



New South Wales

Supreme Court Amendment (Referral of Proceedings) Act 2000 No 36

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Supreme Court Amendment (Referral of Proceedings) Act 2000 No 36

Act No 36, 2000

An Act to amend the *Supreme Court Act 1970* with respect to the powers of the Supreme Court to refer matters for determination by alternative methods of dispute resolution. [Assented to 14 June 2000]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Supreme Court Amendment (Referral of Proceedings) Act 2000*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Supreme Court Act 1970 No 52

The *Supreme Court Act 1970* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 76B Arbitration under Arbitration (Civil Actions) Act 1983

Omit section 76B (1). Insert instead:

- (1) The Court may, whether of its own motion or on application, order that, in accordance with the rules, proceedings before it:
 - (a) on a claim for the recovery of damages or other money, or
 - (b) in which any equitable relief or remedy is claimed ancillary to a claim for the recovery of damages or other money,

be referred for determination pursuant to the *Arbitration (Civil Actions) Act 1983* by an arbitrator or arbitrators holding office under section 5 (1) of that Act.

[2] Section 76B (2) (a) and (b)

Omit “trial” wherever occurring. Insert instead “hearing”.

[3] Section 110H Purpose of Part

Omit “if the parties to the proceedings concerned have agreed to that course of action” from section 110H (1).

[4] Sections 110K–110M

Omit the sections. Insert instead:

110K Referral by Court

- (1) If it considers the circumstances appropriate, the Court may, by order, refer any proceedings, or part of any proceedings, before it (other than any or part of any criminal proceedings) for mediation or neutral evaluation, and may do so either with or without the consent of the parties to the proceedings concerned.

- (2) The mediation or neutral evaluation is to be undertaken by a mediator or evaluator agreed to by the parties or, if the parties cannot agree, by a mediator or evaluator appointed by the Court, who (in either case) may, but need not, be a person whose name is on a list compiled under this Part.

110L Duty of parties to participate

It is the duty of each party to the proceedings the subject of a referral under section 110K to participate, in good faith, in the mediation or neutral evaluation.

110M Costs of mediation and neutral evaluation

The costs of mediation or neutral evaluation, including the costs payable to the mediator or evaluator, are payable:

- (a) by the parties to the proceedings, in such proportions as they may agree among themselves, or
- (b) if the Court makes an order as to the payment of those costs—by one or more of the parties, in such manner as the order may specify.

[5] Fourth Schedule Savings and transitional provisions

Insert after Part 9:

Part 10 Provisions consequent on enactment of Supreme Court Amendment (Referral of Proceedings) Act 2000

15 Application of amendment

- (1) Section 76B and Part 7B, as amended by the *Supreme Court Amendment (Referral of Proceedings) Act 2000*, extend to proceedings instituted before the amendments took effect, except as provided by subclause (2).

- (2) The amendments made by that Act to Part 7B have no effect in relation to a matter that, at the time the amendments took effect, had already been referred for mediation or neutral evaluation under that Part.

[Minister's second reading speech made in—
Legislative Assembly on 6 June 2000
Legislative Council on 8 June 2000]