



# Arbitration Act 1996

## 1996 CHAPTER 23

### PART III

#### RECOGNITION AND ENFORCEMENT OF CERTAIN FOREIGN AWARDS

##### *Enforcement of Geneva Convention awards*

#### **99 Continuation of Part II of the Arbitration Act 1950.**

Part II of the <sup>M1</sup>Arbitration Act 1950 (enforcement of certain foreign awards) continues to apply in relation to foreign awards within the meaning of that Part which are not also New York Convention awards.

#### **Marginal Citations**

**M1** 1950 c. 27.

##### *Recognition and enforcement of New York Convention awards*

#### **100 New York Convention awards.**

- (1) In this Part a “New York 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.
- (2) For the purposes of subsection (1) and of the provisions of this Part relating to such awards—
  - (a) “arbitration agreement” means an arbitration agreement in writing, and
  - (b) an award shall be treated as made at the seat of the arbitration, regardless of where it was signed, despatched or delivered to any of the parties.

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Arbitration Act 1996, Part III. (See end of Document for details)*

In this subsection “agreement in writing” and “seat of the arbitration” have the same meaning as in Part I.

- (3) If Her Majesty by Order in Council declares that a state specified in the Order is a party to the New York Convention, or is a party in respect of any territory so specified, the Order shall, while in force, be conclusive evidence of that fact.
- (4) In this section “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.

### **101 Recognition and enforcement of awards.**

- (1) A New York Convention award shall be recognised as binding on the persons as between whom it was made, and may accordingly be relied on by those persons by way of defence, set-off or otherwise in any legal proceedings in England and Wales or Northern Ireland.
- (2) A New York Convention award may, by leave of the court, be enforced in the same manner as a judgment or order of the court to the same effect.

As to the meaning of “the court” see section 105.

- (3) Where leave is so given, judgment may be entered in terms of the award.

### **102 Evidence to be produced by party seeking recognition or enforcement.**

- (1) A party seeking the recognition or enforcement of a New York 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.
- (2) If the award or agreement is in a foreign language, the party must also produce a translation of it certified by an official or sworn translator or by a diplomatic or consular agent.

### **103 Refusal of recognition or enforcement.**

- (1) Recognition or enforcement of a New York Convention award shall not be refused except in the following cases.
- (2) Recognition or enforcement of the 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;
  - (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;
  - (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;
  - (d) 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 (but see subsection (4));

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- (e) that the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, with the law of the country in which the arbitration took place;
  - (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) Recognition or enforcement of the 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 recognise or enforce the award.
- (4) An award which contains decisions on matters not submitted to arbitration may be recognised or 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 the award has been made to such a competent authority as is mentioned in subsection (2)(f), the court before which the award is sought to be relied upon may, if it considers it proper, adjourn the decision on the recognition or enforcement of the award.

It may also on the application of the party claiming recognition or enforcement of the award order the other party to give suitable security.

#### **104 Saving for other bases of recognition or enforcement.**

Nothing in the preceding provisions of this Part affects any right to rely upon or enforce a New York Convention award at common law or under section 66.

**Status:**

Point in time view as at 01/06/2009.

**Changes to legislation:**

There are currently no known outstanding effects for the Arbitration Act 1996, Part III.