

THE ARBITRATION (RECOGNITION AND  
ENFORCEMENT OF FOREIGN AWARDS) ACT

Act  
20 of 2001.

[ 3rd August, 2001.]

1. This Act may be cited as the Arbitration (Recognition and Enforcement of Foreign Awards, Act.

Short title.

2. In this Act—

Intrepretation.

“the Convention” means the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done in New York on the 10th day of June, 1958.

3.—(1) Subject to subsection (2), the Convention shall have the force of law in Jamaica.

Application of Convention.

(2) The provisions of the Convention shall apply—

(a) to any award where reciprocal provisions have been made in relation to the recognition and enforcement of such an award made in the territory of a State party to the Convention; and

(b) to any difference which may arise out of any legal relationship, whether or not contractual, which in Jamaica is a commercial relationship.

(3) The text of the Convention is set out in the Schedule.

Schedule.

4.—(1) A foreign award shall, subject to the provisions of this Act, be enforceable in Jamaica either by action or under the provisions of section 13 of the Arbitration Act.

Effect of foreign award.

(2) Any foreign award which would be enforceable under this Act shall be treated as binding for all purposes on the persons between whom it was made, and may accordingly be relied on by any of these persons by way of defence, set off or otherwise in any legal proceedings in Jamaica, and any references in this Act to enforcing a foreign award, shall be construed as including references to relying on an award.

*ARBITRATION (RECOGNITION AND ENFORCEMENT OF  
FOREIGN AWARDS)*

SCHEDULE

(Section 3)

CONVENTION ON THE RECOGNITION AND ENFORCEMENT OF FOREIGN  
ARBITRAL AWARDS

*Article I*

1. This Convention shall apply to the recognition and enforcement of arbitral awards made in the territory of a State other than the State where the recognition and enforcement of such awards are sought, and arising out of differences between persons, whether physical or legal. It shall also apply to arbitral awards not considered as domestic awards in the State where their recognition and enforcement are sought.

2. The term "arbitral awards" shall include not only awards made by arbitrators appointed for each case but also those made by permanent arbitral bodies to which the parties have submitted.

3. When signing, ratifying or acceding to this Convention, or notifying extension under article X hereof, any state may on the basis of reciprocity declare that it will apply the Convention to the recognition and enforcement of awards made only in the territory of another Contracting State. It may also declare that it will apply the Convention only to differences arising out of legal relationships, whether contractual or not, which are considered as commercial under the national law of the State making such declaration.

*Article II*

1. Each Contracting State shall recognize an agreement in writing under which the parties undertake to submit to arbitration all or any differences which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration.

2. The term "agreement in writing" shall include an arbitral clause in a contract or an arbitration agreement, signed by the parties or contained in an exchange of letters or telegrams.

3. The court of a Contracting State, when seized of an action in a matter in respect of which the parties have made an agreement within the meaning of this article, shall, at the request of one of the parties, refer the parties to arbitration, unless it finds that the said agreement is null and void, inoperative or incapable of being performed.

*Article III*

Each Contracting State shall recognize arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon, under the conditions laid down in the following articles. There shall not be imposed substantially more onerous conditions or higher fees or charges on the recognition or enforcement of arbitral awards to

which this Convention applies than are imposed on the recognition or enforcement of domestic arbitral awards.

*Article IV*

1. To obtain the recognition and enforcement mentioned in the preceding article, the party applying for recognition and enforcement shall, at the time of the application, supply:

- (a) The duly authenticated original award or a duly certified copy thereof;
- (b) The original agreement referred to in article II or a duly certified copy thereof.

2. If the said award or agreement is not made in an official language of the country in which the award is relied upon, the party applying for recognition and enforcement of the award shall produce a translation of these documents into such language. The translation shall be certified by an official or sworn translator or by a diplomatic or consular agent.

*Article V*

1. Recognition and enforcement of the award may be refused, at the request of the party against whom it is invoked, only if that party furnishes to the competent authority where the recognition and enforcement is sought, proof that:

- (a) The parties to the agreement referred to in article II were, under the law applicable to them, under some incapacity, or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made; or
- (b) The party against whom the award is invoked was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case; or
- (c) The award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced; or
- (d) The composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties, or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or
- (e) 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, that award was made.