

1990

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN  
CAPITAL TERRITORY**

**COMMERCIAL ARBITRATION (AMENDMENT) BILL 1990**

**EXPLANATORY MEMORANDUM**

**(Circulated by authority of the Attorney-General  
Bernard Collaery MLA)**

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#### Outline

- . The purpose of the Commercial Arbitration (Amendment) Bill 1990 is to repeal the affect of the Arbitration Act 1902 of NSW as it applies in the ACT, and to amend the Commercial Arbitration Act 1986, the Limitation Act 1985, and the New South Wales Acts Application Act 1984 as a consequence of this repeal.
- . The Bill "tidies up" the source of the power of the Supreme Court to refer matters before it to arbitration.
- . The Bill includes a transitional provision to preserve orders made under the Arbitration Act 1902 of NSW as it applies in the ACT made before the commencement of the Bill as an Act.

#### Financial Considerations

- . None.

### Notes on Clauses

Clause 1 provides for the citation of the Act.

Clause 2 provides for the commencement of the Act. Clauses 1, 2 and 6 commence upon the date of notification of the Act. The remaining clauses commence upon the date of commencement of Rules of Court (under section 28 of the Australian Capital Territory Supreme Court Act 1933 of the Commonwealth) made for the purposes of section 3 of the Supreme Court (Arbitration) Ordinance 1990. This is to prevent the situation arising of the Supreme Court not having power to refer matters to arbitration at some stage before new Rules of Court are made.

Clause 3 defines the "Principal Act" as the Commercial Arbitration Act 1986.

Clause 4 amends section 3 of the principal Act to repeal the effect of the Arbitration Act 1902 of NSW in the Territory, subject to the saving of any orders made under the NSW Arbitration Act prior to the commencement of this clause.

Clause 5 amends schedules 1 and 2 of the New South Wales Acts Application Act 1984 by omitting references to the NSW Arbitration Act.

Clause 6 repeals section 50 of the Limitation Act 1985. This section relates to Part II of the NSW Arbitration Act as it applied in the Territory, which had previously been repealed by subsection 3(1) of the Commercial Arbitration Act 1986. Section 50 allows for the extension of the limitation period by 6 months after powers under Part II of the NSW Arbitration Act were exercised. Consequently, section 50 ceased to have any effect 6 months after the repeal of Part II of the NSW Arbitration Act on 22 December 1986 (that is, after 22 June 1987); it is now redundant and can be repealed.