

Arbitration (Amendment) Bill

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Bill No: 36/1979

Read the first time: 11th December 1979

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Arbitration (Amendment) Bill

Bill No. 36/1979

Read the first time on 11th December 1979.

An Act to amend the Arbitration Act (Chapter 16 of the Revised Edition).

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

Short title

1. This Act may be cited as the Arbitration (Amendment) Act, 1979.

Amendment of section 8

2. Section 8 of the Arbitration Act is amended —

- (a) by deleting paragraph (c) of subsection (1) and substituting the following: —

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

- (b) by inserting, immediately after subsection (2), the following subsection: —

“(3) In any case where —

- (a) an arbitration agreement provides for the appointment of an arbitrator or umpire by a person who is neither one of the parties nor an existing arbitrator (whether the provision applies directly or in default of agreement by the parties or otherwise); and

- (b) that person refuses to make the appointment or does not make it within the time specified in the agreement or, if no time is so specified, within a reasonable time,

any party to the agreement may serve the person in question with a written notice to appoint an arbitrator or umpire and, if the appointment is not made within seven clear days after the service of the notice, the court or a judge thereof may, on the application of the party who gave the notice, appoint an arbitrator or umpire who shall have the like powers to act in the reference and make an award as if he had been appointed in accordance with the terms of the agreement.”.

Repeal and re-enactment of section 10

3. Section 10 of the Arbitration Act is repealed and the following substituted therefor: —

“Majority award of three arbitrators

10. Unless the contrary intention is expressed in the arbitration agreement, in any case where there is a reference to three arbitrators, the award of any two of the arbitrators shall be binding.”.

Repeal and re-enactment of section 28

4. Section 28 of the Arbitration Act is repealed and the following substituted therefor: —

“Judicial review of arbitration awards

28.—(1) Without prejudice to the right of appeal conferred by subsection (2) of this section, the court shall not have jurisdiction to set aside or remit an award on an arbitration agreement on the ground of errors of fact or law on the face of the award.

(2) Subject to subsection (3) of this section, an appeal shall lie to the court on any question of law arising out of an award made on an arbitration agreement; and on the determination of such an appeal the court may by order —

- (a) confirm, vary or set aside the award; or
- (b) remit the award to the arbitrator or umpire for reconsideration together with the court’s opinion on the question of law which was the subject of the appeal,

and where the award is remitted under paragraph (b) of this subsection the arbitrator or umpire shall, unless the order otherwise directs, make his award within three months of the date of the order.

(3) An appeal under this section may be brought by any of the parties to the reference —

- (a) with the consent of all the other parties to the reference; or
- (b) subject to section 28B of this Act, with the leave of the court.

(4) The court shall not grant leave under paragraph (b) of subsection (3) of this section unless it considers that, having regard to all the circumstances, the determination of the question of law concerned could substantially affect the rights of one or more of the parties to the arbitration agreement; and the court may grant any leave subject to such conditions as it considers appropriate.

(5) Subject to subsection (6) of this section, if an award is made and, on an

application made by any of the parties to the reference, —

- (a) with the consent of all the other parties to the reference; or
- (b) subject to section 28B of this Act, with the leave of the court,

it appears to the court that the award does not or does not sufficiently set out the reasons for the award, the court may order the arbitrator or umpire concerned to state the reasons for his award in sufficient detail to enable the court, should an appeal be brought under this section, to consider any question of law arising out of the award.

(6) In any case where an award is made without any reason being given, the court shall not make an order under subsection (5) of this section unless it is satisfied —

- (a) that before the award was made one of the parties to the reference gave notice to the arbitrator or umpire concerned that a reasoned award would be required; or
- (b) that there is some special reason why such a notice was not given.

(7) No appeal shall lie to the Court of Appeal from a decision of the court on an appeal under this section unless the court or the Court of Appeal —

- (a) gives leave; and
- (b) considers the question of law to which the decision relates either as one of general public importance or as one which for some other special reason should be considered by the Court of Appeal.

(8) Where the award of an arbitrator or umpire is varied on appeal, the award as varied shall have effect (except for the purposes of this section) as if it were the award of the arbitrator or umpire.”.

New sections 28A to 28D

5. The Arbitration Act is amended by inserting, immediately after section 28, the following sections: —

“Determination of preliminary point of law by court

28A.—(1) Subject to subsection (2) of this section and subject to section 28B of this Act, on an application to the court made by any of the parties to a reference —

- (a) with the consent of an arbitrator who has entered on the reference or, if an umpire has entered on the reference, with his consent; or

(b) with the consent of all the other parties,

the court shall have jurisdiction to determine any question of law arising in the course of the reference.

(2) The court shall not entertain an application under paragraph (a) of subsection (1) of this section with respect to any question of law unless it is satisfied that —

- (a) the determination of the application might produce substantial savings in costs to the parties; and
- (b) the question of law is one in respect of which leave to appeal would be likely to be given under paragraph (b) of subsection (3) of section 28 of this Act.

(3) A decision of the court under this section shall be deemed to be a judgment of the court within the meaning of section 29 of the Supreme Court of Judicature Act (Cap. 15), but no appeal shall lie from such a decision unless the court or the Court of Appeal —

- (a) gives leave; and
- (b) considers the question of law to which the decision relates either as one of general public importance or as one which for some other special reason should be considered by the Court of Appeal.

Exclusion agreements affecting rights under sections 28 and 28A

28B.—(1) Subject to the provisions of this section and section 28C of this Act —

- (a) the court shall not, under paragraph (b) of subsection (3) of section 28 of this Act, grant leave to appeal with respect to a question of law arising out of an award; and
- (b) the court shall not, under paragraph (b) of subsection (5) of section 28 of this Act, grant leave to make an application with respect to an award; and
- (c) no application may be made under paragraph (a) of subsection (1) of section 28A of this Act with respect to a question of law,

if the parties to the reference in question have entered into an agreement in writing (in this section referred to as an “exclusion agreement”) which excludes the right of appeal under section 28 of this Act in relation to that award or, in a case falling