

39 Meaning of “final award”

For the purposes of this Part, an award shall not be deemed final if any proceedings for the purpose of contesting the validity of the award are pending in the country in which it was made.

40 Saving for other rights, etc.

Nothing in this Part shall –

- (a) prejudice any rights which any person has of enforcing in Jersey any award or of availing himself or herself of any award to which the Arbitration (International Investment Disputes) (Jersey) Order 1979² applies;
- (b) prejudice any rights which any person would have had of enforcing in Jersey any award or of availing the person in Jersey of any award if this Part had not been enacted; or
- (c) apply to any award made on an arbitration agreement governed by the law of Jersey.

PART 4**ENFORCEMENT OF AWARDS UNDER NEW YORK CONVENTION****41 Replacement of Part 3 in certain cases**

This Part shall have effect with respect to the enforcement of Convention awards; and where a Convention award would, but for this Article, be also a foreign award within the meaning of Part 3, that Part shall not apply to it.

42 Effect of Convention awards

- (1) A Convention award shall, subject to the following provisions of this Part, be enforceable in Jersey either by action or in the same manner as the award of an arbitrator is enforceable by virtue of Article 29.
- (2) Any Convention award which would be enforceable under this Part shall be treated as binding for all purposes on the persons as between whom it was made, and may accordingly be relied on by any of those persons by way of defence, set off or otherwise in any legal proceedings in Jersey; and any reference in this Part to enforcing a Convention award shall be construed as including references to relying on such an award.

43 Evidence

The party seeking to enforce a Convention award must produce –

- (a) the duly authenticated original award or a duly certified copy of it;
- (b) the original arbitration agreement or a duly certified copy of it; and

- (c) where the award or agreement is in a foreign language, a translation of it certified by an official or sworn translator or by a diplomatic or consular agent.

44 Refusal of enforcement

- (1) Enforcement of a Convention award shall not be refused except in the cases mentioned in this Article.
- (2) Enforcement of a Convention 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 the party) 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 the person was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present the person's case;
 - (d) subject to paragraph (4), 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;
 - (e) that the composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, with the law of the country where the arbitration took place; or
 - (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) Enforcement of a Convention 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 enforce the award.
- (4) A Convention award which contains decisions on matters not submitted to arbitration may be 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 a Convention award has been made to such a competent authority as is mentioned in paragraph (2)(f), the Court may, if it thinks fit, adjourn the proceedings and may, on the application of the party seeking to enforce the award, order the other party to give security.

45 Saving

Nothing in this Part shall prejudice any right to enforce or rely on an award otherwise than under this Part or Part 3.

PART 5
SUPPLEMENTARY

46 Rules of Court

The power of the Court to make Rules of Court under Article 13 of the Royal Court (Jersey) Law 1948³ shall include power, from time to time, to make rules dealing generally with all matters of procedure and incidental matters arising under this Law.

47 Service of notices

Any notice or other document required or authorized by or under this Law to be given to or served on any person shall be validly given or served if served in a manner provided –

- (a) by the arbitration agreement;
- (b) by the Royal Court Rules 1992;⁴ or
- (c) in respect of the service within Jersey of process in a civil or commercial matter, by the Service of Process and Taking of Evidence (Jersey) Law 1960.⁵

48 Citation

This Law may be cited as the Arbitration (Jersey) Law 1998.