982, and for related purposes.

[MR WALKER— 7 April, 1982.]

Miscellaneous Acts (Arbitration) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 Short title.

1. This Act may be cited as the "Miscellaneous Acts (Arbitration) Amendment Act, 1982".

Commencement.

2. (1) This section and section 1 shall commence on the date of assent
10 to this Act.

(2) Except as provided in subsection (1), this Act shall commence on the day appointed and notified under section 1 (3) of the Commercial Arbitration Act, 1982.

Schedules.

15 3. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENT OF ACTS.

SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.

Amendment of Acts.

4. Each Act specified in Schedule 1 is amended in the manner set forth
20 in that Schedule.

Miscellaneous Acts (Arbitration) Amendment.

Savings and transitional provisions.

5. Schedule 2 has effect.

SCHEDULE 1.

5

AMENDMENT OF ACTS.

(Sec. 4.)

Wentworth Irrigation Act (54 Vic. No. 7) (1890)—

Section 21—

Omit "Arbitration Act, 1902", insert instead "Commercial Arbitration Act, 1982".

10 Municipal Council of Sydney Electric Lighting Act, 1896 (60 Vic. No. 20)—

Section 39—

15 Omit "Arbitration Act, 1902, and for the purposes of reference to arbitration thereunder this Act shall be deemed to be a submission between the parties within the meaning of the same", insert instead "Commercial Arbitration Act, 1982".

Oaths Act, 1900, No. 20—

Section 26 (1)—

After "New South Wales", insert "or for the purpose of any arbitration".

20 Balranald Irrigation Act, 1902, No. 78—

Section 20—

Omit "Arbitration Act, 1902", insert instead "Commercial Arbitration Act, 1982".

Miscellaneous Acts (Arbitration) Amendment.

SCHEDULE 1—*continued.*

AMENDMENT OF ACTS—*continued.*

Water Act, 1912, No. 44—

Section 64—

- 5 Omit "Arbitration Act, 1902", insert instead "Commercial Arbitration Act, 1982".

Conveyancing Act, 1919, No. 6—

(1) Sections 84 (1) (a), 84A (a)—

- 10 Omit "Arbitration Act, 1902" wherever occurring, insert instead "Commercial Arbitration Act, 1982".

(2) Schedule IV, Part II—

- Omit "Arbitration Act, 1902", insert instead "Commercial Arbitration Act, 1982".

Local Government Act, 1919, No. 41—

15 Section 581 (1)—

- Omit "Arbitration Act, 1902", insert instead "Commercial Arbitration Act, 1982".

Co-operation Act, 1923 (1924, No. 1)—

Section 91 (4) (c)—

- 20 Omit "Arbitration Act, 1902", insert instead "Commercial Arbitration Act, 1982".

Miscellaneous Acts (Arbitration) Amendment.

SCHEDULE 1—*continued.*

AMENDMENT OF ACTS—*continued.*

Main Roads Act, 1924, No. 24—

Section 15 (6) (e)—

- 5 Omit “Arbitration Act, 1902”, insert instead “Commercial Arbitration Act, 1982”.

Agricultural Holdings Act, 1941, No. 55—

(1) Section 17 (1A)—

After section 17 (1), insert:—

- 10 (1A) Subject to this Act and the regulations, the Commercial Arbitration Act, 1982, applies to an arbitration under this Act.

(2) Second Schedule—

- (a) Omit clauses 8, 10, 12, 13, 14, 15, 16 and 18.
(b) Omit the headings appearing in italics.

15 Anglican Church of Australia Constitution Act, 1961, No. 16—

(1) Section 9—

Omit “Arbitration Act, 1902–1957”, insert instead “Commercial Arbitration Act, 1982”.

(2) Section 9—

- 20 Omit “a reference or submission to arbitration within the meaning of the said Act”, insert instead “an arbitration agreement within the meaning of that Act”.

Miscellaneous Acts (Arbitration) Amendment.

SCHEDULE 1—*continued.*

AMENDMENT OF ACTS—*continued.*

Permanent Building Societies Act, 1967, No. 18—

Section 85 (4) (c)—

- 5 Omit “Arbitration Act, 1902”, insert instead “Commercial Arbitration Act, 1982”.

Credit Union Act, 1969, No. 8—

(1) Section 70 (5)—

- 10 Omit “Arbitration Act, 1902”, insert instead “Commercial Arbitration Act, 1982”.

(2) Section 70 (7)—

Omit “section 19 of the Arbitration Act, 1902, and of any general rules or orders made under that Act”, insert instead “section 33 of the Commercial Arbitration Act, 1982, and of any rules of court”.

15 Limitation Act, 1969, No. 31—

(1) Section 69 (1) (a)—

Omit “submit”, insert instead “refer”.

(2) Section 73 (1) (a), (b), (c)—

Omit the paragraphs, insert instead:—

- 20 (a) removes an arbitrator or umpire;
(b) restrains a party or an arbitrator or umpire from proceeding with an arbitration; or
(c) sets aside an award in an arbitration,

Miscellaneous Acts (Arbitration) Amendment.

SCHEDULE 1—*continued.*

AMENDMENT OF ACTS—*continued.*

Supreme Court Act, 1970, No. 52—

(1) Section 101 (2) (g)—

5 Omit “or” where lastly occurring.

(2) Section 101 (2) (h)—

Omit “1902.”, insert instead “1902; or”.

(3) Section 101 (2) (i)—

After section 101 (2) (h), insert:—

10 (i) a judgment, order or determination in proceedings in the Court under the Commercial Arbitration Act, 1982.

District Court Act, 1973, No. 9—

(1) Section 3—

Omit the matter relating to Subdivision 6 of Division 3 of Part III.

15 (2) Part III, Division 3, Subdivision 6—

Omit the Subdivision.

(3) Section 130 (3)—

After section 130 (2), insert:—

20 (3) Notwithstanding anything in this section, an application or appeal to the Supreme Court in respect of a judgment, order or determination in proceedings in the Court under the Commercial Arbitration Act, 1982, may be made only by leave of the Supreme Court.

Miscellaneous Acts (Arbitration) Amendment.

SCHEDULE 1—*continued.*

AMENDMENT OF ACTS—*continued.*

(4) Section 135 (4), (5)—

After section 135 (3), insert:—

5 (4) Proceedings in the Court under the Commercial Arbitration Act, 1982, shall be commenced—

(a) where a defendant is resident or carries on business at a place in New South Wales—at the nearest proclaimed place to that place; or

10 (b) where paragraph (a) does not apply—at Sydney.

(5) Proceedings in the Court under the Commercial Arbitration Act, 1982, in respect of an arbitration under the Agricultural Holdings Act, 1941, shall, notwithstanding subsection (4), be commenced at the nearest proclaimed place to the holding to which the arbitration relates.

15

SCHEDULE 2.

(Sec. 5.)

SAVINGS AND TRANSITIONAL PROVISIONS.

References to Arbitration Act, 1902.

20 1. A reference in any Act (other than this Act) or in any statutory instrument shall be construed as a reference to the Commercial Arbitration Act, 1982.

Application of transitional provisions in Commercial Arbitration Act, 1982.

2. Section 2 of the Commercial Arbitration Act, 1982, has effect and shall be construed as if this Act formed part of that Act.

25 **Regulations.**

3. (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act.

Miscellaneous Acts (Arbitration) Amendment.

SCHEDULE 2—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

5 (2) A provision made under subclause (1) may take effect as from the day appointed and notified under section 1 (3) of the Commercial Arbitration Act, 1982, or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- 10 (a) to affect, in a manner prejudicial to any person (other than the State or a public authority), the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the State or a public authority) in respect of anything done or omitted to be done before the date of its publication therein.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1982

