ARBITRATION ACT 1976

(Chapter 24)

Arrangement of Sections

PART I
GENERAL PROVISIONS AS TO ARBITRATION

Effect of Arbitration Agreements, etc.

1. Authority of arbitrators and umpires to be irrevocable.
2. Death of party.
3. Bankruptcy.
4. Staying court proceedings where there is submission to arbitration.
5. Staying court proceedings where party proves arbitration agreement.
6. Reference of interpleader issues to arbitration.

Arbitrators and Umpires

7. When reference is to a single arbitrator.
8. Power of parties in certain cases to supply vacancy.
9. Umpires.
10. Agreements for reference to three arbitrators.
11. Power of court in certain cases to appoint an arbitrator or umpire.
12. Reference to special referee.
12A. Specific powers of arbitrator exercisable by High Court.

Conduct of Proceedings, Witnesses etc.

13. Conduct of Proceedings, witnesses, etc.

Provision as to Awards

14. Time for making award.
14A. Want of prosecution.
15. Interim awards.
16. Specific performance.
17. Awards to be final.
18. Power to correct slips.

Costs, Fees and Interest

19. Costs.
20. Taxation of arbitrator's or umpire's fees.
20A. Power of arbitrator to award interest.
21. Interest on awards.

Special Cases, Remission and Setting aside of Awards, etc.

22. Statement of case.
23. Power to remit award.
24. Removal of arbitrator and setting aside of award.
25. Power of court to give relief where arbitrator is not impartial or the dispute involves question of fraud.
26. Power of court where arbitrator is removed or authority of arbitrator is revoked.

Enforcement of Award

27. Enforcement of award.

Miscellaneous

28. Power of court to extend time for commencing arbitration proceedings.
28A. Limitation of time for commencing arbitration proceedings.
29. Terms as to costs, etc.
30. Government to be bound.
31. Application of Part I to statutory arbitrations.

PART II
ENFORCEMENT OF CERTAIN FOREIGN AWARDS

32. Awards to which Part II applies.
33. Effect of foreign awards.
34. Conditions for enforcement of foreign awards.
35. Evidence.
36. Meaning of 'final award'.

PART III
ENFORCEMENT OF CONVENTION AWARDS

37. Replacement of Part II in certain cases.
38. Effect of Convention awards.
39. Evidence.
40. Refusal of enforcement.

PART IV
SUPPLEMENTARY

41. Interpretation.
42. Transitional provisions and savings.
43. .....
44. Short title and commencement.
Schedule 1 Transitional Provisions and Savings.
Schedule 2 .....

Received Royal Assent: 27 October 1976

Passed: 21 December 1976

GENERAL NOTE: References to a Board of Tynwald are to be construed in accordance with the Government Departments Act 1987 s 7.

AN ACT

to consolidate with amendments the law relating to arbitration, and for connected purposes.

PART I
GENERAL PROVISIONS AS TO ARBITRATION

Effect of Arbitration Agreements, etc.

1 Authority of arbitrators and umpires to be irrevocable

The authority of an arbitrator or umpire appointed by, or by virtue of, an arbitration agreement shall, unless a contrary intention is expressed in the agreement, be irrevocable except by leave of the Court.

2 Death of party

(1) An arbitration agreement shall not be discharged by the death of any party thereto, either as respects the deceased or any other party, but shall in such event be enforceable by or against the personal representative of the deceased.

(2) The authority of an arbitrator shall not be revoked by the death of any party by whom he was appointed.

(3) Nothing in this section shall be taken to affect the operation of any enactment or rule of law by virtue of which any right of action is extinguished by the death of a person.

3 Bankruptcy

(1) Where it is provided by a term in a contract to which a bankrupt is a party that any differences arising thereout or in connection therewith shall be referred to arbitration, the said term shall, if the trustee in bankruptcy adopts the contract, be enforceable by or against him so far as relates to any such differences.

(2) Where a person who has been adjudged bankrupt had, before the commencement of the bankruptcy, become a party to an arbitration agreement, and any matter to which the agreement applies requires to be determined in connection with or for the purposes of the bankruptcy proceedings, then, if the case is one to which subsection (1) above does not apply, any other party to the agreement or the trustee in bankruptcy may apply to the Court for an order directing that the matter in question shall be referred to arbitration in accordance with the agreement, and the Court may, if it is of the opinion that having regard to all the circumstances of the case, the matter ought to be determined by arbitration, make in order accordingly.

4 Staying court proceedings where there is submission to arbitration

Subject to section 5 of this Act, if any party to an arbitration agreement, or any person claiming through or under him, commences any legal proceedings in the 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 those legal proceedings may at any time after appearance, and before delivering any pleadings or taking any other steps in the proceedings, apply to the Court to stay the proceedings; and the Court, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the agreement, and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceedings.

5 Staying court proceedings where party proves arbitration agreement

(1) If any party to an arbitration agreement to which this section applies, or any person claiming through or under him, commences any legal proceedings in the Court against any other party to the agreement, or any person claiming through him or under him, in respect of any matter agreed to be referred, any party to the proceedings may at any time after appearance, 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.

(2) This section applies to any arbitration agreement which is not a domestic arbitration agreement; and section 4 of this Act shall not apply to an arbitration agreement to which this section applies.

(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 the Island and to which neither-

(a) an individual who is a national of any state other than the United Kingdom, or who is habitually resident in any country other than the Island; nor

[Para *(a)* substituted by Statute Law Revision Act 1983 Sch 1 deemed operative 1/1/1983.]

(b) a body corporate which is incorporated in, or whose central management and control is exercised in, any country other than the Island,

is a party at the time the proceedings are commenced.

(4) In subsection (3), 'the United Kingdom' means Great Britain, Northern Ireland, the Island and the Channel Islands, taken together.

[Subs (4) added by Statute Law Revision Act 1983 Sch 1 deemed operative 1/1/1983.]

6 Reference of interpleader issues to arbitration

Where relief by way of interpleader is granted and it appears to the Court that the claims in question are matters to which an arbitration agreement, to which the claimants are parties, applies, the Court may direct the issue between the claimants to be determined in accordance with the agreement.

Arbitrators and Umpires

7 When reference is to a single arbitrator

Unless a contrary intention is expressed therein, every arbitration agreement shall, if no other mode of reference is provided, be deemed to include a provision that the reference shall be to a single arbitrator.

8 Power of parties in certain cases to supply vacancy

(1) Subject to subsection (2) below, where an arbitration agreement provides that the reference shall be to two arbitrators, one to be appointed by each party, then, unless a contrary intention is expressed therein-

(a) if either of the appointed arbitrators refuses to act, or is incapable of acting, or dies, the party who appointed him may appoint a new arbitrator in his place;

(b) if, on such a reference, one party fails to appoint an arbitrator, either originally or by way of substitution as aforesaid, for seven clear days after the other party, having appointed his arbitrator, has served the party making default with notice to make the appointment, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and his award shall be binding on both parties as if he had been appointed by consent.

(2) The Court may set aside any appointment made in pursuance of this section.

9 Umpires

(1) Unless a contrary intention is expressed therein, every arbitration agreement shall, where the reference is to two arbitrators, be deemed to include a provision that the two arbitrators shall appoint an umpire immediately after they are themselves appointed.

(2) Unless a contrary intention is expressed therein, every arbitration agreement shall, where such a provision is applicable to the reference, be deemed to include a provision that, if the arbitrators have delivered to any party to the arbitration agreement, or to the umpire, a notice in writing stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

(3) At any time after the appointment of an umpire, however appointed, the Court may, on the application of any party to the reference and notwithstanding anything to the contrary in the arbitration agreement, order that the umpire shall enter upon the reference in lieu of the arbitrators and as if he were a sole arbitrator.

10 Agreements for reference to three arbitrators

(1) Where an arbitration agreement provides that the reference shall be to three arbitrators, one to be appointed by each party and the third to be appointed by the two appointed by the parties, the agreement shall have effect as if it provided for the appointment of an umpire, and not for the appointment of a third arbitrator, by the two arbitrators appointed by the parties.

(2) Where an arbitration agreement provides that the reference shall be to three arbitrators to be appointed otherwise than as mentioned in subsection (1) above, the award of any two of the arbitrators shall be binding.

(3) In any case where-

(a) an arbitration agreement provides that the reference shall be to three arbitrators, one to be appointed by each party and the third to be appointed by the two appointed by the parties or in some other manner specified in the agreement; and

(b) one of the parties ('the party in default') refuses to appoint an arbitrator or does not do so within the time specified in the agreement or, if no time is specified, within a reasonable time,

the other party to the agreement, having appointed his arbitrator, may serve the party in default with a written notice to appoint an arbitrator and, if the appointment is not made within seven clear days after the service of the notice, the High Court or a judge thereof may, on the application of the party who gave the notice, appoint an arbitrator on behalf of the party in default who shall have the like powers to act in the reference and make an award (and, if the case so requires, the like duty in relation to the appointment of the third arbitrator) as if he had been appointed in accordance with the terms of the agreement.

[Subs (3) added by High Court Act 1991 Sch 3.]

(4) Except in a case where the arbitration agreement shows that it was intended that the vacancy should not be supplied, paragraph *(b)* of subsection (3) shall be construed as extending to any such refusal or failure by a person as is there mentioned arising in connection with the replacement of an arbitrator who was appointed by that person (or in default of being so appointed, was appointed under that subsection) but who refuses to act, or is incapable of acting or has died.

[Subs (4) added by High Court Act 1991 Sch 3.]

11 Power of court in certain cases to appoint an arbitrator or umpire

In any of the following cases-

(a) where an arbitration agreement provides that the reference shall be to a single arbitrator, and all the parties do not, after differences have arisen, concur in the appointment of an arbitrator;

(b) if an appointed arbitrator refuses to act, or is incapable of acting, or dies, and the arbitration agreement does not show that it was intended that the vacancy should not be supplied and the parties do not supply the vacancy;

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

(d) where an appointed umpire or third arbitrator refuses to act, or is incapable of acting, or dies, and the arbitration agreement does not show that it was intended that the vacancy should not be supplied, and the parties or arbitrators do not supply the vacancy,

any party may serve the other parties or the arbitrators, as the case may be, with a written notice to appoint or, as the case may be, concur in appointing, an arbitrator, umpire or third arbitrator; and, if the appointment is not made within seven clear days after the service of the notice, the Court may, on application by the party who gave the notice, appoint an

arbitrator, umpire or third arbitrator who shall have the like powers to act in the reference and make an award as if he had been appointed by consent of all parties.

12 Reference to special referee

(1) The Deemsters may, subject to subsection (3) below, make rules prescribing the cases in which the jurisdiction or powers, or both, of the Court may be exercised by special referees and, without prejudice to the generality of the foregoing, such rules may-

(a) authorise the whole of any cause or matter or any question or issue therein to be ordered to be tried before, or any question arising in any cause or matter to be ordered to be referred for inquiry and report to, any such referee; and

(b) make any provision incidental to any of the matters in respect of which rules may be made under this subsection.

(2) The decision of a special referee may be called in question in such manner, whether by-

(a) an appeal to the Staff of Government Division; or

(b) an appeal or application to the Court or to a Deemster in Chambers; or

(c) an adjournment to the Court or to a Deemster in Chambers.

as may, subject to subsection (3) below, be prescribed by rules made by the Deemsters.

(3) Rules under subsections (1) and (2) shall be laid before Tynwald as soon as practicable after they are made, and if Tynwald at the sitting at which the rules are laid or at the next following sitting resolves that they shall be annulled, they shall cease to have effect.

[Subs (3) substituted by Administration of Justice Act 2008 s 30(2).]

12A Specific powers of arbitrator exercisable by High Court

In any cause or matter proceeding in the High Court in connection with any contract incorporating an arbitration clause which confers specific powers upon the arbitrator, the High Court may, if all parties to the proceedings agree, exercise any such powers.

[S 12A inserted by High Court Act 1991 Sch 3.]

Conduct of Proceedings, Witnesses etc.

13 Conduct of Proceedings, witnesses, etc

(1) Unless a contrary intention is expressed therein, every arbitration agreement shall, where such a provision is applicable to the reference, be deemed to contain a provision that the parties to the reference, and all persons claiming through them respectively, shall, subject to any legal objection, submit to be examined by the arbitrator or umpire, on oath or affirmation, in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrator or umpire all documents within their possession or power respectively which may he required or called for, and do all other things which during the proceedings on the reference the arbitrator or umpire may require.

(2) Unless a contrary intention is expressed therein, every arbitration agreement shall,

where such a provision is applicable to the reference, be deemed to contain a provision that the witnesses on the reference shall, if the arbitrator or umpire thinks fit, be examined on oath or affirmation.

(3) An arbitrator or umpire shall, unless a contrary intention is expressed in the arbitration agreement, have power to administer oaths to, or take the affirmations of, the parties to and witnesses on a reference under the agreement.

(4) Any party to a reference under an arbitration agreement may apply to the Court for a warrant to summon a witness to give evidence or to produce documentary evidence, but no person shall be compelled, under any such warrant, to produce any document which he could not be compelled to produce on the trial of an action; and the Court may, on any such application, order that such a warrant shall issue to compel the attendance of a witness before an arbitrator or umpire, wherever the witness may be within the Island.

(5) A detainee may be brought up for examination before any arbitrator or umpire, pursuant to a direction of the Department of Home Affairs given under section 20(2) of the Custody Act 1995.

[Subs (5) substituted by Custody Act 1995 Sch 4.]

(6) Subject to subsection (7) below, the Court shall have, for the purpose of and in relation to a reference, the same power of making orders in respect of-

(a) security for costs;

(b) discovery of documents and interrogatories;

(c) the giving of evidence by affidavit;

(d) examination on oath of any witness before an officer of the Court or any other person, and the issue of a commission or request for the examination of a witness out of the jurisdiction;

(e) the preservation, interim custody or sale of any goods which are the subject matter of the reference;

(f) securing the amount in dispute in the reference;

(g) the detention, preservation or inspection of any property or thing which is the subject of the reference or as to which any question may arise therein, and authorising for any of the purposes aforesaid any persons to enter upon or into any land in the possession of any party to the reference, or authorising any samples to be taken or any observation to be made or experiment to be tried which may be necessary or expedient for the purpose of obtaining full information or evidence; and

(h) interim injunctions of the appointment of a receiver,

as it has for the purpose of and in relation to an action or matter in the Court.

(7) Nothing in subsection (6) above shall be taken to prejudice any power which may be vested in an arbitrator or umpire of making orders with respect to any of the matters mentioned in that subsection.

14 Time for making award

(1) Subject to the provisions of section 23(2) of this Act, and anything to the contrary in the arbitration agreement, an arbitrator or umpire shall have power to make an award at any time.

(2) The time, if any, limited for making an award, whether under this Act or otherwise, may from time to time be enlarged by order of the Court, whether that time has expired or not.

(3) The Court may, on the application of any party to a reference, remove an arbitrator or umpire who fails to use all reasonable dispatch in entering on and proceeding with the reference and making an award, and an arbitrator or umpire who is removed by the Court under this subsection shall not be entitled to receive any remuneration in respect of his services.

(4) For the purposes of subsection (3) above, 'proceeding with a reference' includes, in a case where two arbitrators are unable to agree, giving notice of that fact to the parties and to the umpire.

14A Want of prosecution

(1) Unless a contrary intention is expressed in the arbitration agreement, the arbitrator or umpire shall have power to make an award dismissing the claim in a dispute referred to him if it appears to him that the conditions mentioned in subsection (2) are satisfied.

(2) The conditions are-

(a) that there has been inordinate and inexcusable delay on the part of the claimant in pursuing the claim; and

(b) that the delay-

(i) will give rise to a substantial risk that it is not possible to have a fair resolution of the issues in that claim; or

(ii) has caused, or is likely to cause or to have caused, serious prejudice to the respondant.

[S 14A inserted by High Court Act 1991 Sch 3.]

15 Interim awards

Unless a contrary intention is expressed therein, every arbitration agreement shall, where such a provision is applicable to the reference, be deemed to contain a provision that the arbitrator or umpire may, if he thinks fit, make an interim award, and any reference in this Part to an award includes a reference to an interim award.

16 Specific performance

Unless a contrary intention is expressed therein, every arbitration agreement shall, where such a provision is applicable to the reference, be deemed to contain a provision that the arbitrator or umpire shall have the same power as the Court to order specific performance of

any contract other than a contract relating to land.

17 Awards to be final

Unless a contrary intention is expressed therein, every arbitration agreement shall, where such a provision is applicable to the reference, he deemed to contain a provision that the award to be made by the arbitrator or umpire shall be final and binding on the parties and the persons claiming under them respectively.

18 Power to correct slips

Unless a contrary intention is expressed in the arbitration agreement, the arbitrator or umpire shall have power to correct in an award any clerical mistake or error arising from any accidental slip or omission.

Costs, Fees and Interest

19 Costs

(1) Unless a contrary intention is expressed therein, every arbitration agreement shall be deemed to include a provision that the costs of the reference and award shall be in the discretion of the arbitrator or umpire, who may direct to and by whom and in what manner those costs or any part thereof shall be paid, and may tax or settle the amount of costs to be so paid or any part thereof, and may award costs to be paid as between attorney and client.

(2) Any costs directed by an award to be paid shall, unless the award otherwise directs, be taxable by the Taxing Master.

(3) Subject to subsection (4) below, any provision in an arbitration agreement to the effect that the parties or any party thereto shall in any event pay their or his own costs of the reference or award or any part thereof shall be void, and this Part shall, in the case of an arbitration agreement containing any such provision, have effect as if that provision were not contained therein.

(4) Nothing in subsection (3) above shall invalidate such a provision when it is a part of an agreement to submit to arbitration a dispute which has arisen before the making of that agreement.

(5) If no provision is made by an award with respect to the costs of the reference, any party to the reference may, within fourteen days of the publication of the award or such further time as the Court may direct, apply to the arbitrator for an order directing by and to whom those costs shall be paid, and thereupon the arbitrator shall, after hearing any party who may desire to be heard, amend his award by adding thereto such directions as he may think proper with respect to the payment of the costs of the reference.

(6) Section 12 of the Advocates' Act 1874 (which empowers a court before which any proceeding is being heard or is pending to charge property recovered or preserved in the proceeding with the payment of advocates' costs) shall apply as if an arbitration were a proceeding in the Court, and the Court may make declarations and orders accordingly.

20 Taxation of arbitrator's or umpire's fees

(1) If, in any case, an arbitrator or umpire refuses to deliver his award except on payment

of the fees demanded by him, the Court may, on application for the purpose, order that the arbitrator or umpire shall deliver the award to the applicant on payment into court by the applicant of the fees demanded, and further that the fees demanded shall be taxed by the Taxing Master, and that out of the money paid into Court, there shall be paid out to the arbitrator or umpire, by way of fees, such sum as may be found reasonable on taxation, and that the balance of the money, if any, shall be paid out to the applicant.

(2) An application for the purposes of this section may be made by any party to the reference unless the fees demanded have been fixed by a written agreement between him and the arbitrator or umpire.

(3) A taxation of fees under this section may be reviewed in the same manner as a taxation of costs.

(4) The arbitrator or umpire shall be entitled to appear and be heard on any taxation or review of taxation under this section.

20A Power of arbitrator to award interest

(1) Unless a contrary intention is expressed therein, every arbitration agreement shall, where such provision is applicable to the reference, be deemed to contain a provision that the arbitrator or umpire may, if he thinks fit, award simple interest at such rate as he thinks fit-

(a) on any sum which is the subject of the reference but which is paid before the award for such period ending not later than the date of the payment as he thinks fit; and

(b) on any sum which he awards, for such period ending not later than the date of the award as he thinks fit.

(2) The power to award interest conferred on an arbitrator or umpire by subsection (1) above is without prejudice to any other power of an arbitrator or umpire to award interest.

[S 20A inserted by High Court Act 1991 Sch 3.]

21 Interest on awards

(1) A sum directed to be paid by an award shall, unless the award otherwise directs, carry interest from the date of the award.

(2) The rate of interest shall be-

(a) the rate specified in or prescribed under section 9 of the Administration of Justice Act 1981 at the date of the award, or

(b) if the power under subsection (3) is exercised, the rate specified in the award.

(3) Where the sum is expressed in a currency other than sterling, the award may specify such rate as the arbitrator or umpire thinks fit instead of the rate mentioned in subsection (2)*(a)*.

[S 21 substituted by Law Reform Act 1997 s 29 with saving.]

22 Statement of case

(1) An arbitrator or umpire may, and shall if so directed by the Court, state-

(a) any question of law arising in the course of the reference; or

(b) an award or any part of an award,

in the form of a special case for the decision of the Court.

(2) A special case with respect to an interim award or with respect to a question of law arising in the course of a reference may be stated, or may be directed by the Court to be stated, notwithstanding that proceedings under the reference are still pending.

(3) An appeal shall lie to the Staff of Government Division from a decision of the Court under this section, but no appeal shall lie from the decision of the Court on any case stated under subsection (1)*(a)* without the leave of the Staff of Government Division.

[Subs (3) substituted by High Court Act 1991 Sch 3.]

23 Power to remit award

(1) In all cases of reference to arbitration, the Court may from time to time remit the matters referred, or any of them, to the reconsideration of the arbitrator or umpire.

(2) Where an award is remitted, the arbitrator or umpire shall, unless the order otherwise directs, make his award within three months after the date of the order.

24 Removal of arbitrator and setting aside of award

(1) Where an arbitrator or umpire has misconducted himself or the proceedings, the Court may remove him.

(2) Where an arbitrator or umpire has misconducted himself or the proceedings, or an arbitration or award has been improperly procured, the Court may set the award aside.

(3) Where an application is made to set aside an award, the Court may order that any money made payable by the award shall be brought into court or otherwise secured pending the determination of the application.

25 Power of court to give relief where arbitrator is not impartial or the dispute involves question of fraud

(1) Where an agreement between any parties provides that disputes which may arise in the future between them shall be referred to an arbitrator named or designated in the agreement, and after a dispute has arisen any party applies, on the ground that the arbitrator so named or designated is not or may not be impartial, for leave to revoke the authority of the arbitrator or for an injunction to restrain any other party or the arbitrator from proceeding with the arbitration, it shall not be a ground for refusing the application that the said party at the time when he made the agreement knew, or ought to have known, that the arbitrator, by reason of his relation towards any other party to the agreement or of his connection with the subject referred, might not be capable of impartiality.

(2) Where an agreement between any parties provides that disputes which may arise in

the future between them shall be referred to arbitration, and a dispute which so arises involves the question whether any such party has been guilty of fraud, the Court shall, so far as may be necessary to enable that question to be determined by the Court, have power to order that the agreement shall cease to have effect and power to give leave to revoke the authority of any arbitrator or umpire appointed by or by virtue of the agreement.

(3) In any case where, by virtue of this section, the Court has power to order that an arbitration agreement shall cease to have effect or to give leave to revoke the authority of an arbitration or umpire, the Court may refuse to stay any action brought in breach of the agreement.

26 Power of court where arbitrator is removed or authority of arbitrator is revoked

(1) Where an arbitrator (not being a sole arbitrator) or two or more arbitrators (not being all the arbitrators) or an umpire who has not entered on the reference is or are removed by the Court, the Court may, on the application of any party to the arbitration agreement, appoint a person or persons to act as arbitrator or arbitrators or umpire in place of the person or persons so removed.

(2) Where the authority of an arbitrator or arbitrators or umpire is revoked by leave of the Court, or a sole arbitrator or all the arbitrators or an umpire who has entered on the reference is or are removed by the Court, the Court may, on the application of any party to the arbitration agreement, either-

(a) appoint a person to act as sole arbitrator in place of the person or persons removed; or

(b) order that the arbitration agreement shall cease to have effect with respect to the dispute referred.

(3) A person appointed under this section by the Court as an arbitrator or umpire shall have the like power to act in the reference, and to make an award, as if he had been appointed in accordance with the terms of the arbitration agreement.

(4) Where it is provided (whether by means of a provision in the arbitration agreement or otherwise) that an award under an arbitration agreement shall be a condition precedent to the bringing of an action with respect to any matter to which the agreement applies, the Court, if it orders (whether under this section or under any other enactment) that the agreement shall cease to have effect as regards any particular dispute, may further order that the provision making an award a condition precedent to the bringing of an action shall also cease to have effect as regards that dispute.

Enforcement of Award

27 Enforcement of award

An award on an arbitration agreement may, by leave of the Court, be enforced in the same manner as a judgment or order to the same effect; and, where leave is so given, judgment may be entered in terms of the award.

Miscellaneous

28 Power of court to extend time for commencing arbitration proceedings

Where the terms of an agreement to refer disputes to arbitration provide that any claims to which the agreement applies shall be barred unless notice to appoint an arbitrator is given or an arbitrator is appointed or some other step to commence arbitration proceedings is taken within a time fixed by the agreement, and a dispute arises to which the agreement applies, the Court, if it is of the opinion that, in the circumstances of the case, undue hardship would otherwise be caused, and notwithstanding that the time so fixed has expired, may, on such terms, if any, as the justice of the case may require, but without prejudice to the provisions of any enactment limiting the time for the commencement of arbitration proceedings, extend the time for such period as it thinks proper.

28A Limitation of time for commencing arbitration proceedings

(1) The statutes of limitation shall apply to arbitrations as they apply to proceedings in the Court.

(2) 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, a cause of action shall, for the purpose of the statutes of limitation (whether in their application to arbitrations or to other proceedings), 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.

(3) For the purpose of this section and for the purpose of the statutes of limitation as applying to arbitrations, an arbitration shall be deemed to be commenced when one party to the arbitration agreement serves on the other party or parties a notice requiring him or them to appoint an arbitrator or to agree to the appointment of an arbitrator, or, where the arbitration agreement provides that the reference shall be to a person named or designated in the agreement, requiring him or them to submit the dispute to the person so named or designated.

(4) Any such notice as is mentioned in subsection (3) may be served either-

(a) by delivering it to the person on whom it is to be served; or

(b) by leaving it at the usual or last known place of abode or business in the Island of that person; or

(c) by sending it by post by the recorded delivery service addressed to that person at his usual or last known place of abode;

as well as in any other manner provided in the arbitration agreement; and where a notice is sent by post in accordance with paragraph *(c)*, service shall, unless the contrary is proved, be deemed to have been effected at the time at which the letter would have been delivered in the ordinary course of post.

(5) Where the Court orders that an award be set aside or orders, after the commencement of an arbitration, that the arbitration shall cease to have effect with respect to the dispute referred, the Court may further order that the period between the commencement of the arbitration and the date of the order of the Court shall be excluded in computing the time prescribed by the statutes of limitation for the commencement of

proceedings (including arbitration) with respect to the dispute referred.

(6) This section shall apply to an arbitration under any enactment as well as to an arbitration pursuant to an arbitration agreement, and subsections (3) and (4) shall have effect, in relation to an arbitration under an enactment, as if for the references to the arbitration agreement there were substituted references to such of the provisions of the enactment or of any public document made thereunder as relate to the arbitration.

(7) In this section the words 'the statutes of limitation' includes any enactment limiting the time within which any particular proceeding may be commenced.

[S 28A inserted by Limitation (Miscellaneous Provisions) Act 1981 s 3.]

29 Terms as to costs, etc

Any order made under this Part may be made on such terms as to costs or otherwise as the authority making the order thinks just.

30 Government to be bound

(1) This Part shall apply to any arbitration to which the Government is a party.

(2) In this section 'the Government' includes a Board of Tynwald and a Statutory Board.

31 Application of Part I to statutory arbitrations

(1) This Part, except the provisions thereof specified in subsection (2) below, shall apply to every arbitration under any other Act (whether passed before or after the appointed day) as if the arbitration were pursuant to an arbitration agreement and as if that other Act were an arbitration agreement, except in so far as this Act is inconsistent with that other Act or with any rules or procedure authorised or recognised thereby.

(2) The provisions referred to in subsection (1) above are sections 2(1), 3, 5 6, 19(3), 25, 26 and 28.

PART II
ENFORCEMENT OF CERTAIN FOREIGN AWARDS

32 Awards to which Part II applies

(1) Subject to section 37 of this Act, this Part applies to any award made after the 28th July 1924-

(a) in pursuance of an agreement for arbitration to which the Protocol applies; and

(b) between persons of whom one is subject to the jurisdiction of some one of such Powers as Her Majesty may, by Order in Council, have declared to be parties to the Geneva Convention and of whom the other is subject to the jurisdiction of some other of the Powers aforesaid; and

(c) in one of such territories as Her Majesty may, by Order in Council, have declared to be territories to which the Geneva Convention applies,

and an award to which this Part applies is, in this Part, referred to as 'a foreign award'.

(2) In this section, 'Order in Council' means an Order in Council which is in force and which-

(a) has been made under subsection (1)*(b)* or, as the case may be, subsection (1)*(c)* of section 35 of the Arbitration Act 1950 (an Act of Parliament); or

(b) has effect, by virtue of subsection (3) of that section, as if it had been so made.

33 Effect of foreign awards

(1) A foreign award shall, subject to the provisions of this Part, 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 27 of this Act.

(2) Any foreign 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 the Island, and any references in this Part to enforcing a foreign award shall be construed as including references to relying on an award.

34 Conditions for enforcement of foreign awards

(1) In order that a foreign award may be enforceable under this Part, it must have-

(a) been made in pursuance of an agreement for arbitration which was valid under the law by which it was governed;

(b) been made by the tribunal provided for in the agreement or constituted in the manner agreed upon by the parties;

(c) been made in conformity with the law governing the arbitration procedure;

(d) become final in the country in which it was made;

(e) been in respect of a matter which may lawfully be referred to arbitration under the law of the Island,

and the enforcement thereof must not be contrary to the public policy or the law of the Island.

(2) Subject to the provisions of this subsection, a foreign award shall not be enforceable under this Part if the Court is satisfied that-

(a) the award has been annulled in the country in which it was made; or

(b) the party against whom it is sought to enforce the award was not given notice of the arbitration proceedings in sufficient time to enable him to present his case, or was under some legal incapacity and was not properly represented; or

(c) the award does not deal with all the questions referred or contains decisions on matters beyond the scope of the agreement for arbitration;

but, if the award does not deal with all the questions referred, the Court may, if it thinks fit, either postpone the enforcement of the award or order its enforcement subject to the giving

of such security by the person seeking to enforce it as the court may think fit.

(3) If a party seeking to resist the enforcement of a foreign award proves that there is any ground other than the non-existence of the conditions specified in subsection (1)*(a)*, *(b)* and *(c)* above, or the existence of the conditions specified in subsection (2)*(b)* and *(c)* above, entitling him to contest the validity of the award, the Court may, if it thinks fit, either refuse to enforce the award or adjourn the hearing until after the expiration of such period as appears to the Court to be reasonably sufficient to enable that party to take the necessary steps to have the award annulled by the competent tribunal.

35 Evidence

(1) The party seeking to enforce a foreign 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) 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 section 34(1)*(a)*, *(b)* and *(c)* of this Act are satisfied.

(2) In any case where any document required to be produced under subsection (1) above 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 the Island.

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

36 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.

PART III
ENFORCEMENT OF CONVENTION AWARDS

37 Replacement of Part II in certain cases

Sections 38 to 40 of, and paragraph 5 of Schedule 1 to, this Act 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 II of this Act, that Part shall not apply to it.

38 Effect of Convention awards

(1) A Convention award shall, subject to the following provisions of this Part, be enforceable either by action or in the same manner as the award of an arbitrator is

enforceable by virtue of section 27 of this Act.

(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 the Island; and any reference in this Part to enforcing a Convention award shall be construed as including references to relying on such an award.

39 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.

40 Refusal of enforcement

(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) below, 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)* above, 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

41 Interpretation

(1) In this Act, unless the context otherwise requires-

'the appointed day' means the day on which this Act takes effect;

'arbitration agreement' means-

(a) in section 5 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 High Court;

'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 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.

(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.

42 Transitional provisions and savings

The transitional provisions and savings in Schedule 1 to this Act shall have effect.

43 .....

[S 43 repealed by Statute Law Revision Act 1983 Sch 2.]

44 Short title and commencement

(1) This Act may be cited as the Arbitration Act 1976.

(2) This Act shall come into operation when the Royal Assent thereto has been by the Governor announced to Tynwald and a certificate thereof has been signed by the Governor and the Speaker of the House of Keys, but shall not take effect until such day as the Governor may by order appoint.

[ADO (s 2) 21/1/1977 (GC17/77); (remaining provisions) 1/7/1977 (GC142/77).]

Schedule 1
Transitional Provisions and Savings

1. Any proceedings under Part I of the Arbitration (Foreign Awards) Act 1931 which are uncompleted on the appointed day may be carried on and completed under Part II of this Act as if they had been instituted thereunder.

2. Notwithstanding the repeal by this Act of the Arbitration Act 1910, the Arbitration Clauses (Protocol) Act 1925 and the Arbitration Act 1935, those Acts shall continue to have effect to arbitrations commenced before the appointed day.

3. Any reference in any enactment or other document to any enactment repealed by this Act shall be construed as including a reference to the corresponding provision of this Act.

4. Nothing in Part II of this Act shall-

(a) prejudice any rights which any person would have had of enforcing in the Island any award, or of availing himself in the Island of any award, if neither that Part nor Part I of the said Act of 1931 had been enacted; or

(b) apply to any award made on an arbitration agreement governed by the law of the Island.

5. Nothing in Part III of this Act shall prejudice any right to enforce or rely on an award otherwise than under that Part or under Part II of this Act.

6. Nothing in this Schedule shall prejudice the provisions of section 10 of the Interpretation Act 1970 (which relates to repeals).

Schedule 2

[Sch 2 repealed by Statute Law Revision Act 1983 Sch 2.]

LIMITATION (MISCELLANEOUS PROVISIONS) ACT 1981

(Chapter 33)

Arrangement of Sections

PART I

1 and 2. .....

PART II
Arbitrations

3. Insertion.

PART III
Supplemental

4 and 5. .....
6. Citation and commencement.
Schedules 1 and 2 .....

Received Royal Assent: 24 November 1981

Passed: 15 December 1981

AN ACT

to amend the law about the limitation of actions and other proceedings, and for connected purposes.

PART I

1 and 2 ..

[Ss 1 and 2 repealed by Limitation Act 1984 Sch 4.]

PART II
Arbitrations

3 [Inserts section 28A in the Arbitration Act 1976.]

PART III
Supplemental

4 and 5 ..

[Ss 4 and 5 repealed by Limitation Act 1984 Sch 4.]

6 Citation, and commencement

(1) This Act may be cited as the Limitation (Miscellaneous Provisions) Act 1981.

[Subs (1) amended by Limitation Act 1984 Sch 4.]

(2) This Act shall come into force on 1st January next following the date on which it is passed.

Schedules 1 and 2

[Schs 1 and 2 repealed by Limitation Act 1984 Sch 4.]

ARBITRATION (INTERNATIONAL INVESTMENT DISPUTES) ACT 1983

(Chapter 16)

Arrangement of Sections

1. Registration of Convention awards.
2. Effect of registration.

Procedural provisions

3. Application of Arbitration Act 1976.

Immunities and privileges

4. Status, immunities and privileges conferred by the Convention.

Supplemental

5. Interpretation.
6. Short title and commencement.

Schedule Section 6 of the Convention as given the force of law.

Received Royal Assent: 29 June 1983

Passed: 12 July 1983

AN ACT

to implement an international Convention on the settlement of investment disputes between States and nationals of other States.

1 Registration of Convention awards

(1) This section has effect as respects awards rendered pursuant to the Convention on the settlement of investment disputes between States and nationals of other States which was opened for signature in Washington on 18th March 1965 (in this Act called 'the Convention').

(2) A person seeking recognition or enforcement of such an award shall be entitled to have the award registered in the High Court subject to proof of the prescribed matters and to the other provisions of this Act.

(3) .....

[Subs (3) repealed by Civil Jurisdiction Act 2001 s 5 with saving.]

(4) In addition to the pecuniary obligations imposed by the award, the award shall be registered for the reasonable costs of and incidental to registration.

(5) If at the date of the application for registration the pecuniary obligations imposed by

the award have been partly satisfied, the award shall be registered only in respect of the balance, and accordingly if those obligations have then been wholly satisfied, the award shall not be registered.

(6) Rules of court may-

(a) prescribe the procedure for applying for registration under this section, and require an applicant to give prior notice of his intention to other parties,

(b) prescribe the matters to be proved on the application and the manner of proof, and in particular require the applicant to furnish a copy of the award certified pursuant to the Convention, and

(c) provide for the service of notice of registration of the award by the applicant on other parties.

(7) For the purposes of this section and section 2, an award shall be deemed to have been rendered pursuant to the Convention on the date on which certified copies of the award were pursuant to the Convention dispatched to the parties.

(8) This section and section 2 shall bind the Crown (but not so as to make an award enforceable against the Crown in a manner in which a judgment would not be enforceable against the Crown).

2 Effect of registration

(1) Subject to the provisions of this Act, an award registered under section 1 shall, as respects the pecuniary obligations which it imposes, be of the same force and effect for the purposes of execution as if it had been a judgment of the High Court given when the award was rendered pursuant to the Convention and entered on the date of registration under this Act, and, so far as relates to such pecuniary obligations-

(a) proceedings may be taken on the award,

(b) the sum for which the award is registered shall carry interest, and

(c) the High Court shall have the same control over the execution of the award,

as if the award had been such a judgment of the High Court.

(2) Rules of court may contain provisions requiring the court on proof of the prescribed matters to stay execution of any award registered under this Act so as to take account of cases where enforcement of the award has been stayed (whether provisionally or otherwise) pursuant to the Convention, and may provide for the provisional stay of execution of the award where an application is made pursuant to the Convention which, if granted, might result in a stay of enforcement of the award.

Procedural provisions

3 Application of Arbitration Act 1976

(1) The Clerk of the Rolls may by order direct that any of the provisions contained in section 13 of the Arbitration Act 1976 (attendance of witnesses, production of documents, etc.) shall apply to such proceedings pursuant to the Convention as are specified in the

order, with or without any modifications or exceptions specified in the order.

(2) Subject to subsection (1), the Arbitration Act 1976 shall not apply to proceedings pursuant to the Convention, but this subsection shall not be taken as affecting section 4 of the said Act (stay of proceedings).

Immunities and privileges

4 Status, immunities and privileges conferred by the Convention

(1) Articles 18 to 20, 21*(a)* (with article 22 as it applies article 21*(a)*), 23(1) and 24 of the Convention (which confer status, immunities and privileges on the Centre and certain other persons, and are set out in the Schedule) shall have the force of law in the Island.

(2) Nothing in article 24(1) of the Convention as given the force of law by this section shall be construed as-

(a) entitling the Centre to import goods free of customs duty without any restriction on their subsequent sale in the country to which they were imported, or

(b) conferring on the Centre any exemption from duties or taxes which form part of the price of goods sold, or

(c) conferring on the Centre any exemption from duties or taxes which are no more than charges for services rendered.

(3) For the purposes of articles 20 and 21*(a)* of the Convention as given the force of law by this section, a statement to the effect that the Centre has waived an immunity in the circumstances specified in the statement, being a statement certified by the Secretary-General of the Centre (or by the person acting as Secretary-General), shall be conclusive evidence.

Supplemental

5 Interpretation

In this Act-

'award' includes any decision interpreting, revising or annulling an award, being a decision pursuant to the Convention, and any decision as to costs which under the Convention is to form part of the award;

'the Centre' means the International Centre for Settlement of Investment Disputes established by the Convention;

'the Convention' means the convention referred to in section l(l);

'prescribed' means prescribed by rules of court.

6 Short title and commencement

(1) This Act may be cited as the Arbitration (International Investment Disputes) Act 1983.

(2) This Act shall come into force on such day as the Governor in Council may by order

appoint.

[ADO (whole Act) 1/11/1983 (GC194/83).]

Schedule
Section 6 of the Convention as Given the Force of Law

Status, Immunities and Privileges

ARTICLE 18

The Centre shall have full international legal personality. The legal capacity of the Centre shall include the capacity-

(a) to contract;

(b) to acquire and dispose of movable and immovable property;

(c) to institute legal proceedings.

ARTICLE 19

To enable the Centre to fulfil its functions, it shall enjoy in the territories of each Contracting State the immunities and privileges set forth in this Section.

ARTICLE 20

The Centre, its property and assets shall enjoy immunity from all legal process, except when the Centre waives this immunity.

ARTICLE 21

The Chairman, the members of the Administrative Council, persons acting as conciliators or arbitrators or members of a Committee appointed pursuant to paragraph (3) of Article 52, and the officers and employees of the Secretariat-

(a) shall enjoy immunity from legal process with respect to acts performed by them in the exercise of their functions, except when the Centre waives this immunity;

(b) ...

ARTICLE 22

The provisions of Article 21 shall apply to persons appearing in proceedings under this Convention as parties, agents, counsel, advocates, witnesses or experts; ...

ARTICLE 23

(1) The archives of the Centre shall be inviolable, wherever they may be.

(2)...

ARTICLE 24

(1) The Centre, its assets, property and income, and its operations and transactions authorized by this Convention shall be exempt from all taxation and customs duties. The Centre shall also be exempt from liability for the collection or payment of any taxes or

customs duties.

(2) Except in the case of local nationals, no tax shall be levied on or in respect of expense allowances paid by the Centre to the Chairman or members of the Administrative Council, or on or in respect of salaries, expense allowances or other emoluments paid by the Centre to officials or employees of the Secretariat.

(3) No tax shall be levied on or in respect of fees or expense allowances received by persons acting as conciliators, or arbitrators, or members of a Committee appointed pursuant to paragraph (3) of Article 52, in proceedings under this Convention, if the sole jurisdictional basis for such tax is the location of the Centre or the place where such proceedings are conducted or the place where such fees or allowances are paid.

MULTILATERAL INVESTMENT GUARANTEE AGENCY ACT 1989

(Chapter 8)

Arrangement of Sections

1. Status, immunities are privileges of the Agency.
2. Registration and enforcement of arbitration awards.
3. Rules of court.
4. Application of Arbitration Act 1976.
5. Interpretation.
6. Short title and commencement.

Schedule Provisions of the Convention.

Received Royal Assent: 21 June 1989

Passed: 21 June 1989

AN ACT

to implement the Convention establishing the Multilateral Investment Guarantee Agency.

1 Status, immunities and privileges of the Agency

(1) The following provisions of the Convention, namely Articles 1*(b)*, 44, 45, 46*(a)*, 47, 48(i) and 50 (which confer status, immunities and privileges on the Agency and, with related provisions, are set out in the Schedule), shall have the force of law in the Island.

(2) Nothing in Article 47*(a)* shall be construed-

(a) as entitling the Agency to import goods free of duty or tax without restriction on their subsequent sale in the country to which they were imported;

(b) except as provided in subsection (3), as conferring on the Agency any exemption from duties or taxes which form part of the price of goods sold; or

(c) as conferring on the Agency any exemption from duties or taxes which are no more

than charges for services rendered.

(3) The Treasury shall make arrangements for refunding to the Agency, subject to compliance with such conditions as may be imposed in accordance with the arrangements, car tax paid on new vehicles, and value added tax paid on the supply of goods and services, which are necessary for the exercise of the official activities of the Agency.

(4) If in any proceedings any question arises whether a person is or is not entitled to any privilege or immunity by virtue of this section, a certificate issued by or under the authority of the Secretary of State stating any fact relevant to that question shall be conclusive evidence of that fact.

2 Registration and enforcement of arbitration awards

(1) A party to a dispute which is the subject of an award rendered pursuant to Article 4 of Annex II to the Convention shall be entitled to have the award registered in the High Court subject to proof of such matters as are prescribed by rules of court and to the other provisions of this section.

(2) In addition to any sum payable under the award, the award shall be registered for the reasonable costs of and incidental to registration.

(3) If at the date of the application for registration any sum payable under the award has been partly paid, the award shall be registered only in respect of the balance, and accordingly if that sum has then been wholly paid the award shall not be registered.

(4) An award registered under this section shall be of the same force and effect for the purpose of execution as if it had been a judgment of the High Court given when the award was rendered as mentioned in subsection (1) and entered on the date of registration under this section and-

(a) proceedings may be taken on the award;

(b) any sum for which the award is registered shall carry interest; and

(c) the High Court shall have the same control over the execution of the award;

as if the award had been a judgment of the High Court.

(5) This section shall bind the Crown (but not so as to make an award enforceable against the Crown in a manner in which a judgment would not be enforceable against the Crown); and an award shall not be enforceable against a State to which the provisions of Part I of the State Immunity Act 1978 (an Act of Parliament), as it has effect in the Island, apply except in accordance with those provisions.

(6) In this section 'award' includes any decision interpreting an award; and for the purposes of this section an award shall be deemed to have been rendered pursuant to Article 4 of Annex II when a copy of it is transmitted to each party as provided in paragraph *(h)* of that Article.

3 Rules of court

Rules of court may-

(a) prescribe the procedure for applying for registration under section 2 and require an applicant to give prior notice of his intention to other parties;

(b) prescribe the matters to be proved on the application and the manner of proof;

(c) provide for the service of notice of registration of the award by the applicant on other parties; and

(d) make provision requiring the High Court on proof of such matters as may be prescribed by the rules to stay execution of an award registered under section 2 in cases where enforcement of the award has been stayed pursuant to Article 4 of Annex II to the Convention.

4 Application of Arbitration Act 1976

(1) The Clerk of the Rolls may by order direct that any of the provisions of section 13 of the Arbitration Act 1976 (attendance of witnesses, production of documents etc.) shall apply, with such modifications or exceptions as are specified in the order, to such arbitration proceedings pursuant to Annex II to the Convention as are specified in the order.

(2) Subject to subsection (1), the Arbitration Act 1976, other than section 4 (stay of proceedings), shall not apply to any such proceedings as are mentioned in subsection (1).

5 Interpretation

In this Act-

'the Agency' means the Multilateral Investment Guarantee Agency;

'the Convention' means the Convention establishing the Agency which was signed on behalf of the United Kingdom on the 9th April 1986.

6 Short title and commencement

This Act may be cited as the Multilateral Investment Guarantee Agency Act 1989 and shall come into operation on such day as the Governor in Council may by order appoint.

[ADO (whole Act) 1/11/1989 (GC352/89).]

Schedule
Provisions of the Convention

CHAPTER 1

Establishment, Status, Purposes and Definitions

Article 1

Establishment and Status of the Agency

(a) There is hereby established the Multilateral Investment Guarantee Agency (hereinafter called the Agency).

(b) The Agency shall possess full juridical personality and, in particular, the capacity to:

(i) contract;

(ii) acquire and dispose of movable and immovable property; and

(iii) institute legal proceedings.

CHAPTER V

Organization and Management

Article 30

Structure of the Agency

The Agency shall have a Council of Governors, a Board of Directors, a President and staff to perform such duties as the Agency may determine.

Article 31

The Council

(a) All the powers of the Agency shall be vested in the Council, except such powers as are, by the terms of this Convention, specifically conferred upon another organ of the Agency. The Council may delegate to the Board the exercise of any of its powers, except the power to:

(i) admit new members and determine the conditions of their admission;

(ii) suspend a member;

(iii) decide on any increase or decrease in the capital;

(iv) increase the limit of the aggregate amount of contingent liabilities pursuant to Section *(a)* of Article 22;

(v) designate a member as a developing member country pursuant to Section *(c)* of Article 3;

(vi) classify a new member as belonging to Category One or Category Two for voting purposes pursuant to Section *(a)* of Article 39 or reclassify an existing member for the same purposes;

(vii) determine the compensation of Directors and their Alternates;

(viii) cease operations and liquidate the Agency;

(ix) distribute assets to members upon liquidation; and

(x) amend this Convention, its Annexes and Schedules.

(b) The Council shall be composed of one Governor and one Alternate appointed by each member in such manner as it may determine. No Alternate may vote except in the absence of his principal. The Council shall select one of the Governors as Chairman.

(c) The Council shall hold an annual meeting and such other meetings as may be

determined by the Council or called by the Board. The Board shall call a meeting of the Council whenever requested by five members or by members having twenty-five per cent of the total voting power.

Article 32

The Board

(a) The Board shall be responsible for the general operations of the Agency and shall take, in the fulfilment of this responsibility, any action required or permitted under this Convention.

(b) The Board shall consist of not less than twelve Directors. The number of Directors may be adjusted by the Council to take into account changes in membership. Each Director may appoint an Alternate with full power to act for him in case of the Director's absence or inability to act. The President of the Bank shall be *ex officio* Chairman of the Board, but shall have no vote except a deciding vote in case of an equal division.

(c) The Council shall determine the term of office of the Directors. The first Board shall be constituted by the Council at its inaugural meeting.

(d) The Board shall meet at the call of its Chairman acting on his own initiative or upon request of three Directors.

(e) Until such time as the Council may decide that the Agency shall have a resident Board which functions in continuous session, the Directors and Alternates shall receive compensation only for the cost of attendance at the meetings of the Board and the discharge of other official functions on behalf of the Agency. Upon the establishment of a Board in continuous session, the Directors and Alternates shall receive such remuneration as may be determined by the Council.

CHAPTER VII

Privileges and Immunities

Article 44

Legal Process

Actions other than those within the scope of Articles 57 and 58 may be brought against the Agency only in a court of competent jurisdiction in the territories of a member in which the Agency has an office or has appointed an agent for the purpose of accepting service or notice of process. No such action against the Agency shall be brought:

(i) by members or persons acting for or deriving claims from members or

(ii) in respect of personnel matters.

The property and assets of the Agency shall, wherever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of the final judgment or award against the Agency.

Article 45

Assets

(a) The property and assets of the Agency, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

(b) To the extent necessary to carry out its operations under this Convention, all property and assets of the Agency shall be free from restrictions, regulations, controls and moratoria of any nature; provided that property and assets acquired by the Agency as successor to or subrogee of a holder of a guarantee, a reinsured entity or an investor insured by a reinsured entity shall be free from applicable foreign exchange restrictions, regulations and controls in force in the territories of the member concerned to the extent that the holder, entity or investor to whom the Agency was subrogated was entitled to such treatment.

(c) For purposes of this Chapter, the term 'assets' shall include the assets of the Sponsorship Trust Fund referred to in Annex I to this Convention and other assets administered by the Agency in furtherance of its objective.

Article 46

Archives and Communications

(a) The archives of the Agency shall be inviolable, wherever they may be.

Article 47

Taxes

(a) The Agency, its assets, property and income, and its operations and transactions authorised by this Convention, shall be immune from all taxes and customs duties. The Agency shall also be immune from liability for the collection or payment of any tax or duty.

(b) Except in the case of local nationals, no tax shall be levied on or in respect of expense allowances paid by the Agency to Governors and their Alternates or on or in respect of salaries, expense allowances or other emoluments paid by the Agency to the Chairman of the Board, Directors, their Alternates, the President or staff of the Agency.

(c) No taxation of any kind shall be levied on any investment guaranteed or reinsured by the Agency (including any earnings therefrom) or any insurance policies reinsured by the Agency (including any premiums and other revenues therefrom) by whomsoever held:

(i) which discriminates against such investment or insurance policy solely because it is guaranteed or reinsured by the Agency; or

(ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Agency.

Article 48

Officials of the Agency

All Governors, Directors, Alternates, the President and staff of the Agency:

(i) shall be immune from legal process with respect to acts performed by them in their

official capacity;

(ii) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations, and the same facilities as regards exchange restrictions as are accorded by the members concerned to the representatives, officials and employees of comparable rank of other members; and

(iii) shall be granted the same treatment in respect of travelling facilities as is accorded by the members concerned to representatives, officials and employees of comparable rank of other members.

Article 50

Waiver

The immunities, exemptions and privileges provided in this Chapter are granted in the interests of the Agency and may be waived, to such extent and upon such conditions as the Agency may determine, in cases where such a waiver would not prejudice its interests. The Agency shall waive the immunity of any of its staff in cases where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Agency.

CHAPTER IX

Settlement of Disputes

Article 56

Interpretation and Application of the Convention

(a) Any question of interpretation or application of the provisions of this Convention arising between any member of the Agency and the Agency or among members of the Agency shall be submitted to the Board for its decision. Any member which is particularly affected by the question and which is not otherwise represented by a national in the Board may send a representative to attend any meeting of the Board at which such question is considered.

(b) In any case where the Board has given a decision under Section *(a)* above, any member may require that the question be referred to the Council, whose decision shall be final. Pending the result of the referral to the Council, the Agency may, so far as it deems necessary, act on the basis of the decision of the Board.

Article 57

Disputes between the Agency and Members

(a) Without prejudice to the provisions of Article 56 and of Section *(b)* of this Article, any dispute between the Agency and a member or an agency thereof and any dispute between the agency and a country (or agency thereof) which has ceased to be a member, shall be settled in accordance with the procedure set out in Annex II to this Convention.

Article 58

Disputes Involving Holders of a Guarantee or Reinsurance

Any dispute arising under a contract of guarantee or reinsurance between the parties thereto shall be submitted to arbitration for final determination in accordance with such rules as shall be provided for or referred to in the contract of guarantee or reinsurance.

ANNEX 1

Guarantees of Sponsored Investments Under Article 24

Article 2

Sponsorship Trust Fund

(a) Premiums and other revenues attributable to guarantees of sponsored investments, including returns on the investment of such premiums and revenues, shall be held in a separate account which shall be called the Sponsorship Trust Fund.

(b) All administrative expenses and payments on claims attributable to guarantees issued under this Annex shall be paid out of the Sponsorship Trust Fund.

(c) The assets of the Sponsorship Trust Fund shall be held and administered for the joint account of sponsoring members and shall be kept separate and apart from the assets of the Agency.

ANNEX II

Settlement of Disputes Between a Member and the Agency under Article 57

Article 1

Application of the Annex

All disputes within the scope of Article 57 of this Convention shall be settled in accordance with the procedure set out in this Annex, except in the cases where the Agency has entered into an agreement with a member pursuant to Section *(b)*(ii) of Article 57.

Article 4

Arbitration

(a) Arbitration proceedings shall be instituted by means of a notice by the party seeking arbitration (the claimant) addressed to the other party or parties to the dispute (the respondent). The notice shall specify the nature of the dispute, the relief sought and the name of the arbitrator appointed by the claimant. The respondent shall, within thirty days after the date of receipt of the notice, notify the claimant of the name of the arbitrator appointed by it. The two parties shall, within a period of thirty days from the date of appointment of the second arbitrator, select a third arbitrator, who shall act as President of the Arbitral Tribunal (the Tribunal).

(b) If the Tribunal shall not have been constituted within sixty days from the date of the notice, the arbitrator not yet appointed or the President not yet selected shall be appointed, at the joint request of the parties, by the Secretary-General of ICSID. If there is no such joint request, or if the Secretary-General shall fail to make the appointment within thirty days of the request, either party may request the President of the International Court of Justice to make the appointment.

(c) No party shall have the right to change the arbitrator appointed by it once the hearing of the dispute has commenced. In case any arbitrator (including the President of the Tribunal) shall resign, die, or become incapacitated, a successor shall be appointed in the manner followed in the appointment of his predecessor and such successor shall have the same powers and duties of the arbitrator he succeeds.

(d) The Tribunal shall convene first at such time and place as shall be determined by the President. Thereafter, the Tribunal shall determine the place and dates of its meetings.

(e) Unless otherwise provided in this Annex or agreed upon by the parties, the Tribunal shall determine its procedure and shall be guided in this regard by the arbitration rules adopted pursuant to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.

(f) The Tribunal shall be the judge of its own competence except that, if an objection is raised before the Tribunal to the effect that the dispute falls within the jurisdiction of the Board or the Council under Article 56 or within the jurisdiction of a judicial or arbitral body designated by an agreement under Article 1 of this Annex and the Tribunal is satisfied that the objection is genuine, the objection shall be referred by the Tribunal to the Board or the Council or the designated body, as the case may be, and the arbitration proceedings shall be stayed until a decision has been reached on the matter, which shall be binding upon the Tribunal.

(g) The Tribunal shall, in any dispute within the scope of this Annex, apply the provisions of this Convention, any relevant agreement between the parties to the dispute, the Agency's by-laws and regulations, the applicable rules of international law, the domestic law of the member concerned as well as the applicable provisions of the investment contract, if any. Without prejudice to the provisions of this Convention, the Tribunal may decide a dispute *ex aequo et bono* if the Agency and the member concerned so agree. The Tribunal may not bring a finding of *non liquet* on the ground of silence or obscurity of the law.

(h) The Tribunal shall afford a fair hearing to all parties. All decisions of the Tribunal shall be taken by a majority vote and shall state the reasons on which they are based. The award of the Tribunal shall be in writing, and shall be signed by at least two arbitrators and a copy thereof shall be transmitted to each party. The award shall be final and binding upon the parties and shall not be subject to appeal, annulment or revision.

(i) If any dispute shall arise between the parties as to the meaning or scope of an award, either party may, within sixty days after the award was rendered request interpretation of the award by an application in writing to the President of the Tribunal which rendered the award. The President shall, if possible, submit the request to the Tribunal which rendered the award and convene such Tribunal within sixty days after receipt of the application. If this shall not be possible, a new Tribunal shall be constituted in accordance with the provisions of Sections *(a)* to *(d)* above. The Tribunal may stay enforcement of the award pending its decision on the requested interpretation.

(j) Each member shall recognize as an award rendered pursuant to this Article as binding and enforceable within its territories as if it were a final judgment of a court in that member. Execution of the award shall be governed by the laws concerning the execution of judgments in force in the State in whose territories such execution is sought and shall not derogate from the law in force relating to immunity from execution.

(k) Unless the parties shall agree otherwise, the fees and remuneration payable to the arbitrators shall be determined on the basis of the rates applicable to ICSID arbitration. Each party shall defray its own cost associated with the arbitration proceedings. The costs of the Tribunal shall be borne by the parties in equal proportion unless the Tribunal decides otherwise. Any question concerning the division of the costs of the Tribunal or the procedure for payment of such costs shall be decided by the Tribunal.