



Arbitration Act 1975

1975 CHAPTER 3

An Act to give effect to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. [25th February 1975]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Effect of arbitration agreement on court proceedings

1 Staying court proceedings where party proves arbitration agreement

- (1) If any party to an arbitration agreement to which this section applies, or any person claiming through or under him, commences any legal proceedings in any court against any other party to the agreement, or any person claiming through or under him, in respect of any matter agreed to be referred, any party to the proceedings may at any time after appearance, and before delivering any pleadings or taking any other steps in the proceedings, apply to the court to stay the proceedings; and the court, unless satisfied that the arbitration agreement is null and void, inoperative or incapable of being performed or that there is not in fact any dispute between the parties with regard to the matter agreed to be referred, shall make an order staying the proceedings.
- (2) This section applies to any arbitration agreement which is not a domestic arbitration agreement; and neither section 4(1) of the Arbitration Act 1950 nor section 4 of the Arbitration Act (Northern Ireland) 1937 shall apply to an arbitration agreement to which this section applies.
- (3) In the application of this section to Scotland, for the references to staying proceedings there shall be substituted references to sisting proceedings.
- (4) In this section " domestic arbitration agreement" means an arbitration agreement which does not provide, expressly or by implication, for arbitration in a State other than the United Kingdom and to which neither—

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- (a) an individual who is a national of, or habitually resident in, any State other than the United Kingdom; nor
 - (b) a body corporate which is incorporated in, or whose central management and control is exercised in, any State other than the United Kingdom ;
- is a party at the time the proceedings are commenced.

Enforcement of Convention awards

2 Replacement of former provisions

Sections 3 to 6 of this Act shall have effect with respect to the enforcement of Convention awards; and where a Convention award would, but for this section, be also a foreign award within the meaning of Part II of the Arbitration Act 1950, that Part shall not apply to it.

3 Effect of Convention awards

- (1) A Convention award shall, subject to the following provisions of this Act, be enforceable—
 - (a) in England and Wales, either by action or in the same manner as the award of an arbitrator is enforceable by virtue of section 26 of the Arbitration Act 1950;
 - (b) in Scotland, either by action or, in a case where the arbitration agreement contains consent to the registration of the award in the Books of Council and Session for execution and the award is so registered, by summary diligence;
 - (c) in Northern Ireland, either by action or in the same manner as the award, of an arbitrator is enforceable by virtue of section 16 of the Arbitration Act (Northern Ireland) 1937.
- (2) Any Convention award which would be enforceable under this Act shall be treated as binding for all purposes on the persons as between whom it was made, and may accordingly be relied on by any of those persons by way of defence, set off or otherwise in any legal proceedings in the United Kingdom; and any reference in this Act to enforcing a Convention award shall be construed as including references to relying on such an award.

4 Evidence

The party seeking to enforce a Convention award must produce—

- (a) the duly authenticated original award or a duly certified copy of it; and
- (b) the original arbitration agreement or a duly certified copy of it; and
- (c) where the award or agreement is in a foreign language, a translation of it certified by an official or sworn translator or by a diplomatic or consular agent.

5 Refusal of enforcement

- (1) Enforcement of a Convention award shall not be refused except in the cases mentioned in this section.
- (2) Enforcement of a Convention award may be refused if the person against whom it is invoked proves—

- (a) that a party to the arbitration agreement was (under the law applicable to him) under some incapacity ; or
 - (b) that the arbitration agreement was not valid under the law to which the parties subjected it or, failing any indication thereon, under the law of the country where the award was made ; or
 - (c) that he was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case ; or
 - (d) (subject to subsection (4) of this section) that the award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration or contains decisions on matters beyond the scope of the submission to arbitration ; or
 - (e) that the composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, with the law of the country where the arbitration took place; or
 - (f) that the award has not yet become binding on the parties, or has been set aside or suspended by a competent authority of the country in which, or under the law of which, it was made.
- (3) Enforcement of a Convention award may also be refused if the award is in respect of a matter which is not capable of settlement by arbitration, or if it would be contrary to public policy to enforce the award,
- (4) A Convention award which contains decisions on matters not submitted to arbitration may be enforced to the extent that it contains decisions on matters submitted to arbitration which can be separated from those on matters not so submitted.
- (5) Where an application for the setting aside or suspension of a Convention award has been made to such a competent authority as is mentioned in subsection (2)(f) of this section, the court before which enforcement of the award is sought may, if it thinks fit, adjourn the proceedings and may, on the application of the party seeking to enforce the award, order the other party to give security.

6 Saving

Nothing in this Act shall prejudice any right to enforce or rely on an award otherwise than under this Act or Part II of the Arbitration Act 1950.

General

7 Interpretation

(1) In this Act—

" arbitration agreement " means an agreement in writing (including an agreement contained in an exchange of letters or telegrams) to submit to arbitration present or future differences capable of settlement by arbitration ;

" Convention award " means an award made in pursuance of an arbitration agreement in the territory of a State, other than the United Kingdom, which is a party to the New York Convention ; and

" the New York Convention " means the Convention on the Recognition and Enforcement of Foreign Arbitral Awards adopted by the United Nations Conference on International Commercial Arbitration on 10th June 1958.

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- (2) If Her Majesty by Order in Council declares that any State specified in the Order is a party to the New York Convention the Order shall, while in force, be conclusive evidence that that State is a party to that Convention.
- (3) An Order in Council under this section may be varied or revoked by a subsequent Order in Council.

8 Short title, repeals, commencement and extent

- (1) This Act may be cited as the Arbitration Act 1975.
- (2) The following provisions of the Arbitration Act 1950 are hereby repealed, that is to say—
 - (a) section 4(2);
 - (b) in section 28 the proviso;
 - (c) in section 30 the words " (except the provisions of subsection (2) of section 4 thereof) "; (d) in section 31(2) the words "subsection (2) of section 4 "; and
 - (e) in section 34 the words from the beginning to " save as aforesaid ".
- (3) This Act shall come into operation on such date as the Secretary of State may by order made by statutory instrument appoint.
- (4) This Act extends to Northern Ireland.