

**MISCELLANEOUS ACTS (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 object of this Bill is to amend certain Acts consequent upon and in connection with the enactment of the Commercial Arbitration Act, 1984.

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

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



**MISCELLANEOUS ACTS (COMMERCIAL ARBITRATION)
AMENDMENT BILL, 1984**

No. , 1984.

A BILL FOR

An Act to amend certain Acts in consequence of the enactment of the Commercial Arbitration Act, 1984, and for related purposes.

Miscellaneous Acts (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 "Miscellaneous Acts (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.

Schedules.

15 **3.** This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS.

SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.

Amendments.

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

Savings and transitional provisions.

5. Schedule 2 has effect.

Miscellaneous Acts (Commercial Arbitration) Amendment 1984

SCHEDULE 1.

(Sec. 4.)

AMENDMENTS.

Agricultural Holdings Act, 1941, No. 55—

5 (1) Section 17 (1A)—

After section 17 (1), insert:—

(1A) Subject to this Act and the regulations, the Commercial Arbitration Act, 1984, applies to an arbitration under this Act.

(2) Second Schedule—

10 (a) Omit clauses 8, 10, 12–18.

(b) Omit the headings appearing in italics.

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

(1) Section 9—

15 Omit “within the meaning of the Arbitration Act, 1902–1957”, insert instead “as referred to in the Commercial Arbitration Act, 1984”.

(2) Section 9—

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”.

20 **Balranald Irrigation Act, 1902, No. 78—**

Section 20—

Omit “shall be submitted to arbitration; and the arbitration shall proceed as provided for in the Arbitration Act, 1902”, insert instead “shall be referred to arbitration under the Commercial Arbitration Act, 1984”.

25 **Conveyancing Act, 1919, No. 6—**

Sections 84 (1) (a), 84A (a), Schedule IV, Part II—

Omit “Arbitration Act, 1902” wherever occurring, insert instead “Commercial Arbitration Act, 1984”.

Co-operation Act, 1923 (1924, No. 1)—

30 Section 91 (4) (c)—

Omit “Arbitration Act, 1902”, insert instead “Commercial Arbitration Act, 1984”.

Miscellaneous Acts (Commercial Arbitration) Amendment 1984

SCHEDULE 1—*continued.*

AMENDMENTS—*continued.*

Credit Union Act, 1969, No. 8—

- (1) Section 70 (5)—
- 5 Omit “Arbitration Act, 1902”, insert instead “Commercial Arbitration Act, 1984”.
- (2) Section 70 (7)—
- 10 Omit “section 19 of the Arbitration Act, 1902, and of any general rules or orders made under that Act”, insert instead “sections 38 and 39 of the Commercial Arbitration Act, 1984, and of any rules of court”.

Limitation Act, 1969, No. 31—

- (1) Sections 20 (4), 69 (1) (a)—
- Omit “submit” wherever occurring, insert instead “refer”.
- (2) Section 73 (1) (a), (b), (c)—
- 15 Omit the paragraphs, insert instead:—
- (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.

20 Local Government Act, 1919, No. 41—

Section 581 (1)—

Omit “Arbitration Act, 1902”, insert instead “Commercial Arbitration Act, 1984”.

Main Roads Act, 1924, No. 24—

25 Section 15 (6) (e)—

Omit “Arbitration Act, 1902”, insert instead “Commercial Arbitration Act, 1984”.

Miscellaneous Acts (Commercial Arbitration) Amendment 1984

SCHEDULE 1—*continued.*

AMENDMENTS—*continued.*

Municipal Council of Sydney Electric Lighting Act, 1896 (60 Vic. No. 23)—

Section 39—

- 5 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. The arbitrator shall in every case have power to direct how and by whom the cost of the reference and award shall be paid.", insert instead "Commercial Arbitration Act, 1984".

10 Permanent Building Societies Act, 1967, No. 18—

Section 85 (4) (c)—

Omit "Arbitration Act, 1902", insert instead "Commercial Arbitration Act, 1984".

Water Act, 1912, No. 44—

15 Section 64—

Omit "Arbitration Act, 1902", insert instead "Commercial Arbitration Act, 1984".

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

Section 21—

- 20 Omit "shall be submitted to arbitration; and the arbitration shall proceed as provided for in the Arbitration Act, 1902", insert instead "shall be referred to arbitration under the Commercial Arbitration Act, 1984".

SCHEDULE 2.

(Sec. 5.)

25 SAVINGS AND TRANSITIONAL PROVISIONS.

Transitional provision.

1. (1) Where an arbitration was commenced before the commencement of this clause the law governing the arbitration and the arbitration agreement shall be that which would have been applicable if this Act and the Commercial Arbitration Act, 30 1984, had not been enacted.

Miscellaneous Acts (Commercial Arbitration) Amendment 1984

SCHEDULE 2—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(2) The question as to whether an arbitration has commenced shall, for the purposes of this clause, be determined in accordance with section 3 (5) of the 5 Commercial Arbitration Act, 1984.

Regulations.

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

(2) A provision made under subclause (1) may take effect as from the day 10 appointed and notified under section 2 (2) of the Commercial Arbitration Act, 1984, 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—

- 15 (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 20 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—1984

MISCELLANEOUS ACTS (COMMERCIAL ARBITRATION) AMEND-
MENT ACT, 1984, No. 167

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 167, 1984.

An Act to amend certain Acts in consequence of the enactment of the Commercial Arbitration Act, 1984, and for related purposes. [Assented to, 14th December, 1984.]

Miscellaneous Acts (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 "Miscellaneous Acts (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.

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3. This Act contains the following Schedules:—

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

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(Sec. 4.)

AMENDMENTS.

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Omit the paragraphs, insert instead:—

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(c) sets aside an award in an arbitration,

Local Government Act, 1919, No. 41—

Section 581 (1)—

Omit "Arbitration Act, 1902", insert instead "Commercial Arbitration Act, 1984".

Main Roads Act, 1924, No. 24—

Section 15 (6) (e)—

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Miscellaneous Acts (Commercial Arbitration) Amendment 1984

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(Sec. 5.)

SAVINGS AND TRANSITIONAL PROVISIONS.

Transitional provision.

1. (1) Where an arbitration was commenced before the commencement of this clause the law governing the arbitration and the arbitration agreement shall be that which would have been applicable if this Act and the Commercial Arbitration Act, 1984, had not been enacted.

Miscellaneous Acts (Commercial Arbitration) Amendment 1984

SCHEDULE 2—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(2) The question as to whether an arbitration has commenced shall, for the purposes of this clause, be determined in accordance with section 3 (5) of the Commercial Arbitration Act, 1984.

Regulations.

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

(2) A provision made under subclause (1) may take effect as from the day appointed and notified under section 2 (2) of the Commercial Arbitration Act, 1984, 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—

- (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.

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

J. A. ROWLAND,
Governor.

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



