

- (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 section 43(1) are satisfied.

(2) In any case where any document required to be produced under subsection (1) of this section is in a foreign language, it shall be the duty of the party seeking to enforce the award to produce a translation certified as correct 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 Gibraltar.

(3) Subject to the provisions of this section, rules of court may be made by the Chief Justice with respect to the evidence which must be furnished by a party seeking to enforce an award under this Part.

Meaning of final award.

- (1930 c.15, s.5) 45. 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.

Savings.

- (1930 c.15, s.6) 46. Nothing in this Part shall—
- (a) prejudice any rights which any person would have had of enforcing in Gibraltar any award, or of availing himself in Gibraltar of any award if this Part had not been enacted; or
 - (b) apply to any award made on an arbitration agreement governed by the law of Gibraltar.

PART IV.

AWARDS UNDER THE NEW YORK CONVENTION.

Interpretation.

- (1975 c.3, s.7) 47. (1) In this Part—
- “arbitration agreement” means 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;

“Convention award” means an award made in pursuance of an arbitration agreement in the territory of a State which is a party to the New York Convention; but does not include an award made in pursuance of an arbitration agreement in Gibraltar; and

“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 day of June 1958.

(2) If the Minister responsible for justice by notice in the Gazette states that Her Majesty by Order in Council has declared that any State specified in the Order is a party to the New York Convention, such notice shall, while in force, be conclusive evidence that that State is a party to that Convention.

Staying court proceedings.

48. (1) Subject to the provisions of subsection (2), if any party to an arbitration agreement, or any person claiming through or under him, commences any legal proceedings in any court against any other party to the agreement, or any person claiming through or under him, in respect of any matter agreed to be referred, any party to the proceedings may at any time after acknowledgement of service, and before delivering any pleadings or taking any other steps in the proceedings, apply to the court to stay the proceedings; and the court, unless satisfied that the arbitration agreement is null and void, inoperative or incapable of being performed or that there is not in fact any dispute between the parties with regard to the matter agreed to be referred, shall make an order staying the proceedings. *(1975 c.3 s.1)*

(2) Subsection (1)–

- (a) does not apply in relation to a domestic arbitration agreement, but
- (b) applies, in relation to other arbitration agreements, instead of section 8.

(3) In this section “domestic arbitration agreement” means an arbitration agreement which does not provide expressly or by implication, for arbitration in a country other than Gibraltar and to which neither–

- (a) an individual who is not a Gibraltarian or who is habitually resident in any country other than Gibraltar; nor
- (b) a body corporate which is incorporated in, or whose central management and control is exercised in, any country other than Gibraltar,

is a party at the time the proceedings are commenced.

Replacement of former provisions.

(1975 c.3, s.2) 49. Sections 50, 51, 52 and 53 shall have effect with respect to 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 III, that Part shall not apply to it.

Effect of Convention awards.

(1975 c.3 s.3) 50. (1) A Convention award shall, subject to the following provisions of this Act, be enforceable in Gibraltar, either by action or in the same manner as the award of an arbitrator is enforceable by virtue of section 21.

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

Evidence.

(1975 c.3, s.2) 51. 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.

Refusal of enforcement.

(1975 c.3 s.5) 52. (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 agreement 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 the provisions of subsection (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; or
- (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 subsection (2) (f) the court before which enforcement of the award is sought 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.

Right to enforce or rely on an award.

53. Nothing in this Act shall prejudice any right to enforce or rely on an award otherwise than under Parts III and IV.

54. *Omitted.*

SCHEDULE 1.