

**ARBITRATION (CIVIL ACTIONS) AMENDMENT BILL  
1987**

NEW SOUTH WALES



**EXPLANATORY NOTE**

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

The object of this Bill is to amend the Arbitration (Civil Actions) Act 1983 so as—

- (a) to set out in greater detail the functions of arbitrators under that Act;
- (b) to make it clear that there is no appeal against the award of an arbitrator except by way of a rehearing by the referring court;
- (c) to prohibit the issue of subpoenas requiring an arbitrator to appear at a rehearing and to give or produce evidence relating to an arbitration; and
- (d) to provide for an arbitrator's award to be reinstated if a rehearing of the action is not proceeded with.

The Bill also contains amendments for the purpose of statute law revision.

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Clause 1 specifies the short title of the proposed Act.

Clause 2 states that the Arbitration (Civil Actions) Act 1983 is referred to in the proposed Act as the Principal Act.

Clause 3 is a formal provision that gives effect to the Schedules of amendments to the Principal Act.

Clause 4 declares that the Principal Act, as amended by the proposed Act, applies to actions commenced before the proposed Act commences.

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Clause 5 saves a regulation which has the effect of making an arbitrator's award final if the amount of money concerned is not more than \$1,000.

Schedule 1 (1) inserts into the Principal Act proposed section 7 (1A), (1B) and (1C) which provide that, subject to rules made under the District Court Act 1973 and the Local Courts (Civil Claims) Act 1970 and certain other exceptions, an arbitrator has the powers of the court which refers an action to the arbitrator, but may use those powers only for the purposes of arbitration.

Schedule 1 (2) and (3) (a) omit from the Principal Act an unnecessary reference to the monetary limit of an award which determines whether a rehearing of an action by the referring court may be obtained and make minor consequential amendments.

Schedule 1 (3) (b) inserts into the Principal Act proposed section 18 (3A) which prohibits the issue of subpoenas that require an arbitrator to give or produce, in a court conducting a rehearing of an action, evidence relating to arbitration proceedings.

Schedule 1 (3) (c) inserts into the Principal Act proposed section 18 (5) which has the effect of reinstating an award of an arbitrator as a judgment or order of a court where a rehearing of the action has been ordered but is subsequently discontinued or not proceeded with or the court orders that the award be reinstated.

Schedule 2 makes minor amendments to the Principal Act for the purpose of statute law revision as a consequence of terms used in the Local Courts Act 1982.

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