

## SCHEDULES

### SCHEDULE 3

Section 4.

#### APPLICATION OF ARBITRATION ACT 1950 TO JUDGE-ARBITRATORS

- 1 In this Schedule—
  - (a) " the Act" means the Arbitration Act 1950 ;
  - (b) " arbitration agreement" has the same meaning as in the Act; and
  - (c) " judge-arbitrator" and " judge-umpire " mean a judge of the Commercial Court appointed as arbitrator or, as the case may be, as umpire by or by virtue of an arbitration agreement.
- 2 In section 1 of the Act (authority of arbitrator to be irrevocable except by leave of the court), in its application to a judge-arbitrator or judge-umpire, the Court of Appeal shall be substituted for the High Court.
- 3 The power of the High Court under section 7 of the Act (vacancy among arbitrators supplied by parties) to set aside the appointment of an arbitrator shall not be exercisable in the case of the appointment of a judge-arbitrator.
- 4 Section 8(3) of the Act (power of High Court to order umpire to enter immediately on reference as sole arbitrator) shall not apply to a judge-umpire ; but a judge-umpire may, on the application of any party to the reference and notwithstanding anything to the contrary in the arbitration agreement, enter on the reference in lieu of the arbitrators and as if he were the sole arbitrator.
- 5 (1) The powers conferred on the High Court or a judge thereof by section 12(4), (5) and (6) of the Act (summoning of witnesses, interlocutory orders, etc.) shall be exercisable in the case of a reference to a judge-arbitrator or judge-umpire as in the case of any other reference to arbitration, but shall in any such case be exercisable also by the judge-arbitrator or judge-umpire himself.  
(2) Anything done by an arbitrator or umpire in the exercise of powers conferred by this paragraph shall be done by him in his capacity as judge of the High Court and have effect as if done by that court; but nothing in this paragraph prejudices any power vested in the arbitrator or umpire in his capacity as such.
- 6 Section 13(2) and (3) of the Act (extension of time for making award; provision for ensuring that reference is conducted with reasonable dispatch) shall not apply to a reference to a judge-arbitrator or judge-umpire ; but a judge-arbitrator or judge-umpire may enlarge any time limited for making his award (whether under the Act or otherwise), whether that time has expired or not.
- 7 (1) Section 18(4) of the Act (provision enabling a party in an arbitration to obtain an order for costs) shall apply, in the case of a reference to a judge-arbitrator, with the omission of the words from " within fourteen days " to " may direct".  
(2) The power of the High Court to make declarations and orders for the purposes of section 18(5) of the Act (charging order for solicitor's costs) shall be exercisable in the case of an arbitration by a judge-arbitrator or judge-umpire as in the case of any

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- other arbitration, but shall in any such case be exercisable also by the judge-arbitrator or judge-umpire himself.
- (3) A declaration or order made by an arbitrator or umpire in the exercise of the power conferred by the last foregoing sub-paragraph shall be made by him in his capacity as judge of the High Court and have effect as if made by that court.
- 8 (1) Section 19 of the Act (power of High Court to order delivery of award on payment of arbitrators' fees into court) shall not apply with respect to the award of a judge-arbitrator or judge-umpire.
- (2) A judge-umpire may withhold his award until the fees payable to the arbitrators have been paid into the High Court.
- (3) Arbitrators' fees paid into court under this paragraph shall be paid out in accordance with rules of court, subject to the right of any party to the reference to apply (in accordance with the rules) for any fee to be taxed, not being a fee which has been fixed by written agreement between him and the arbitrator.
- (4) A taxation under this paragraph may be reviewed in the same manner as a taxation of the costs of an award.
- (5) On a taxation under this paragraph, or on a review thereof, an arbitrator shall be entitled to appear and be heard.
- 9 (1) In sections 21(1) and (2), 22 and 23 of the Act (special case, remission and setting aside of awards, etc.), in their application to a judge-arbitrator or judge-umpire, and to a reference to him and to his award thereon, the Court of Appeal shall be substituted for the High Court.
- (2) A decision of the Court of Appeal on a case stated by a judge-arbitrator or judge-umpire under section 21 of the Act (as amended by this paragraph) shall be deemed to be a judgment of that court for the purposes of section 3 of the Appellate Jurisdiction Act 1876 (appeal to House of Lords) ; but no appeal shall lie from any such decision without the leave of the Court of Appeal or the House of Lords.
- 10 (1) Section 24(2) of the Act (removal of issue of fraud for trial in the High Court) shall not apply to an agreement under or by virtue of which a judge-arbitrator or judge-umpire has been appointed ; nor shall leave be given by the High Court under that subsection to revoke the authority of a judge-arbitrator or judge-umpire.
- (2) Where, on a reference of a dispute to a judge-arbitrator or judge-umpire, it appears to the judge that the dispute involves the question whether a party to the dispute has been guilty of fraud, he may, so far as may be necessary to enable that question to be determined by the High Court, order that the agreement by or by virtue of which he was appointed shall cease to have effect and revoke his authority as arbitrator or umpire.
- (3) An order made by a judge-arbitrator or judge-umpire under this paragraph shall have effect as if made by the High Court.
- 11 Section 25 of the Act (powers of court on removal of arbitrator or revocation of arbitration agreement) shall be amended as follows:—
- (a) after the words "the High Court" where they first occur in subsection (1), where they occur for the first and second time in subsection (2), and in subsections (3) and (4), there shall be inserted the words " or the Court of Appeal "; and

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- (b) after those words where they occur for the second time in subsection (1) and for the third time in subsection (2) there shall be inserted the words " or the Court of Appeal, as the case may be ".
- 12 The leave required by section 26 of the Act (enforcement in High Court) for an award on an arbitration agreement to be enforced as mentioned in that section may, in the case of an award by a judge-arbitrator or a judge-umpire, be given by the judge-arbitrator or judge-umpire himself.