

International Arbitration (Amendment) Bill

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Bill No: 38/2001

Read the first time: 25th September 2001

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International Arbitration (Amendment) Bill

Bill No. 38/2001

Read the first time on 25th September 2001.

An Act to amend the International Arbitration Act (Chapter 143A of the 1995 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the International Arbitration (Amendment) Act 2001 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 2

2. Section 2 of the International Arbitration Act (referred to in this Act as the principal Act) is amended —

- (a) by deleting the definition of “arbitration agreement” in subsection (1) and substituting the following definitions:

““appointing authority” means the authority designated under section 8(2) or (3);

“arbitration agreement” means an agreement in writing referred to in Article 7 of the Model Law and includes an agreement deemed or constituted under subsection (3) or (4);”;

- (b) by inserting, immediately after the word “award” in the definition of “award” in subsection (1), the words “but excludes any orders or directions made under section 12”; and
- (c) by inserting, immediately after subsection (2), the following subsections:

“(3) Where in any arbitral or legal proceedings, a party asserts the existence of an arbitration agreement in a pleading, statement of case or any other document in circumstances in which the assertion calls for a reply and the assertion is not denied, there shall be deemed to be an effective arbitration agreement as between the parties to the proceedings.

(4) A reference in a bill of lading to a charterparty or some other document containing an arbitration clause shall constitute an arbitration agreement if the reference is such as to make that clause part of the bill of lading.”.

Amendment of section 6

3. Section 6 of the principal Act is amended —

- (a) by deleting subsection (1) and substituting the following subsection:

“(1) Notwithstanding Article 8 of the Model Law, where any party to an arbitration agreement to which this Act applies institutes any proceedings in any court against any other party to the agreement in respect of any matter which is the subject of the agreement, any party to the agreement may, at any time after appearance and before delivering any pleading or taking any other step in the proceedings, apply to that court to stay the proceedings so far as the proceedings relate to that matter.”;

- (b) by inserting, immediately after the word “proceedings” in the 4th line of subsection (2), the words “so far as the proceedings relate to the matter,”; and
- (c) by deleting subsection (4) and substituting the following subsections:

“(4) Where no party to the proceedings has taken any further step in the proceedings for a period of not less than 2 years after an order staying the proceedings has been made, the court may, on its own motion, make an order discontinuing the proceedings without prejudice to the right of any of the parties to apply for the discontinued proceedings to be reinstated.

(5) For the purposes of this section and sections 7 and 11A —

- (a) a reference to a party shall include a reference to any person claiming through or under such party;
- (b) “court” means the High Court, District Court, Magistrate’s Court or any other court in which proceedings are instituted.”.

Amendment of section 7

4. Section 7 (1) of the principal Act is amended by deleting the word “Admiralty” in the 1st line and in the marginal note thereto.

Amendment of section 8

5. Section 8 of the principal Act is amended by deleting subsection (2) and substituting the following subsections:

“(2) The Chairman of the Singapore International Arbitration Centre shall be taken to have been specified as the authority competent to perform the functions under Article 11(3) and (4) of the Model Law.

(3) The Chief Justice may, if he thinks fit, by notification published in the *Gazette*, appoint any other person to exercise the powers of the Chairman of the Singapore International Arbitration Centre under subsection (2).”.

New section 8A

6. The principal Act is amended by inserting, immediately after section 8, the following section:

“Application of Limitation Act

8A.—(1) The Limitation Act (Cap. 163) shall apply to arbitration proceedings as it applies to proceedings before any court and a reference in that Act to the commencement of any action shall be construed as a reference to the commencement of arbitration proceedings.

(2) The High Court may order that in computing the time prescribed by the

Limitation Act for the commencement of proceedings (including arbitration proceedings) in respect of a dispute which was the subject-matter of —

- (a) an award which the High Court orders to be set aside or declares to be of no effect; or
- (b) the affected part of an award which the High Court orders to be set aside in part or declares to be in part of no effect,

the period between the commencement of the arbitration and the date of the order referred to in paragraph (a) or (b) shall be excluded.

(3) 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, the cause of action shall, for the purpose of the Limitation Act, 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.”.

New section 9A

7. The principal Act is amended by inserting, immediately after section 9, the following section:

“Default appointment of arbitrators

9A.—(1) Notwithstanding Article 11(3) of the Model Law, in an arbitration with 3 arbitrators, each party shall appoint one arbitrator, and the parties shall by agreement appoint the third arbitrator.

(2) Where the parties fail to agree on the appointment of the third arbitrator within 30 days of the receipt of the first request by either party to do so, the appointment shall be made, upon the request of a party, by the appointing authority.”.

Amendment of section 11

8. Section 11(1) of the principal Act is amended by deleting the words “the arbitration agreement is contrary to public policy” and substituting the words “it is contrary to public policy to do so”.

New section 11A

9. The principal Act is amended by inserting, immediately after section 11, the following section: