



ANNO VICESIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1974

No. 66 of 1974

An Act to amend the Arbitration Act, 1891-1934.

[Assented to 3rd October, 1974]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Arbitration Act Amendment Act, 1974".

(2) The Arbitration Act, 1891-1934, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Arbitration Act, 1891-1974".

Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

Enactment of
s. 24a of
principal Act—

3. The following section is enacted and inserted in the principal Act immediately after section 24 thereof:—

Certain
agreements to
be void.

24a. (1) Subject to subsection (2) of this section, any provision of an agreement—

(a) requiring differences or disputes arising out of the agreement, or any other agreement, to be referred to arbitration;

(b) providing that no action shall be maintainable in respect of a claim, difference or dispute unless the claim, difference or dispute has been referred to arbitration, or an award in arbitration proceedings has first been obtained;

(c) providing that arbitration is a condition precedent to any right of action;

or

(d) otherwise imposing by reference to arbitration or to an award made in arbitration proceedings, any limitation on the right of any person to bring or maintain an action,

shall be void.

(2) An agreement—

(a) to submit to arbitration a claim, difference or dispute arising out of an agreement for the performance of major building work;

or

(b) to submit to arbitration a claim, difference or dispute where the circumstances on which the claim is based have occurred, or the difference or dispute has arisen, before the agreement is made,

shall not be rendered void by the provisions of subsection (1) of this section.

(3) In this section—

“building work” has the meaning assigned to that expression by the Building Act, 1970-1971:

“domestic building work” means building work in relation to a dwelling house or proposed dwelling house or the curtilage of a dwelling house or proposed dwelling house but does not include any such building work where the consideration for which it is to be performed exceeds in amount or value fifty thousand dollars:

“major building work” means any building work except domestic building work.

(4) This section does not apply to—

(a) an agreement entered into before the commencement of the Arbitration Act Amendment Act, 1974;

or

(b) a submission in respect of a claim, difference or dispute of a kind that is not justiciable by a court.

4. Section 27 of the principal Act is amended by striking out the definition of “submission” and inserting in lieu thereof the following definition:—

Amendment of
principal Act,
s. 27—
Definitions.

“submission” means a valid written agreement to submit a claim, difference or dispute to arbitration, whether an arbitrator is named in the agreement or not.

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

M. L. OLIPHANT, Governor