

**SUPREME 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 section 101 of the Supreme Court Act, 1970, so that appeals from a Judge of the Supreme Court in proceedings under the proposed Commercial Arbitration Act, 1984, may be made only by leave of the Court of Appeal (Schedule 1 (1)); and
- (b) to amend the Supreme Court Act, 1970, so as to provide for rules to be made thereunder for or with respect to—
 - (i) the reference of proceedings or questions or issues arising in proceedings 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 (2)—proposed section 124 (2)).

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

No. , 1984.

A BILL FOR

An Act to amend the Supreme Court Act, 1970, so as to enable rules to be made under that Act with respect to the referral of certain proceedings and questions to an arbitrator or referee and for other purposes.

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

Commencement.

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

10 (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. 52, 1970.

15 3. The Supreme Court Act, 1970, is amended in the manner set forth in Schedule 1.

Transitional provision.

4. Where—

20 (a) any proceedings were or any question or issue of fact arising in the proceedings was, under section 15 of the Arbitration Act, 1902, ordered by the Supreme Court to be tried before an arbitrator or referee before the commencement of this section; or

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(b) no rules of court have been made under section 124 (2) of the Supreme Court Act, 1970, as inserted by this Act,

the law governing the reference by the Supreme Court of any proceedings in that Court or any question or issue of fact arising in the proceedings to an arbitrator or referee shall be that which would have been applicable if this Act and the Commercial Arbitration Act, 1984, had not been enacted.

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE SUPREME COURT ACT, 1970.

10 (1) (a) Section 101 (2) (g)—

Omit "or".

(b) Section 101 (2) (h), (i)—

At the end of section 101 (2) (h), insert:—

; or

15 (i) a judgment, order or determination in proceedings in the Court under the Commercial Arbitration Act, 1984.

(2) Section 124 (2)—

After section 124 (1), insert:—

(2) The rules may make provision for or with respect to—

20 (a) the cases in which the whole of any proceedings or any question or issue arising in any proceedings may be referred by the Court to an arbitrator or referee for determination or for inquiry or report;

25 (b) the appointment of a Judge, master, registrar or other officer of the Court or other person as an arbitrator or referee;

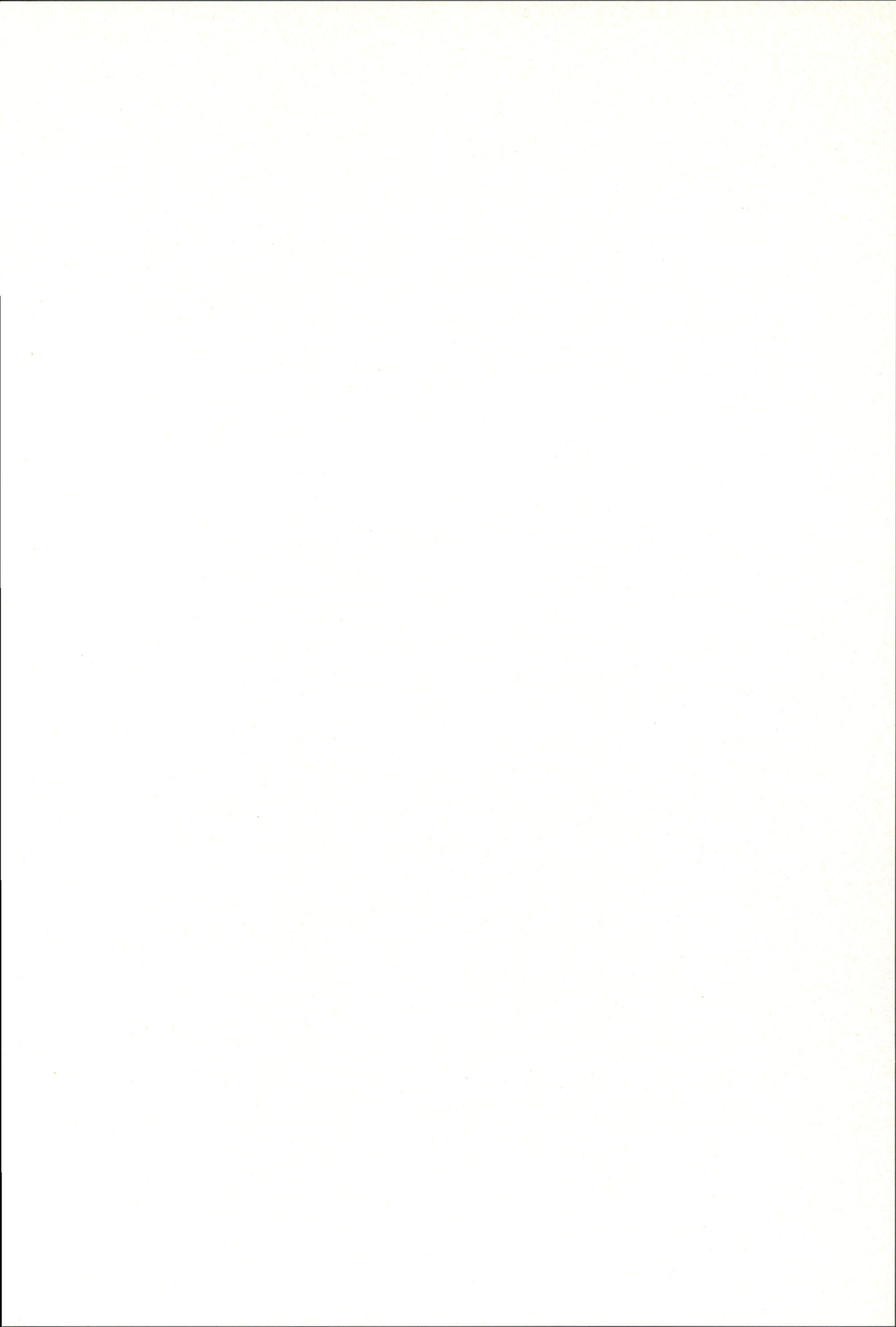
(c) the fees to be paid to such an arbitrator or referee;

Supreme Court (Commercial Arbitration) Amendment 1984

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SUPREME COURT ACT, 1970—*continued.*

- (d) the persons by whom the whole or any part of any such fees are payable;
- 5 (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;
- 10 (g) whether or not, or to what extent, a determination or report may be called in question on a matter of fact or law;
- (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 proceedings or any question or issue arising in any proceedings to an arbitrator or referee; and
- 15 (i) any other matters associated with such a reference.



**SUPREME COURT (COMMERCIAL ARBITRATION) AMENDMENT
ACT, 1984, No. 166**

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 166, 1984.

An Act to amend the Supreme Court Act, 1970, so as to enable rules to be made under that Act with respect to the referral of certain proceedings and questions to an arbitrator or referee and for other purposes.
[Assented to, 14th December, 1984.]

Supreme 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 "Supreme 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. 52, 1970.

3. The Supreme Court Act, 1970, is amended in the manner set forth in Schedule 1.

Transitional provision.

4. Where—

- (a) any proceedings were or any question or issue of fact arising in the proceedings was, under section 15 of the Arbitration Act, 1902, ordered by the Supreme Court to be tried before an arbitrator or referee before the commencement of this section; or

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- (b) no rules of court have been made under section 124 (2) of the Supreme Court Act, 1970, as inserted by this Act,
 the law governing the reference by the Supreme Court of any proceedings in that Court or any question or issue of fact arising in the proceedings to an arbitrator or referee shall be that which would have been applicable if this Act and the Commercial Arbitration Act, 1984, had not been enacted.
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SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE SUPREME COURT ACT, 1970.

- (1) (a) Section 101 (2) (g)—
 Omit "or".
- (b) Section 101 (2) (h), (i)—
 At the end of section 101 (2) (h), insert:—
 ; or
 (i) a judgment, order or determination in proceedings in the Court under the Commercial Arbitration Act, 1984.
- (2) Section 124 (2)—
 After section 124 (1), insert:—
- (2) The rules may make provision for or with respect to—
- (a) the cases in which the whole of any proceedings or any question or issue arising in any proceedings may be referred by the Court to an arbitrator or referee for determination or for inquiry or report;
- (b) the appointment of a Judge, master, 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;

Supreme Court (Commercial Arbitration) Amendment 1984

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SUPREME COURT ACT, 1970—*continued.*

- (d) the persons 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;
- (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 proceedings or any question or issue arising in any proceedings to an arbitrator or referee; and
- (i) any other matters associated with such a reference.

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

J. A. ROWLAND,
Governor.

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