

## ARBITRATION ACT, 1954

1954 26

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AN ACT TO MAKE FURTHER AND BETTER  
PROVISION IN RESPECT OF ARBITRATIONS.

[19th December, 1954.]

BE IT ENACTED BY THE OIREACHTAS AS  
FOLLOWS:—

1954 26 1

Short title and  
commencement.

**1.**—(1) This Act may be cited as the [Arbitration Act, 1954](#).

(2) This Act (except subsection (2) of section 12 and Part V) shall come into operation on the 1st day of January, 1955.

(3) Subsection (2) of section 12 and Part V of this Act shall come into operation on such day as may be fixed for that purpose by order of the Government.

1954 26 2

Interpretation generally.

**2.**—(1) In this Act—

"arbitration agreement" means a written agreement to refer present or future differences to arbitration, whether an arbitrator is named therein or not;

"the Convention of 1927" means the Convention on the Execution of Foreign Arbitral Awards done at Geneva on the 26th day of September, 1927, set out in the Second

Schedule to this Act;

"the Court" means the High Court;

"the operative date" means the 1st day of January, 1955;

"the Protocol of 1923" means the Protocol on Arbitration Clauses opened at Geneva on the 24th day of September, 1923, set out in the First Schedule to this Act;

"State authority" means any authority being—

- ( a ) a Minister of State,
- ( b ) the Commissioners of Public Works in Ireland,
- ( c ) the Irish Land Commission, or
- ( d ) the Revenue Commissioners;

"the statutes of limitation" includes any enactment limiting the time within which any particular proceedings may be commenced.

(2) References in this Act to an award include references to an interim award.

1954 26 3

Commencement of arbitration.

**3.**—(1) For the purposes of this Act and for the purpose of the statutes of limitation as applying to arbitrations and of section 496 of the Merchant Shipping Act, 1894, as amended by section 46 of this Act, an arbitration shall be deemed to be commenced when one party to the arbitration agreement serves on the other party or parties a written notice requiring him or them to appoint or concur in appointing an arbitrator or, where the arbitration agreement provides that the reference shall be to a person named or designated in the agreement, requiring him or them to submit the dispute to the person so named or designated.

(2) ( a ) A notice under subsection (1) of this section may be served—

- (i) by delivering it to the person to whom it is to be served,
- (ii) by leaving it at the place in the State at which that person ordinarily resides or carries on business,

(iii) by sending it by registered post in an envelope addressed to that person at the place in the State at which he ordinarily resides or carries on business,

(iv) in any other manner provided in the arbitration agreement.

( b ) For the purposes of this subsection, a company registered under the Companies Acts, 1908 to 1924, shall be deemed to carry on business at its registered office in the State and every other body corporate and every unincorporated body shall be deemed to carry on business at its principal office or place of business in the State.

1954 26 4

State authorities to be bound. **4.**—This Part, Part II (except subsection (2) of section 12) and Part III of this Act shall apply to an arbitration under an arbitration agreement to which a State authority is a party.

1954 26 5

Exclusion of certain arbitrations.

**5.**—Notwithstanding anything contained in this Act, this Act does not apply to—

( a ) an arbitration under an agreement providing for the reference to, or the settlement by, arbitration of any question relating to the terms or conditions of employment or the remuneration of any employees, including persons employed by or under the State or local authorities, or

( b ) an arbitration under [section 70](#) of the [Industrial Relations Act, 1946](#) (No. 26 of 1946).

1954 26 6

Operation of Parts II and III. **6.**—(1) Part II of this Act shall not affect any arbitration under an arbitration agreement which has commenced before the operative date, but shall apply to any arbitration commenced on or after the operative date under an arbitration agreement made before the operative date.

(2) Part III of this Act shall not affect any arbitration under any other Act which has commenced before the operative date, but shall apply to any arbitration commenced on or after the operative date under any other

Act passed before, on, or after the operative date.

1954 26 7

Penalty for giving false evidence.

**7.**—Any person who, upon any examination upon oath or affirmation before an arbitrator or umpire or in any affidavit in proceedings before an arbitrator or umpire, wilfully and corruptly gives false evidence or wilfully and corruptly swears or affirms anything which is false, being convicted thereof, shall be liable to the penalties for wilful and corrupt perjury.

1954 26 8

Repeals.

**8.**—(1) The enactments mentioned in column (2) of the Third Schedule to this Act are (except in relation to arbitrations, under arbitration agreements commenced before the operative date) here by repealed to the extent mentioned in column (3) of that Schedule.

(2) Any enactment or instrument referring to any enactment repealed by this Act shall be construed as referring to this Act.

1954 26 9

Authority of arbitrators and umpires to be irrevocable.

**9.**—The authority of the arbitrator or umpire appointed by or by virtue of an arbitration agreement shall, unless a contrary intention is expressed in the agreement, be irrevocable except by leave of the Court.

1954 26 10

Death of party.

**10.**—(1) An arbitration agreement shall not be discharged by the death of any party thereto, either as respects the deceased or any other party, but shall in such an event be enforceable by or against the personal representatives of the deceased.

(2) The authority of an arbitrator shall not be revoked by the death of any party by whom he was appointed.

(3) Nothing in this section shall be taken to affect the operation of any enactment or rule of law by virtue of which any right of action is extinguished by the death of a person.

1954 26 11

Provisions in case of  
bankruptcy,.

**11.**—(1) In this section the word "assignee" means the Official Assignee in Bankruptcy and includes the assignee (if any) chosen by the creditors to act with the Official Assignee in Bankruptcy.

(2) Where an arbitration agreement forms part of a contract to which a bankrupt is a party, the agreement shall, if the assignee or trustee in bankruptcy does not disclaim the contract, be enforceable by or against him so far as it relates to any difference arising out of, or in connection with, such contract.

(3) Where—

- ( a ) a person who, has been adjudged bankrupt had, before the commencement of the bankruptcy, become a party to an arbitration agreement, and
- ( b ) any matter to which the agreement applies requires to be determined in connection with or for the purposes of the bankruptcy proceedings, and
- ( c ) the case is one to which subsection (2) of this section does not apply,

then, any other party to the agreement or the assignee or, with the consent of the committee of inspection, the trustee in bankruptcy may apply to the court having jurisdiction, in the bankruptcy proceedings for an order directing that the matter in question shall be referred to arbitration in accordance with the agreement and that court may, if it is of opinion that having regard to all the circumstances -of the case, the matter ought to be determined by arbitration, make an order accordingly.

1954 26 12

Power to stay proceedings  
where there is an arbitration  
agreement.

**12.**—(1) If any party to an arbitration agreement or any person claiming through or under him commences any 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 such proceedings may, at any time after appearance and before delivering any pleadings or taking any other steps in the proceedings, apply to that court to stay the proceedings, and that Court, if it is satisfied that there is not sufficient reason why the matter should not be referred in accordance

with the agreement and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceedings.

(2) Notwithstanding anything in this Part, if any party to a submission to arbitration made in pursuance of an agreement to which the Protocol of 1923 applies or any person claiming through or under him commences any legal proceedings in any court against any other party to the submission or any person claiming through or under him, in respect of any matter agreed to be referred, any party to those legal proceedings may at any time after appearance, and before delivering any pleadings or taking any other steps in the proceedings, apply to that court to stay the proceedings, and that court, unless satisfied that the agreement or arbitration has become inoperative or cannot proceed 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.

1954 26 13

Reference, of interpleader issues to arbitration.

**13.**—Where relief by way of interpleader is granted and it appears to the Court that the claims in question are matters to which an arbitration agreement, to which the claimants are parties, applies, the Court may direct the issue between the claimants to be determined in accordance with the agreement.

*Arbitrators and Umpires.*

1954 26 14

When reference is to be to a single arbitrator.

**14.**—Unless it contrary intention is expressed therein, every arbitration agreement shall, if no other mode of reference is provided be deemed to include a provision that the reference shall be to a single arbitrator.

1954 26 15

Power of parties, in certain cases to supply vacancy.

**15.**—(1) Where—

( a ) an arbitration agreement provides that the reference shall be to two arbitrators, one to be appointed by each party, and

( *b* ) either of the appointed arbitrators refuses to act, or is incapable of acting, or dies,

then, unless the agreement expresses a contrary intention, the party, who appointed the arbitrator so refusing to act, becoming incapable of acting or dying, may appoint a new arbitrator in his place.

(2) ( *a* ) Where—

(i) an arbitration agreement provides that the reference shall be to two arbitrators, one to be appointed by each party, and

(ii) on such a reference one party fails to appoint an arbitrator, either originally or by way of substitution under subsection (1) of this section, for seven clear days after the other party, having appointed his arbitrator, has served the party making default with notice to make the appointment, then unless a contrary intention is expressed in the agreement, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and his award shall be binding on both parties as if he had been appointed by consent.

( *b* ) The Court may set aside any appointment made under paragraph ( *a* ) of this subsection.

1954 26 16

Umpires.

**16.**—(1) Unless a contrary intention is expressed therein, every arbitration agreement shall, where the reference is to two arbitrators, be deemed to include a provision that the two arbitrators shall appoint an umpire immediately after they are themselves appointed.

(2) Unless a contrary intention is expressed therein, every arbitration agreement shall, where such a provision is applicable to the reference, be deemed to include a provision that if the arbitrators have delivered to any party to the arbitration agreement, or to the umpire, a notice in writing stating that they cannot agree, the umpire may forthwith enter upon the reference in lieu of the arbitrators, but nothing in this subsection shall be construed as

preventing the umpire from sitting with the arbitrators and hearing the evidence.

(3) At any time after the appointment of an umpire, however, appointed, the Court may, on the application of any party to the reference and notwithstanding anything to the contrary in the arbitration agreement, order that the umpire shall enter upon the reference in lieu of the arbitrators and as if lie were a sole arbitrator.

1954 26 17

Agreements for reference to three arbitrators.

**17.**—(1) Where an arbitration agreement provides that the reference shall be to three arbitrators, one to be appointed by each party and the third to be appointed by the two appointed by the parties, the agreement shall have effect as if it provided for the appointment of an umpire, and not for the appointment of a third arbitrator, by the two arbitrators appointed by the parties.

(2) Where an arbitration agreement provides that the reference shall be to three arbitrators to be appointed otherwise than as is mentioned in subsection (1) of this section, the award of any two of the arbitrators shall be binding.

1954 26 18

Power of Court in certain cases to appoint an arbitrator or umpire.

**18.**—In any of the following cases—

( a ) where—

(i) an arbitration agreement provides that the reference shall be to a single arbitrator, and

(ii) all the parties do not, after differences have arisen, concur in the appointment of an arbitrator;

( b ) if—

(i) an appointed arbitrator refuses to act, or is incapable of acting or dies, and

(ii) the arbitration agreement does not show that it was intended that the vacancy should not be supplied, and

(iii) the parties do not supply the vacancy;

( c ) where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator and do not appoint him;

( d ) where two arbitrators are required to appoint an umpire and do not appoint him;

( e ) where—

- (i) an appointed umpire or third arbitrator refuses to act, or is incapable of acting, or dies, and
- (ii) the arbitration agreement does not show that it was intended that the vacancy should not be supplied, and
- (iii) the parties or arbitrators do not supply the vacancy,

the following provisions shall have effect—

(1) any party may serve the other parties or the arbitrators, as the case may be, with a written notice to appoint or, as the case may be, concur in appointing an arbitrator, umpire or third arbitrator,

(2) if the appointment is not made within seven clear days after the service of the notice, the Court may, on the application of the party who gave the notice, appoint an arbitrator, umpire or third arbitrator, who shall have the like powers to act in the reference and make an award as if he had been appointed by consent of all parties.

*Witnesses, Security for Costs, Discovery of Documents, etc.*

1954 26 19

Powers of arbitrators and umpires as to witnesses.

**19.**—(1) Unless a contrary intention is expressed therein every arbitration agreement shall, where such a provision is applicable to the reference, be deemed to contain a provision that the parties to the reference, and all persons claiming through them respectively, shall, subject to any legal objection, submit to be examined by the arbitrator or umpire, on oath or affirmation, in relation to the matters in dispute and shall, subject to any legal objection, produce before the arbitrator or umpire all documents (other than documents the production of which could not be compelled on the trial of an action) within their possession or power respectively which may be required or called for, and do all such other things which during the proceedings on the reference the arbitrator or umpire may require.

(2) Unless a contrary intention is expressed therein, every arbitration agreement shall, where such a provision is applicable to the reference, be deemed to contain a provision that the witnesses on the reference shall, if the arbitrator or umpire thinks fit, be examined on oath or affirmation.

(3) An arbitrator or umpire shall, unless a contrary intention is expressed in an arbitration agreement, have power to administer oaths to, or take the affirmations of, the parties to and witnesses on a reference under the agreement.

1954 26 20

Powers of parties to a reference to compel attendance of witnesses.

**20.**—Any party to a reference under an arbitration agreement may sue out an order in the nature of a writ of subpoena ad testificandum or of a writ of subpoena duces tecum, but no person shall be compelled under any such order to produce any document which he could not be compelled to produce on the trial of an action.

1954 26 21

Power of Court to compel attendance of prisoner as a witness.

**21.**—The Court may order that an order in the nature of a writ of habeas corpus ad testificandum shall issue to bring up a prisoner for examination before an arbitrator or umpire.

1954 26 22

Orders by Court in relation to security for costs and discovery of documents etc.

**22.**—(1) The Court shall have, for the purpose of and in relation to a reference, the same power of making orders in respect of—

- ( a ) security for costs;
- ( b ) discovery and inspection of documents and interrogatories;
- ( c ) the giving of evidence by affidavit;
- ( d ) examination on oath of any witness before an officer of the Court or any other person, and the issue of a commission or request for the examination of a witness out of the jurisdiction;
- ( e ) the preservation, interim custody or sale of any goods which are the subject matter of the reference;
- ( f ) securing the amount in dispute in the reference;
- ( g ) the detention, preservation or inspection of any

property or thing which is the subject of the reference or as to which any question may arise therein, and authorising for any of the purposes aforesaid any persons to enter upon or into any land or building in the possession of any party to the reference, or authorising any samples to be taken or any observation to be made or experiment to be tried which may be necessary or expedient for the purpose of obtaining full information or evidence; and  
( h ) interim injunctions or the appointment of a receiver,

as it has for the purpose of and in relation to an action or matter in the Court.

(2) Nothing in subsection (1) of this section shall be taken to prejudice any power which may be vested in an arbitrator or umpire of making orders with respect to any of the matters mentioned in the said subsection.

*Provisions as to Awards.*

1954 26 23

Time for making an award.

**23.**—(1) Subject to subsection (2) of section 36 of this Act and anything to the contrary in the arbitration agreement, an arbitrator or umpire shall have power to make an award at any time.

(2) The time, if any, limited for making an award, whether under this Act or otherwise, may from time to time be enlarged by order of the Court or by agreement in writing of the parties, whether that time has expired or not.

1954 26 24

Removal of arbitrator or umpire on failure to use due dispatch.

**24.**—(1) The Court may, on the application of any party to a reference, remove an arbitrator or umpire who fails to use all reasonable dispatch in entering on and proceeding with the reference and making an award.

(2) An arbitrator or umpire who is removed by the Court under subsection (1) of this section shall not be entitled to receive any remuneration in respect of his services.

(3) For the purposes of this section the expression "proceeding with a reference" includes, in a case where two arbitrators are unable to agree, giving notice of that fact to the parties and to the umpire.

1954 26 25

Interim awards.

**25.**—Unless a contrary intention is expressed therein, every arbitration agreement shall, where such a provision is applicable to the reference, be deemed to contain a provision that the arbitrator or umpire may, if he thinks fit, make an interim award.

1954 26 26

Specific performance.

**26.**—Unless; a contrary intention is expressed therein, every arbitration agreement shall, where such a provision is applicable to the reference, be deemed to contain a provision that the arbitrator or umpire shall have the same power as the Court to order specific performance of any contract other than a contract relating to land or any interest in land.

1954 26 27

Awards to be final.

**27.**—Unless a contrary intention is expressed therein, every arbitration agreement shall, where such a provision is applicable to the reference, be deemed to contain a provision that the award to be made by the arbitrator or umpire shall be final and binding on the parties and the persons claiming under them respectively.

1954 26 28

Power to correct slips.

**28.**—Unless a contrary intention is expressed in the arbitration agreement, the arbitrator or umpire shall have power to correct in an award any clerical mistake or error arising from any accidental slip or omission.

*Costs, Fees and Interest.*

1954 26 29

Costs of reference and award to be in the discretion of the arbitrator or umpire.

**29.**—(1) Unless a contrary intention is expressed therein, every arbitration agreement shall be deemed to include a provision that the costs of the reference and award shall be in the discretion of the arbitrator or umpire who may direct

to and by whom and in what manner those costs or any part thereof shall be paid, and may, with the consent of the parties, tax or settle the amount of costs to be so paid or any part thereof, and may award costs to be paid as between solicitor and client.

(2) Where an award directs any costs to be paid, then, unless the arbitrator or umpire, with the consent of the parties, taxes or settles the amount thereof—

( a ) the costs shall be taxed and ascertained by a Taxing Master,

( b ) the procedure to obtain taxation and the rules, regulations and scales of costs of the Court relative to taxation and to the review thereof shall apply to the costs to be so taxed and ascertained as if the award were a judgement or order of the Court.

1954 26 30

Avoidance of certain provisions as to costs in arbitration agreements.

**30.**—(1) Any provision in an arbitration agreement to the effect that the parties or any party thereto shall in any event pay their or his own costs of the reference or award or any part thereof shall be void, and this Part shall, in the case of an arbitration agreement containing any such provision, have effect as if that provision were not contained therein.

(2) Nothing in subsection (1) of this section shall invalidate any such provision as is mentioned in that subsection when it is part of an agreement to submit to arbitration a dispute which has arisen before the making of that agreement.

1954 26 31

Application to arbitrator or umpire to give directions as to costs where award contains no provision.

**31.**—If no provision is made by an award with respect to the costs of the reference, any party to the reference may, within fourteen days of the publication of the award or such further time as the Court may direct, apply to the arbitrator or umpire for an order directing by and to whom those costs shall be paid, and thereupon the arbitrator or umpire shall, after hearing any party who may desire to be heard, amend his award by adding thereto such directions as he may think proper with respect to the payment of the costs of the reference.

1954 26 32

Application of section 3 of  
Legal Practitioners (Ireland)  
Act, 1876, to solicitors' costs  
in arbitrations.

1954 26 33

**32.**—Section 3 of the Legal Practitioners (Ireland) Act, 1876, (which empowers a court before which any proceeding has been heard or is pending to charge property recovered or preserved in the proceeding with the payment of solicitors' costs) shall apply as if an arbitration were a proceeding in the Court, and the Court may make declarations and orders accordingly.

Taxation of arbitrator's or  
umpire's fee.

1954 26 34

Interest on awards.

**33.**—(1) If in any case an arbitrator or umpire refuses to deliver his award except on payment of the fees demanded by him, the Court may, on an application for the purpose, order that the arbitrator or umpire shall deliver the award to the applicant on payment into Court by the applicant of the fees demanded, and further that the fees demanded shall be taxed by a Taxing Master and that out of the money paid into Court there shall be paid out to the arbitrator or umpire by way of fees such sum as may be found reasonable on taxation and that the balance of the money, if any, shall be paid out to the applicant.

(2) An application for the purpose of this section may be made by any party to the reference unless the fees demanded have been fixed by a written agreement between him and the arbitrator or umpire.

(3) A taxation of fees under this section may be reviewed in the same manner as a taxation of costs.

(4) The arbitrator or umpire shall be entitled to appear and be heard on any taxation or review of taxation under this section.

**34.**—A sum directed to be paid by an award shall, unless the award otherwise directs, carry interest as from the date of the award and at the same rate as a judgement debt.

*Special Cases, Remission and Setting aside of Awards,  
Removal of Arbitrator or Umpire, and, Relief where  
Arbitrator not impartial or Questions of Fraud involved.*

1954 26 35

Statement of case by  
arbitrator or umpire.

**35.**—(1) An arbitrator or umpire may, and shall if so  
directed by the Court, state—

( *a* ) any question of law arising in the course of the  
reference, or

( *b* ) any award or any part of an award,

in the form of a special case for the decision of the Court.

(2) A special case with respect to an interim award or  
with respect to a question of law arising in the course of a  
reference may be, stated, or may be ordered by the Court to  
be stated, notwithstanding that proceedings under the  
reference are still pending.

1954 26 36

Power of Court to remit  
award.

**36.**—(1) In all cases of reference to arbitration, the Court  
may from time to time remit the matters referred or any of  
them to the reconsideration of the arbitrator or umpire.

(2) Where an award is remitted, the arbitrator or umpire  
shall, unless the order otherwise directs, make his award  
within three months after the date of the order.

1954 26 37

Power of Court, to remove  
arbitrator or umpire on  
ground of misconduct.

**37.**—Where, an arbitrator or umpire has misconducted  
himself or the proceedings, the Court may remove him.

1954 26 38

Power of Court to set aside  
award on ground of  
misconduct.

**38.**—(1)Where—

( *a* )an arbitrator or umpire has misconducted  
himself or the proceedings, or

( *b* ) an arbitration or award has been improperly  
procured, the Court may set the award aside.

(2) Where an application is made to set aside an award,  
the Court may order that any money made payable by the  
award shall be brought into Court or otherwise secured  
pending the determination of the application.

1954 26 39

Power of Court to give relief where arbitrator is not impartial or dispute referred involves question of fraud.

**39.**—(1) Where—

( a ) an agreement between any parties provides that disputes which may arise in the future between them shall be referred to an arbitrator named or designated in the agreement, and

( b ) after a dispute has arisen any party, on the ground that the arbitrator so named or designated is not or may not be impartial, applies to the Court for leave to revoke the authority of the arbitrator or for an injunction to restrain any other party or the arbitrator from proceeding with the arbitration,

it shall not be a ground for refusing the application that the said party at the time when he made the agreement knew, or ought to have known, that the arbitrator, by reason of his relation towards any other party to the agreement or of his connection with the subject referred, might not be impartial.

(2) Where—

( a ) an agreement between any parties provides that disputes which may arise in the future between them shall be referred to arbitration, and

( b ) a dispute which so arises involves the question whether any party has been guilty of fraud,

the Court shall, so far as may be necessary to enable the question to be determined by the Court, have power to order that the agreement shall cease to have effect and power to give leave to revoke the authority of any arbitrator or umpire appointed by or by virtue of the agreement.

(3) In any case where by virtue of this section the Court has power to order that any arbitration agreement shall cease to have effect or to give leave to revoke the authority of any arbitrator or umpire, the Court may refuse to stay any action brought in breach of the agreement.

1954 26 40

Power of Court where arbitrator is removed or authority of arbitrator is revoked.

**40.**—(1) Where an arbitrator (not being a sole arbitrator) or two or more arbitrators (not being all the arbitrators) or an umpire who has not entered on the reference is or are

removed by the Court, the Court may, on the application of any party to the arbitration agreement, appoint a person or persons to act as arbitrator or arbitrators or umpire in place of the person or persons so removed.

(2) Where—

- ( a ) the authority of the arbitrator or arbitrators or umpire is revoked by leave of the Court, or
- ( b ) a sole arbitrator or all the arbitrators or an umpire who has entered on the reference is or are removed by the Court,

the Court may, on the application of any party to the arbitration agreement, either—

- (i) appoint a person to act as sole arbitrator in place of the person or persons removed, or
- (ii) order that the arbitration agreement shall cease to have effect with respect to the dispute referred.

(3) A person appointed under this section by the Court as an arbitrator or umpire shall have the like power to act in the reference and to make an award as if he had been appointed in accordance with the terms of the arbitration agreement.

(4) Where it is provided (whether by means of a provision in an arbitration agreement or otherwise) that an award under an arbitration agreement shall be a condition precedent to the bringing of an action with respect to any matter to which the agreement applies, the Court, if it orders (whether under this section or any other enactment) that the agreement shall cease to have effect as regards any particular dispute, may further order that the provision making an award a condition precedent to the bringing of an action shall also cease to have effect as regards that dispute.

*Enforcement of Award.*

1954 26 41

Enforcement of award.

**41.**—An award on an arbitration agreement may, by leave

of the Court, be enforced in the same manner as a judgement or order to the same effect and, where leave is so, given, judgement may be entered in terms of the award.

*Limitation of Time for Commencing Arbitration Proceedings.*

1954 26 42

Application of statutes of limitation to arbitration under arbitration agreements.

**42.**—The statutes of limitation shall apply to an arbitration under an arbitration agreement as they apply to actions in the Court.

1954 26 43

Accrual for purposed of statutes of limitation of right of action in respect of matters required by arbitration agreement to be referred to arbitration, where agreement provides that arbitration shall be a condition precedent to commencement of action.

**43.**—Notwithstanding any term in an arbitration agreement to the effect that no cause of action shall accrue in respect of any matter required by the agreement to be referred until an award is made under the agreement, a cause of action shall, for the purposes of the statutes of limitation (whether in their application to arbitrations or to other proceedings), be deemed to have accrued in respect of any such matter at the time when it would have accrued but for that term in the agreement.

1954 26 44

Power of Court to extend period of limitation where it sets aside award or orders arbitration to cease to have effect.

**44.**—Where the Court orders that an award be set aside or orders, after the commencement of an arbitration, that the arbitration should cease to have effect with respect to the dispute referred, the Court may further order that the period between the commencement of the arbitration and the date of the order of the Court shall be excluded in computing the time prescribed by the statutes of limitation for the commencement of the proceedings (including arbitration) with respect to the dispute referred.

1954 26 45

Power of Court to extend time for commencing arbitration proceedings, where agreement provides that claims are to be barred unless proceedings an commenced within a specified time.

**45.**—Where—  
( a ) the terms of an agreement to refer future disputes to arbitration provide that any claims to which the agreement applies shall be barred unless notice to appoint an arbitrator is given or an arbitrator is appointed or some other step to commence arbitration proceedings is taken

within a time fixed by the agreement, and

( b ) a dispute arises to which the agreement applies,

the Court, if it is of opinion that in the circumstances of the case undue hardship would otherwise be caused, and notwithstanding that the time so fixed has expired, may on such terms, if any, as the justice of the case may require, but without prejudice to section' 42 of this Act, extend the time for such period as it thinks proper.

1954 26 46

Extension of section 496 of the Merchant Shipping Act, 1894.

**46.**—In subsection (3) of section 496 of the Merchant Shipping Act, 1894 (which requires a sum deposited with a wharfinger by an owner of goods to be repaid unless legal proceedings are instituted by the shipowner) the references to legal proceedings shall be construed as including references to arbitration.

*Terms of Orders.*

1954 26 47

Terms of orders.

**47.**—(1) Any order made under this Part by a court may be made on such terms as to costs or otherwise as that court thinks just.

(2) Subsection (1) of this section shall not apply to an order made under subsection (2) of section 12 of this Act.

1954 26 48

Application of Part I and II to arbitrations under other Acts.

**48.**—(1) In this section, the expression "the excluded provisions" means the following provisions of this Act, subsection (1) of section 10, section 11, subsection (2) of section 12, and sections 13, 30, 39, 40, 45 and 46.

(2) Parts I and II of this Act (except the excluded provisions) shall apply to every arbitration under any other Act as if the arbitration were pursuant to an arbitration agreement and as if that other Act were an arbitration agreement, except in so far as Part II of this Act is inconsistent with that other Act or with any rules or procedure authorised or recognised thereby.

1954 26 49

Power of Court and Circuit Court to refer in certain cases.

**49.**—(1) If, in any cause or matter (including any cause or matter to which a State authority is a party, but excluding a criminal proceeding at the suit of the Attorney General), the question in dispute consists wholly or in part of matters of account, the Court or the Circuit Court may at any time order the whole cause or matter or any question or issue of fact arising therein to be tried before an arbitrator agreed on by the parties or before an officer of the Court or the Circuit Court (as the case may be), upon such terms as to costs or otherwise as the Court or Circuit Court (as the case may be) thinks just.

(2) The references in sections 50 and 52 of this Act and the first and second references in section 51 of this Act to the Court shall be construed as including references to the Circuit Court.

1954 26 50

Power of arbitration in references under section 49.

**50.**—(1) In all cases of references to an arbitrator under an order of the Court under section 49 of this Act, the arbitrator shall be deemed to be an officer of the Court, and, subject to rules of court, shall have such authority and conduct the reference in such manner as the Court may direct.

(2) The award of an arbitrator on any reference under section 49 of this Act shall, unless set aside by the Court, be equivalent to the verdict of a jury.

(3) The remuneration to be paid to an arbitrator to whom any matter is referred under section 49 of this Act shall be determined by the Court.

1954 26 51

Court to have power as in references under arbitration agreement.

**51.**—The Court shall, in relation to references under an order of the Court made under section 49 of this Act, have all the powers which are by Part II of this Act conferred on the Court in relation to references under arbitration agreements.

1954 26 52

Statement of case pending arbitration.

**52.**—An arbitrator on any reference under section 49 of this Act may at any stage of the proceedings under the

reference, and shall, if so directed by the Court, state in the form' of a special case for the opinion of the Court any question of law arising in the course of the reference.

1954 26 53

Power of Supreme Court.

**53.**—The Supreme Court shall have all such powers as are conferred by this Part on the Court.

1954 26 54

"Foreign award".

**54.**—(1) ( *a* ) The Government, if satisfied that any State which has ratified the Convention of 1927 has made such reciprocal provisions as will enable the Convention of 1927 to be operative in any territory to which the Convention of 1927 is applicable, may by order declare—

(i) that State to be a party to the Convention of 1927,

(ii) that territory to be a territory to which the Convention of 1927 applies.

( *b* ) The Government may by order vary or revoke any order made under this subsection.

(2) In this Part, "foreign award" means any award made after the commencement of this Part—

( *a* ) in pursuance of an agreement-for arbitration to which the Protocol of 1923 applies, and

( *b* ) between persons—

(i) of whom one is subject to the jurisdiction of a State which is declared by an order under subsection (1) of this section to be a party to the Convention of 1927, and—

(ii) of whom the other is subject to the jurisdiction of another such State, and

( *c* ) in a territory which is declared by an order under sub-section (1) of this section to be a territory to which the Convention of 1927 applies.

1954 26 55

Effect of foreign awards.

**55.**—(1) A foreign award shall, subject to the provisions of this Part, be enforceable in the State either by action or in the same manner as an award of an arbitrator is enforceable by virtue of section 41 of this Act.

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

1954 26 56

Conditions for enforcement of foreign awards. **56.**—(1) In order that a foreign award may be enforceable under this Part 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 the State,

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

(2) Subject to subsection (3) of this section, a foreign award shall not be enforceable under this Part if the Court 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 beyond the scope of the agreement for arbitration.

(3) Where a foreign 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.

(4) If the party seeking to resist the enforcement of a foreign award proves that there is any ground, other than the non-existence 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.

1954 26 57

Evidence.

**57.**—(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 specified in paragraphs (a), ( b ) and (c) of subsection (1) of section 56 of this Act are satisfied.

(2) In any case where any document required to be produced under subsection (1) of this section is in a language, other than one of the official languages, 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 the State.

(3) Subject to the provisions of this section, rules of court may be made under [section 36](#) of the [Courts of Justice Act, 1924](#) (No. 10 of 1924), as amended by [section](#)

68 of the Courts of Justice Act, 1936 (No. 48 of 1936), with respect to the evidence which must be furnished by a party seeking to enforce a foreign award under this Part.

1954 26 58

Meaning of "final award".

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

1954 26 59

Saving for other rights, etc.

**59.**—Nothing in this Part shall—

( a ) prejudice any rights which any person would have had of enforcing in the State any award or of availing himself in the State of an award if this Part had not been enacted, or

( b ) apply to any award made on an arbitration agreement governed by the law of the State.

1954 26

## FIRST SCHEDULE

*Section 2 (1), 12 (2) and 54.*

### PROTOCOL ON ARBITRATION CLAUSES OPENED AT GENEVA ON THE 24TH DAY OF SEPTEMBER, 1923.

1. Each of the Contracting States recognises the validity of an agreement whether relating to existing or future differences between parties subject respectively to the jurisdiction of different Contracting States by which the parties to a contract agree to submit to arbitration all or any differences that may arise in connection with such contract relating to commercial matters or to any other matter capable of settlement by arbitration, whether or not the arbitration is to take place in a country to whose jurisdiction none of the parties is subject.

Each Contracting State reserves the right to limit the obligation mentioned above to contracts which are considered as commercial under its national law. Any Contracting State which avails itself of this right will

notify the Secretary-General of the League of Nations, in order that the other Contracting States may be so informed.

2. The arbitral procedure, including the constitution of the arbitral tribunal, shall be governed by the will of the parties and by the law of the country in whose territory the arbitration takes place.

The Contracting States agree to facilitate all steps in the procedure which require to be taken in their own territories, in accordance with the provisions of their law governing arbitral procedure applicable to existing differences.

3. Each Contracting State undertakes to ensure the execution by its authorities and in accordance with the provisions of its national laws of arbitral awards made in its own territory under the preceding articles.

4. The tribunals of the Contracting Parties, on being seized of a dispute regarding a contract made between persons to whom Article 1 applies and including an arbitration agreement whether referring to present or future differences which is valid in virtue of the said article and capable of being carried into effect, shall refer the parties on the application of either of them to the decision of the arbitrators.

Such reference shall not prejudice the competence of the judicial tribunals in case the agreement or the arbitration cannot proceed or becomes inoperative.

5. The present Protocol, which shall remain open for signature by all States, shall be ratified. The ratifications shall be deposited as soon as possible with the Secretary-General of the League of Nations, who shall notify such deposit to all the Signatory States.

6. The present Protocol will come into force as soon as two ratifications have been deposited. Thereafter it will take effect, in the case of each Contracting State, one month after the notification by the Secretary-General of the deposit of its ratification.

7. The present Protocol may be denounced by any Contracting State on giving one year's notice.

Denunciation shall be effected by a notification addressed to the Secretary-General of the League, who will immediately transmit copies of such notification to all the other Signatory States and inform them of the date on which it was received. The denunciation shall take effect one year after the date on which it was notified to the Secretary-General, and shall operate only in respect of the notifying State.

8. The Contracting States may declare that their acceptance of the present Protocol does not include any or all of the under-mentioned territories: that is to say, their colonies, overseas possessions or territories, protectorates or the territories over which they exercise a mandate.

The said States may subsequently adhere separately on behalf of any territory thus excluded. The Secretary-General of the League of Nations shall be informed as soon as possible of such adhesions. He shall notify such adhesions to all Signatory States. They will take effect one month after the notification by the Secretary-General to all Signatory States.

The Contracting States may also denounce the Protocol separately on behalf of any of the territories referred to above. Article 7 applies to such denunciation.

A certified copy of the present Protocol will be transmitted by the Secretary-General to all the Contracting States.

1954 26

## SECOND SCHEDULE

*Sections 2 (1) and 54.*

### CONVENTION ON THE EXEMPTION OF FOREIGN ARBITRAL AWARDS DONE AT GENEVA ON THE 26TH DAY OF SEPTEMBER, 1927.

#### *Article 1.*

In the territories of any High Contracting Party to which the present Convention applies, an arbitral award made in pursuance of an agreement, whether relating to existing or future differences (hereinafter called "a submission to arbitration") covered by the Protocol on Arbitration

Clauses, opened at Geneva on September 24th, 1923, shall be recognised as binding and shall be enforced in accordance with the rules of the procedure of the territory where the award is relied upon, provided that the said award has been made in a territory of one of the High Contracting Parties to which the present Convention applies and between persons who are subject to the jurisdiction of one of the High Contracting Parties.

To obtain such recognition or enforcement, it shall, further, be necessary:

( a ) That the award has been made in pursuance of a submission to arbitration which is valid under the law applicable thereto;

( b ) That the subject-matter of the award is capable of settlement by arbitration under the law of the country in which the award is sought to be relied upon;

( c ) That the award has been made by the Arbitral Tribunal provided for in the submission to arbitration or constituted in the manner agreed upon by the parties and in conformity with the law governing the arbitration procedure;

( d ) That the award has become final in the country in which it has been made, in the sense that it will not be considered as such if it is open to *opposition, appel or pourvoi en cassation* (in the countries where such forms of procedure exist) or if it is proved that any proceedings for the purpose of contesting the validity of the award are pending;

( e ) That the recognition or enforcement of the award is not contrary to the public policy or to the principles of the law of the country in which it is sought to be relied upon.

#### *Article 2.*

Even if the conditions laid down in Article 1 hereof are fulfilled, recognition and enforcement of the award shall be refused if the Court is satisfied:

( a ) That the award has been annulled in, the country in

which it was made;

( b ) That the party against whom it is sought to use the award was not given notice of the arbitration proceedings in sufficient time to enable him to present his case; or that, being under a legal incapacity, he was not properly represented;

( c ) That the award does not deal with the differences contemplated by or falling within the terms of the submission to arbitration or that it contains decisions on matters beyond the scope of the submission to arbitration.

If the award has not covered all the questions submitted to the arbitral tribunal, the competent authority of the country where recognition or enforcement of the award is sought can, if it think fit, postpone such recognition or enforcement or grant it subject to such guarantee as that authority may decide.

#### *Article 3.*

If the party against whom the award has been made proves that, under the law governing the arbitration procedure, there is a ground, other than the grounds referred to in Article 1 (a) and (c), and Article 2 (b)and (c), entitling him to contest the validity of the award in a Court of Law, the Court may, if it thinks fit, either refuse recognition or enforcement of the award or adjourn the consideration thereof, giving such party a reasonable time within which to have the award annulled by the competent tribunal.

#### *Article 4.*

The party relying upon an award or claiming its enforcement must supply, in particular:

(1) The original award or a copy thereof duly authenticated, according to the requirements of the law of the country in which it was made;

(2) Documentary or other evidence to prove that the award has become final, in the sense defined in Article 1 (d), in the country in which it was made;

(3) When necessary, documentary or other evidence to prove that the conditions laid down in Article 1, paragraph 1 and paragraph 2 (a) and (c), have been fulfilled.

A translation of the award and of the other documents mentioned in this Article into the official language of the country where the award is sought to be relied upon may be demanded. Such translation must be certified correct by a diplomatic or consular agent of the country to which the party who seeks to rely upon the award belongs or by a sworn translator of the country where the award is sought to be relied upon.

*Article 5.*

The provisions of the above Articles shall not deprive any interested party of the right of availing himself of an arbitral award in the manner and to the extent allowed by the law or the treaties of the country where such award is sought to be relied upon.

*Article 6.*

The present Convention applies only to arbitral awards made after the coming into force of the Protocol on Arbitration Clauses, opened at Geneva on September 24th, 1923.

*Article 7.*

The present Convention, which will remain open to the signature of all the signatories of the Protocol of 1923 on Arbitration Clauses, shall be ratified.

It may be ratified only on behalf of those Members of the League of Nations and non-Member States on whose behalf the Protocol of 1923 shall have been ratified.

Ratifications shall be deposited as soon as possible with the Secretary-General of the League of Nations, who will notify such deposit to all the signatories.

*Article 8.*

The present Convention shall come into force three months after it shall have been ratified on behalf of two

High Contracting Parties.

Thereafter, it shall take effect, in the case of each High Contracting Party, three months after the deposit of the ratification on its behalf with the Secretary-General of the League of Nations.

*Article 9.*

The present Convention may be denounced on behalf of any Member of the League or non-Member State.

Denunciation shall be notified in writing to the Secretary-General of the League of Nations, who will immediately send a copy thereof, certified to be in conformity with the notification, to all the other Contracting Parties, at the same time informing them of the date on which he received it.

The denunciation shall come into force only in respect of the High Contracting Party which shall have notified it and one year after such notification shall have reached the Secretary-General of the League of Nations.

The denunciation of the Protocol on Arbitration Clauses shall entail, *ipso facto*, the denunciation of the present Convention.

*Article 10.*

The present Convention does not apply to the Colonies, Protectorates or territories under suzerainty or mandate of any High Contracting Party unless they are specially mentioned.

The application of this Convention to one or more of such Colonies, Protectorates or territories to which the Protocol on Arbitration Clauses, opened at Geneva on September 24th, 1923, applies, can be effected at any time by means of a declaration addressed to the Secretary-General of the League of Nations by one of the High Contracting Parties.

Such declaration shall take effect three months after the deposit thereof.

The High Contracting Parties can at any time denounce the Convention for all or any of the Colonies, Protectorates or territories referred to above. Article 9 hereof applies to such denunciation.

*Article 11.*

A certified copy of the present Convention shall be transmitted by the Secretary-General of the League of Nations to every Member of the League of Nations and to every non-Member State which signs the same.

1954 26

THIRD SCHEDULE

*Section 8 (1).*

ENACTMENTS REPEALED.

| Session and Chapter.         | Title or Short Title.                                   | Extent of Repeal.             |
|------------------------------|---|-------------------------------|
| (1)                          | (2)   | (3)                           |
| 10 Will.<br>3.c. 14<br>(Ir.) | An Act for determine differences by arbitration.        | The whole Act.                |
| 3 & 4<br>Vic. c.<br>105.     | The Debtors (Ireland) Act, 1840.                        | Sections 63 and 64.           |
| 19 & 20<br>Vic. c.<br>102.   | The Common Law Procedure Amendment Act (Ireland), 1856. | Sections 6 to 20.             |
| 40 & 41                      | The Supreme   | In section 60, the words "the |

Vic. c. 57. Court of judicature Act (Ireland), 1877. provisions contained in the sections of the Common Law Procedure Act (Ireland), 1856,' in reference to arbitration shall apply to the High Court of Justice and the several Divisions thereof, and the Judges of the same respectively, in the same manner as formerly to the Superior Courts of Common Law and the Judges of the same respectively."

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Source: Irish Statute Book Database