

# House of Representatives

# Supplementary Order Paper

Wednesday, 20 March 2019

## Arbitration Amendment Bill

### *Proposed amendments*

Andrew Bayly, in Committee, to move the following amendments:

#### *Clause 6*

Delete *clause 6(5)* (page 3, lines 28 to 33).

#### *New clause 7*

After *clause 6* (page 3, after line 33), insert:

#### **7 Schedule 2 amended**

- (1) In Schedule 2, clause 1(1), replace “to (5)” with “and (3)”.
- (2) In Schedule 2, repeal clause 1(4) and (5).

### **Explanatory note**

This Supplementary Order Paper amends the Arbitration Amendment Bill. The amendments—

- delete *clause 6(5)*, which proposes to replace Article 36(1)(a)(iv) of Schedule 1 of the Arbitration Act 1996 (the **principal Act**), because the amendment is not necessary for domestic arbitration and has the potential to conflict with other provisions of the Act that deal with the recognition and enforcement of awards made in international arbitrations:
- insert *new clause 7*, which repeals clauses 1(4) and (5) of Schedule 2 of the principal Act and makes a consequential amendment to clause 1(1) of that schedule. Clauses 1(4) and (5) of Schedule 2 relate to the default appointment of an arbitrator where the parties have reached no agreement as to the appointment. The effect of repealing those provisions is to remove the ability of one party to trigger a process to appoint an arbitrator if the other party fails to

respond to a communication within 7 days of receiving it (colloquially known as the “quick draw” procedure). The Law Commission recommended in 2003 that the procedure be abolished. This did not occur because of concerns that there would not have been an alternative procedure to follow apart from court proceedings. However, following an amendment effected by the Arbitration Amendment Act 2016, appointments can now be made by the Arbitrators’ and Mediators’ Institute of New Zealand. Thus, a quick and independent means by which an arbitrator can be appointed now exists, removing the need for a quick-draw procedure.