

Consolidated text

- (a) the original award or a copy thereof duly authenticated in the manner required by the law of the country in which it was made,
- (b) evidence proving that the award has become final, and
- (c) such evidence as may be necessary to prove that the award is a foreign award and that the conditions mentioned in paragraphs (a), (b) and (c) of subsection (1) of the last preceding section are satisfied.

(2) In any case where any document required to be produced under the last preceding subsection is in a foreign language, it shall be the duty of the party seeking to enforce the award to produce a translation thereof in the English language certified as correct by an official or sworn translator or by a diplomatic or consular agent of the country to which that party belongs, or certified as correct in such other manner as may be sufficient according to the law of the Island.

Meaning of "final award".

35. For the purposes of this Part of this Law, 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.

PART III

ENFORCEMENT OF CONVENTION AWARDS

Replacement of Part II in certain cases.

36. Sections thirty-seven, thirty-eight and thirty-nine of, and paragraph 3 of the First Schedule to, this Law shall have effect with respect of the enforcement

of Convention awards; and, where a Convention award would, but for this section, be also a foreign award within the meaning of Part II of this Law, that Part shall not apply to it.

Effect of Convention awards.

37. (1) A Convention award shall, subject to the following provisions of this Part of this Law, be enforceable in the Island either by action or in the same manner as the award of an arbitrator is enforceable by virtue of section twenty-six of this Law.

(2) Any Convention award which would be enforceable under this Part of this Law 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 the Island; and any reference in this Part of this Law to enforcing a Convention award shall be construed as including references to relying on such an award.

Evidence.

38. The party seeking to enforce a Convention award must produce –

- (a) the original award or a copy thereof duly authenticated in the manner required by the law of the country in which it was made,
- (b) the original arbitration agreement or a copy thereof duly authenticated in the manner required by the law of the country in which it was made, and
- (c) where the award or agreement is in a foreign language, a translation thereof in the English language

certified as correct by an official or sworn translator or by a diplomatic or consular agent of the country to which that party belongs, or certified as correct in such other manner as may be sufficient according to the law of the Island.

Refusal of enforcement.

39. (1) Enforcement of a Convention award shall not be refused except in the cases mentioned in this section.

(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 was under the law applicable to him, under some incapacity, or
- (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, or
- (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, or
- (d) subject to subsection (4) of this section, 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, or

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- (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 (f) of subsection (2) of this section, 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.

PART IV
SUPPLEMENTARY

Rules of Court.

40. The Royal Court may, from time to time, make rules dealing generally with all matters of procedure and incidental matters arising under this Law and for carrying out this Law into effect.

NOTE

The following Rules have been made by Order of the Royal Court under section 40:

Royal Court (Arbitration) (Alderney) Rules, 1984.

Service of notices.

41. A notice which may be served for the purpose of this Law shall be validly served –

- (a) on any person, if delivered to him, left, or sent by registered post or by recorded delivery service to him, at his usual or last known place of abode,
- (b) on any firm, if delivered to any partner of the firm or left at, or sent by registered post or by recorded delivery service to, the principal or last known principal place of business of the firm,
- (c) on any body corporate, if left at, or sent by registered post or by recorded delivery service to, its registered office if situate in the Island or, if its registered office is not so situate, its principal or last known principal place of business in the Island,

and a notice shall, as well, be validly served if served on any person, firm or body corporate in any other manner provided in the arbitration agreement.

Interpretation.

42. (1) In this Law, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"arbitration agreement" means –

- (a) in section five of this Law and in the definition below of "**Convention award**", an agreement in writing (including an agreement contained in an exchange of letters or telegrams) to submit to arbitration present or future differences capable of settlement by arbitration, and
- (b) elsewhere, a written agreement to submit present or future differences to arbitration, whether an arbitrator is mentioned therein or not,

"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,

"the Court" means the Court of Alderney,

"The Geneva Convention" means the Convention on the Execution of Foreign Arbitral Awards signed at Geneva on behalf of His late Majesty, King George V, on the 26th September, 1927,

"the Island" means the Island of Alderney,

"the Law of 1969" means the Court of Alderney (Appeals) Law, 1969^a,

"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 the 10th June, 1958,

"the Protocol" means the Protocol on Arbitration Clauses signed on behalf of His late Majesty, King George V, at a Meeting of the Assembly of the League of Nations held on the 24th September, 1923,

"the Royal Court" means –

- (a) in sections nineteen and twenty of this Law, the Royal Court of Guernsey sitting as an Appellate Court for the Court of Alderney, and
- (b) in section forty of this Law, the Royal Court of Guernsey sitting as a Full Court.

(2) If Her Majesty by Order in Council declares that any State specified in the Order is a party to the New York Convention, the Order shall, while in force, be conclusive evidence that that State is a party to that Convention.

^a Ordres en Conseil Vol. XXII, p. 192.

(3) Any reference in this Law to any other enactment shall, except where the context otherwise requires, be construed as including a reference to that enactment as amended, repealed or replaced, extended or applied by or under any other enactment including this Law.

(4) The Interpretation (Guernsey) Law, 1948^b, shall apply to the interpretation of this Law as it applies to the interpretation of a Guernsey enactment.

Transitional provisions and savings.

43. The transitional provisions and savings in the First Schedule to this Law shall have effect.

Repeals.

44. The Laws set out in the Second Schedule to this Law are hereby repealed.

Citation.

45. This Law may be cited as the Arbitration (Alderney) Law, 1983.

Commencement.

46. This Law shall come into force on such day as the States may by Ordinance appoint, and different days may be so appointed for different provisions of this Law, or for different purposes.

NOTE

The Law was brought into force on 16th January, 1984 by the Arbitration

^b Ordres en Conseil Vol. XIII, p. 355.