

**DISTRICT COURT (COMMERCIAL ARBITRATION)
AMENDMENT BILL, 1984**

EXPLANATORY NOTE

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

This Bill is cognate with the Commercial Arbitration Bill, 1984.

The objects of this Bill are—

- (a) to amend the District Court Act, 1973, so as to provide for rules to be made thereunder for or with respect to—
 - (i) the reference of an action or of a question or issue arising in an action to an arbitrator or referee for determination or for inquiry and report; and
 - (ii) related matters such as fees, appeals and the consequences of an arbitrator's or referee's determination or report,
(Schedule 1 (1)—proposed section 63); and
- (b) to amend section 130 of the District Court Act, 1973, so that appeals from a Judge of the District Court in proceedings under the proposed Commercial Arbitration Act, 1984, may be made only by leave of the Supreme Court (Schedule 1 (2)).



**DISTRICT COURT (COMMERCIAL ARBITRATION)
AMENDMENT BILL, 1984**

No. , 1984.

A BILL FOR

An Act to amend the District Court Act, 1973, so as to enable rules to be made under that Act with respect to the referral of certain actions and questions to an arbitrator or referee and for other purposes.

District Court (Commercial Arbitration) Amendment 1984

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 "District Court (Commercial Arbitration) Amendment Act, 1984".

Commencement.

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

(2) Except as provided by subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the Commercial Arbitration Act, 1984.

Amendment of Act No. 9, 1973.

15 **3.** The District Court Act, 1973, is amended in the manner set forth in Schedule 1.

Transitional provision.

4. Where—

20 (a) an action was referred to an arbitrator under section 63 of the District Court Act, 1973, before the commencement of this section;
or

District Court (Commercial Arbitration) Amendment 1984

- (b) no rules of court have been made under that section as amended by this Act,

the law governing the reference of an action to an arbitrator by the District Court shall be that which would have been applicable if this Act had not been enacted.

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE DISTRICT COURT ACT, 1973.

- (1) Section 63—

10 Omit the section, insert instead:—

Arbitration.

63. (1) Subject to subsection (2), the rules may make provision for or with respect to—

- 15 (a) the cases in which the whole of any action or any question or issue arising in any action may be referred by the Court to an arbitrator or referee for determination or for inquiry or report;
- (b) the appointment of a Judge, registrar or other officer of the Court or other person as an arbitrator or referee;
- (c) the fees to be paid to such an arbitrator or referee;
- 20 (d) the person by whom the whole or any part of any such fees are payable;
- (e) the consequences of a determination or report by an arbitrator or referee;
- 25 (f) the manner in which such a determination or report may be called in question;
- (g) whether or not, or to what extent, a determination or report may be called in question on a matter of fact or law;

District Court (Commercial Arbitration) Amendment 1984

SCHEDULE 1—*continued.*

AMENDMENTS TO THE DISTRICT COURT ACT, 1973—*continued.*

5 (h) the provision of the services of officers of the Court and the provision of court rooms and other facilities for the purpose of a reference of any action or any question or issue arising in any action to an arbitrator or referee; and

(i) any other matters associated with such a reference.

10 (2) The Court, on application made to it by any party within the prescribed time, may set aside a determination made by an arbitrator or referee and may—

(a) refer the determination back to the arbitrator or referee who made it; or

15 (b) revoke the reference to the arbitrator or referee who made the determination and make such order as it thinks fit for the continuance of the action.

(2) 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, 1984, may be made only by leave of the Supreme Court.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1984



DISTRICT COURT (COMMERCIAL ARBITRATION) AMENDMENT
ACT, 1984, No. 162

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 162, 1984.

An Act to amend the District Court Act, 1973, so as to enable rules to be made under that Act with respect to the referral of certain actions and questions to an arbitrator or referee and for other purposes.
[Assented to, 14th December, 1984.]

District Court (Commercial Arbitration) Amendment 1984

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:—

Short title.

1. This Act may be cited as the "District Court (Commercial Arbitration) Amendment Act, 1984".

Commencement.

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

(2) Except as provided by subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the Commercial Arbitration Act, 1984.

Amendment of Act No. 9, 1973.

3. The District Court Act, 1973, is amended in the manner set forth in Schedule 1.

Transitional provision.

4. Where—

- (a) an action was referred to an arbitrator under section 63 of the District Court Act, 1973, before the commencement of this section;
or

District Court (Commercial Arbitration) Amendment 1984

- (b) no rules of court have been made under that section as amended by this Act,

the law governing the reference of an action to an arbitrator by the District Court shall be that which would have been applicable if this Act had not been enacted.

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE DISTRICT COURT ACT, 1973.

(1) Section 63—

Omit the section, insert instead:—

Arbitration.

63. (1) Subject to subsection (2), the rules may make provision for or with respect to—

- (a) the cases in which the whole of any action or any question or issue arising in any action may be referred by the Court to an arbitrator or referee for determination or for inquiry or report;
- (b) the appointment of a Judge, registrar or other officer of the Court or other person as an arbitrator or referee;
- (c) the fees to be paid to such an arbitrator or referee;
- (d) the person by whom the whole or any part of any such fees are payable;
- (e) the consequences of a determination or report by an arbitrator or referee;
- (f) the manner in which such a determination or report may be called in question;
- (g) whether or not, or to what extent, a determination or report may be called in question on a matter of fact or law;

District Court (Commercial Arbitration) Amendment 1984

SCHEDULE 1—*continued.*

AMENDMENTS TO THE DISTRICT COURT ACT, 1973—*continued.*

- (h) the provision of the services of officers of the Court and the provision of court rooms and other facilities for the purpose of a reference of any action or any question or issue arising in any action to an arbitrator or referee; and
- (i) any other matters associated with such a reference.

(2) The Court, on application made to it by any party within the prescribed time, may set aside a determination made by an arbitrator or referee and may—

- (a) refer the determination back to the arbitrator or referee who made it; or
- (b) revoke the reference to the arbitrator or referee who made the determination and make such order as it thinks fit for the continuance of the action.

(2) Section 130 (3)—

After section 130 (2), insert:—

(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, 1984, may be made only by leave of the Supreme Court.

In the name and on behalf of Her Majesty, I assent to this Act.

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 14th December, 1984.*