



# Arbitration Act 1950

## 1950 CHAPTER 27

### PART II

#### ENFORCEMENT OF CERTAIN FOREIGN AWARDS

#### **35 Awards to which Part II applies**

- (1) This Part of this Act applies to any award made after the twenty-eighth day of July, nineteen hundred and twenty-four—
  - (a) in pursuance of an agreement for arbitration to which the protocol set out in the First Schedule to this Act applies; and
  - (b) between persons of whom one is subject to the jurisdiction of some one of such Powers as His Majesty, being satisfied that reciprocal provisions have been made, may by Order in Council declare to be parties to the convention set out in the Second Schedule to this Act, and of whom the other is subject to the jurisdiction of some other of the Powers aforesaid; and
  - (c) in one of such territories as His Majesty, being satisfied that reciprocal provisions have been made, may by Order in Council declare to be territories to which the the said convention applies ;and an award to which this Part of this Act applies is in this Part of this Act referred to as " a foreign award ".
- (2) His Majesty may by a subsequent Order in Council vary or revoke any Order previously made under this section.
- (3) Any Order in Council under section one of the Arbitration (Foreign Awards) Act, 1930, which is in force at the commencement of this Act shall have effect as if it had been made under this section.

#### **36 Effect of foreign awards**

- (1) A foreign award shall, subject to the provisions of this Part of this Act, be enforceable in England either by action or in the same manner as the award of an arbitrator is enforceable by virtue of section twenty-six of this Act.

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- (2) Any foreign award which would be enforceable under this Part of 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 England, and any references in this Part of this Act to enforcing a foreign award shall be construed as including references to relying on an award.

### **37 Conditions for enforcement of foreign awards**

- (1) In order that a foreign award may be enforceable under this Part of this Act it must have—
- (a) been made in pursuance of an agreement for arbitration which was valid under the law by which it was governed;
  - (b) been made by the tribunal provided for in the agreement or constituted in manner agreed upon by the parties ;
  - (c) been made in conformity with the law governing the arbitration procedure;
  - (d) become final in the country in which it was made ;
  - (e) been in respect of a matter which may lawfully be referred to arbitration under the law of England;

and the enforcement thereof must not be contrary to the public policy or the law of England.

- (2) Subject to the provisions of this subsection, a foreign award shall not be enforceable under this Part of this Act if the court dealing with the case is satisfied that—
- (a) the award has been annulled in the country in which it was made; or
  - (b) the party against whom it is sought to enforce the award was not given notice of the arbitration proceedings in sufficient time to enable him to present his case, or was under some legal incapacity and was not properly represented; or
  - (c) the award does not deal with all the questions referred or contains decisions on matters beyond the scope of the agreement for arbitration:

Provided that, if the award does not deal with all the questions referred, the court may, if it thinks fit, either postpone the enforcement of the award or order its enforcement subject to the giving of such security by the person seeking to enforce it as the court may think fit.

- (3) If a party seeking to resist the enforcement of a foreign award proves that there is any ground other than the nonexistence of the conditions specified in paragraphs (a), (b) and (c) of subsection (1) of this section, or the existence of the conditions specified in paragraphs (b) and (c) of subsection (2) of this section," entitling him to contest the validity of the award, the court may, if it thinks fit, either refuse to enforce the award or adjourn the hearing until after the expiration of such period as appears to the court to be reasonably sufficient to enable that party to take the necessary steps to have the award annulled by the competent , tribunal.

### **38 Evidence**

- (1) The party seeking to enforce a foreign award must produce—
- (a) the original award or a copy thereof duly authenticated in manner required by the law of the country in which it was made ; and
  - (b) evidence proving that the award has become final; and

- (c) such evidence as may be necessary to prove that the award is a foreign award and that the conditions mentioned in paragraphs (a), (b) and (c) of subsection (1) of the last foregoing section are satisfied.
- (2) In any case where any document required to be produced under subsection (1) of this section is in a foreign language, it shall be the duty of the party seeking to enforce the award to produce a translation certified as correct by a diplomatic or consular agent of the country to which that party belongs, or certified as correct in such other manner as may be sufficient according to the law of England.
- (3) Subject to the provisions of this section, rules of court may be made under section ninety-nine of the Supreme Court of Judicature (Consolidation) Act, 1925, with respect to the evidence which must be furnished by a party seeking to enforce an award under this Part of this Act.

### **39 Meaning of " final award "**

For the purposes of this Part of this Act, an award shall not be deemed final if any proceedings for the purpose of contesting the validity of the award are pending in the country in which it was made.

### **40 Saving for other rights, &c**

Nothing in this Part of this Act shall—

- (a) prejudice any rights which any person would have had of enforcing in England any award or of availing himself in England of any award if neither this Part of this Act nor Part I of the Arbitration (Foreign Awards) Act, 1930, had been enacted; or
- (b) apply to any award made on an arbitration agreement governed by the law of England.

### **41 Application of Part II to Scotland**

- (1) The following provisions of this section shall have effect for the purpose of the application of this Part of this Act to Scotland.
- (2) For the references to England there shall be substituted references to Scotland.
- (3) For subsection (1) of section thirty-six there shall be substituted the following subsection :—

“(1) A foreign award shall, subject to the provisions of this Part of this Act, be enforceable by action, or, if the agreement for arbitration contains consent to the registration of the award in the Books of Council and Session for execution and the award is so registered, it shall, subject as aforesaid, be enforceable by summary diligence”.

- (4) For subsection (3) of section thirty-eight there shall be substituted the following subsection:—

“(3) The Court of Session shall, subject to the provisions of this section, have power, exercisable by statutory instrument, to make provision by Act of Sederunt with respect to the evidence which must be furnished by a party seeking to enforce in Scotland an award under this Part of this Act, and

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the Statutory Instruments Act, 1946, shall apply to a statutory instrument containing an Act of Sederunt made under this subsection as if the Act of Sederunt had been made by a Minister of the Crown”.

#### **42 Application of Part II to Northern Ireland**

- (1) The following provisions of this section shall have effect for the purpose of the application of this Part of this Act to Northern Ireland.
- (2) For the references to England there shall be substituted references to Northern Ireland.
- (3) For subsection (1) of section thirty-six there shall be substituted the following subsection:—
  - “(1) A foreign award shall, subject to the provisions of this Part of this Act, be enforceable either by action or in the same manner as the award of an arbitrator under the provisions of the Common Law Procedure Amendment Act (Ireland), 1856, was enforceable at the date of the passing of the Arbitration (Foreign Awards) Act, 1930”.
- (4) For the reference, in subsection (3) of section thirty-eight, to section ninety-nine of the Supreme Court of Judicature (Consolidation) Act, 1925, there shall be substituted a reference to section sixty-one of the Supreme Court of Judicature (Ireland) Act, 1877, as amended by any subsequent enactment.

#### **43 Saving for pending proceedings**

Any proceedings instituted under Part I of the Arbitration (Foreign Awards) Act, 1930, which are uncompleted at the commencement of this Act may be carried on and completed under this Part of this Act as if they had been instituted thereunder.