

ACT NO. IX OF 1899.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 3rd March, 1899.)

An Act to amend the Law relating to Arbitration.

WHEREAS it is expedient to amend the law relating to arbitration by agreement without the intervention of a Court of Justice; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Indian Arbitration Act, 1899.

(2) It extends to the whole of British India; and

(3) It shall come into force on the first day of July, 1899.

Application.

2. Subject to the provisions of section 23, this Act shall apply only in cases where, if the subject-matter submitted to arbitration were the subject of a suit, the suit could, whether with leave or otherwise, be instituted in a Presidency-town:

Provided that the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare this Act applicable in any other local area as if it were a Presidency-town.

Exclusion of certain enactments in certain cases where Act applies.

3. The last thirty-seven words of section 21 of the Specific Relief Act, 1877, and sections 523 to 526 of the Code of Civil Procedure shall not apply to any submission or arbitration to which the provisions of this Act for the time being apply:

Provided that nothing in this Act shall affect any arbitration pending in a Presidency-town at the

commencement

(Sections 4-7.)

commencement of this Act or in any local area at the date of the application thereto of this Act as aforesaid, but shall apply to every arbitration commenced after the commencement of this Act or the date of the application thereof, as the case may be, under any agreement or order previously made :

I of 1882.

Provided, also, that nothing in this Act shall affect the provisions of the Indian Companies Act, 1882, relating to arbitration.

4. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) "the Court" means, in the Presidency-towns, the High Court, and, elsewhere, the Court of the District Judge; and

(b) "submission" means a written agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not.

5. A submission, unless a different intention is expressed therein, shall be irrevocable, except by leave of the Court. Submission to be irrevocable except by leave of Court.

6. A submission, unless a different intention is expressed therein, shall be deemed to include the provisions set forth in the first schedule, in so far as they are applicable to the reference under submission. Provisions implied in submissions.

7. The parties to a submission may agree that the reference shall be to an arbitrator or arbitrators to be appointed by a person designated therein. Reference to arbitrator to be appointed by third person.

Such person may be designated either by name or as the holder for the time being of any office or appointment.

Illustration.

The parties to a submission may agree that any dispute arising between them in respect of the subject-matter of the submission shall be referred to an arbitrator to be appointed by the Bengal Chamber of Commerce, or, as the case may be, to an arbitrator to be appointed by the President for the time being of the Bengal Chamber of Commerce.

8. (1) In

Power for the Court in certain cases to appoint an arbitrator, umpire or third arbitrator.

8. (1) In any of the following cases :—

- (a) where a submission provides that the reference shall be to a single arbitrator, and all the parties do not, after differences have arisen, concur in the appointment of an arbitrator ;
- (b) if an appointed arbitrator neglects or refuses to act, or is incapable of acting, or dies, or is removed, and the submission does not show that it was intended that the vacancy should not be supplied, and 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 an appointed umpire or third arbitrator refuses to act, or is incapable of acting, or dies, or is removed, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties or arbitrators do not supply the vacancy ;

any party may serve the other parties or the arbitrators, as the case may be, with a written notice to 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 application by the party who gave the notice, and after giving the other party an opportunity of being heard, appoint an arbitrator, umpire or third arbitrator, who shall have the like power to act in the reference and make an award as if he had been appointed by consent of all parties.

Power for parties in certain cases to supply vacancy.

9. Where a submission provides that the reference shall be to two arbitrators, one to be appointed by each party, then, unless a different intention is expressed therein,—

- (a) if either of the appointed arbitrators refuses to

to

(Sections 10-11.)

to act, or is incapable of acting, or dies or is removed, the party who appointed him may appoint a new arbitrator in his place ;

- (b) if, on such a reference, one party fails to appoint an arbitrator, either originally or by way of substitution as aforesaid, for seven clear days after the other party, having appointed his arbitrator, has served the party making default with a written notice to make the appointment, 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 :

Provided that the Court may set aside any appointment made in pursuance of clause (b) of this section.

10. The arbitrators or umpire acting under a sub-
mission shall, unless a different intention is expressed therein,—

Powers of
arbitrator.

- (a) have power to administer oaths to the parties and witnesses appearing ;
(b) have power to state a special case for the opinion of the Court on any question of law involved ; and
(c) have power to correct in an award any clerical mistake or error arising from any accidental slip or omission.

11. (1) When the arbitrators or umpire have made their award, they shall sign it and shall give notice to the parties of the making and signing thereof and of the amount of the fees and charges payable to the arbitrators or umpire in respect of the arbitration and award.

Award to be
signed and
filed.

(2) The arbitrators or umpire shall, at the request of any party to the submission or any person claiming under him, and upon payment of the fees and charges due in respect of the arbitration and award,

and

(Sections 12-16.)

and of the costs and charges of filing the award, cause the award, or a signed copy of it, to be filed in the Court; and notice of the filing shall be given to the parties by the arbitrators or umpire.

(3) Where the arbitrators or umpire state a special case under section 10, clause (b), the Court shall deliver its opinion thereon; and such opinion shall be added to, and shall form part of, the award.

Power for Court to enlarge time for making award.
Power to remit award.

12. The time for making an award may, from time to time, be enlarged by order of the Court, whether the time for making the award has expired or not.

13. (1) The Court may, from time to time, remit the award to the reconsideration of the arbitrators or umpire.

(2) Where an award is remitted under sub-section (1), the arbitrators or umpire shall, unless the Court otherwise directs, make a fresh award within three months after the date of the order remitting the award.

Power to set aside award.

14. Where an arbitrator or umpire has misconducted himself, or an arbitration or award has been improperly procured, the Court may set aside the award.

Award when filed to be enforceable as a decree.

15. (1) An award on a submission, on being filed in the Court in accordance with the foregoing provisions, shall (unless the Court remits it to the reconsideration of the arbitrators or umpire, or sets it aside) be enforceable as if it were a decree of the Court.

(2) An award may be conditional or in the alternative.

Illustration.

A dispute concerning the ownership of a diamond ring is referred to arbitration. The award may direct that the party in possession shall pay the other party Rs. 1,000, the said sum to be reduced to Rs. 5 if the ring is returned within fourteen days.

Power to remove arbitrator or umpire.

16. Where an arbitrator or umpire has misconducted himself, the Court may remove him.

17. Any

(Sections 17-20.)

17. Any order made by the Court under this Act may be made on such terms as to costs or otherwise as the Court thinks fit. Costs.

18. The forms set forth in the second schedule, or forms similar thereto, with such variations as the circumstances of each case require, may be used for the respective purposes there mentioned, and, if used, shall not be called in question. Forms.

19. Where any party to a submission to which this Act applies, or any person claiming under him, commences any legal proceedings against any other party to the submission, or any person claiming under him, in respect of any matter agreed to be referred, any party to such legal proceedings may, at any time after appearance and before filing a written statement or taking any other steps in the proceedings, apply to the Court to stay the proceedings; and the Court, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission 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. Power to stay proceedings where there is a submission.

20. The High Court may make rules consistent with this Act as to— Power for High Court to make rules.

(a) the filing of awards and all proceedings consequent thereon or incidental thereto;

(b) the filing and hearing of special cases and all proceedings consequent thereon or incidental thereto;

(c) the transfer to Presidency Courts of Small Causes for execution of awards filed, where the sum awarded does not exceed two thousand rupees;

(d) the staying of any suit or proceeding in contravention of a submission to arbitration; and,

(e) generally,

(Sections 21-23. *The First Schedule.—Provisions to be implied in Submissions.*)

(e) generally, all proceedings in Court under this Act.

Amendment
of section 21,
Act I, 1877.

21. In section 21 of the Specific Relief Act, 1877, after the the words "Code of Civil Procedure" the words and figures "and the Indian Arbitration Act, 1899," shall be inserted, and for the words "a controversy" the words "present or future differences" shall be substituted.

1 of 1877.

Crown to be
bound.

22. The provisions of this Act shall be binding on the Crown.

Special pro-
vision as to
application
of Act to
Rangoon.

23. (1) This Act shall apply within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon in cases where, if the subject-matter submitted to arbitration were the subject of a suit, the suit could, whether with leave or otherwise, be instituted within those local limits.

(2) For the purposes of this Act, the local limits aforesaid shall be deemed to be a Presidency-town and the Recorder of Rangoon shall have all the powers of a High Court.

THE FIRST SCHEDULE.

(See section 6.)

PROVISIONS TO BE IMPLIED IN SUBMISSIONS.

I. If no other mode of reference is provided, the reference shall be to a single arbitrator.

II. If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

III. The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later day to which the arbitrators, by any writing signed by them, may, from time to time, enlarge the time for making the award.

IV. If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire, a notice in writing stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

V. The

(*The First Schedule.—Provisions to be implied in Submissions. The Second Schedule.—Forms.*)

V. The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire, by any writing signed by him, may, from time to time, enlarge the time for making his award.

VI. The parties to the reference, and all persons claiming through them respectively, shall, subject to the provisions of any law for the time being in force, submit to be examined by the arbitrators or umpire on oath or affirmation in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire, all books, deeds, papers, accounts, writings and documents within their possession or power respectively which may be required or called for, and do all other things which during the proceedings on the reference the arbitrators or umpire may require.

VII. The witnesses on the reference shall, if the arbitrators or umpire think fit, be examined on oath.

VIII. The award to be made by the arbitrators or umpire shall be final and binding on the parties and the persons claiming under them respectively.

IX. The costs of the reference and award shall be in the discretion of the arbitrators or umpire, who may direct to and by whom, and in what manner, those costs or any part thereof shall be paid, and may 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.

THE SECOND SCHEDULE.

(See section 18.)

FORM I.

Submission to single arbitrator.

In the matter of the Indian Arbitration Act, 1899:—

Whereas differences have arisen and are still subsisting between A. B. of _____ and C. D. of _____ concerning _____;

Now we, the said A. B. and C. D., do hereby agree to refer the said matters in difference to the award of X. Y.

(Signed) A. B.

C. D.

Dated the

189 .

(The Second Schedule.—Forms.)

FORM II.

Submission of particular dispute to single arbitrator.

In the matter of the Indian Arbitration Act, 1899 :—

Whereas differences have arisen and are still subsisting between A. B. of _____ and C. D. of _____ concerning _____ ;

Now we, the said A. B. and C. D., do hereby agree to refer the said matters in difference to the award of X. Y.

(Signed) A. B.

C. D.

Dated the _____, 189 .

FORM III.

Appointment of single arbitrator under agreement to refer future differences to arbitration.

In the matter of the Indian Arbitration Act, 1899 :—

Whereas, by an agreement in writing, dated the _____ day of _____, 18 _____, and made between A. B. of _____ and C. D. of _____, it is provided that differences arising between the parties thereto shall be referred to an arbitrator as therein mentioned ;

And whereas differences within the meaning of the said provision have arisen and are still subsisting between the said parties concerning _____ ;

Now we, the said parties, A. B. and C. D., do hereby refer the said matters in difference to the award of X. Y.

(Signed) A. B.

C. D.

Dated the _____, 189 .

FORM IV.

Enlargement of time by arbitrator by endorsement on submission.

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of _____ and C. D. of _____ :—

I hereby enlarge the time of making my award in respect of the matters in difference referred to me by the within (or above) submission until the _____ day of _____ 189 .

(Signed) X. Y.,

Arbitrator.

Dated the _____, 189 .

(The Second Schedule.—Forms.)

FORM V.

Special case.

In the matter of the Indian Arbitration Act, 1899, and
an arbitration between A. B. of _____ and
C. D. of _____ :—

The following special case is, pursuant to the provisions
of section 10, clause (b), of the said Act, stated for the opinion
of the

* :—

* Here specify
the Court.*(Here state the facts concisely in numbered paragraphs.)*

The questions of law for the opinion of the said Court
are :—

First, whether _____

Secondly, whether _____

(Signed) X. Y.,

Arbitrator.

Dated the _____, 189 _____

FORM VI.

Award.

In the matter of the Indian Arbitration Act, 1899, and
an arbitration between A. B. of _____ and C. D.
of _____ :—

Whereas in pursuance of an agreement in writing
dated the _____ day of _____, 189 _____, and made
between A. B. of _____ and C. D. of _____
, the said A. B. and C. D. have referred to
me, X. Y., the matters in difference between them concerning
(or as the case may be) ;

Now I, the said X. Y., having duly considered the matters
submitted to me, do hereby make my award as follows :—

I award—

(1) that _____

(2) that _____

(Signed) X. Y.,

Arbitrator.

Dated the _____, 189 _____