

CHAPTER 10 - ARBITRATION

ARRANGEMENT OF SECTION

SECTION

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SCHEDULE

CHAPTER 10

ARBITRATION

A LAW TO PROVIDE FOR THE REFERENCE AND SUBMISSION OF DISPUTES TO ARBITRATION

[31 December 1914]

1. This Law may be cited as the Arbitration Law.

2. Definitions:-

"court" means the High Court;

"judge" means a judge of the High Court;

"rules of court" means rules of court made by the Chief Judge with the approval of the Governor;

"submission" means a written agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not.

3. A submission, unless a contrary intention is expressed therein, shall be irrevocable, except by leave of the court or a judge or by mutual consent, and shall have the same effect in all respects as if it had been made an order of court.

4. A submission, unless a contrary intention is expressed therein, shall be deemed to include the provisions set forth in the Schedule, so far as they are applicable to the reference under the submission.

5. If any party to a submission, or any person claiming through to or under him, commences any legal proceedings in any court against any other party to the submission, or any other person claiming through or under him, in respect of any matter agreed to be referred, any party to such legal proceedings may at any time after appearance, and before delivering any pleadings or taking any other steps in the proceedings, apply to that court to stay the proceedings, and that court if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission, 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.

6.—(1) In any of the following cases:-

- (a) where a submission 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 submission 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;
 - (d) where an appointed umpire or third arbitrator refuses to act, or is incapable of acting, or dies, and the submission 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 arbitrators, as the case may be, with a written notice to appoint an arbitrator, umpire or third arbitrator.

(2) If the appointment is not made within seven clear days after the service of the notice, the court or a judge 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.

7.—(1) Where a submission provides that the reference shall be to two arbitrators, one to be appointed by each party, then, unless the submission expresses a contrary intention:-

- (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 or a judge may set aside any appointment made in pursuance of this section.

8. The arbitrators or umpire acting under a submission shall, unless the submission expresses a contrary intention, have power:-

- (a) to administer oaths to or take the affirmations of the parties and witnesses appearing; and
- (b) to state an award as to the whole or part thereof in the form of a special case for the opinion of the court; and

(c) to correct in an award any clerical mistake or error arising from any accidental slip or omission.

9. Any party to a submission may sue out a writ of *subpoena ad testificandum*, or a writ of *subpoena duces tecum*, but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.

10. The time for making an award may from time to time be enlarged by order of the court or a judge, whether the time for making the award has expired or not.

11.—(1) In all cases of reference to arbitration the court or a Power to judge may from time to time remit the matters referred, or any of them, to the reconsideration of the arbitrators or umpire.

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

12.—(1) Where an arbitrator or umpire has misconducted himself, the court may remove him.

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

13. An award on a submission may, by leave of the court or a judge, be enforced in the same manner as a judgment or order to the same effect.

14.—(1) The court or a judge may order that a writ of *subpoena ad testificandum* or of *subpoena duces tecum* shall issue to compel the attendance before any arbitrator or umpire of a witness wherever he may be within Nigeria.

(2) The court or a judge may also order that a writ of *habeas corpus ad testificandum* shall issue to bring up a prisoner for examination before any arbitrator or umpire.

(3) The provisions of any written law relating to the service or execution outside Gongola State of any such subpoena or order for the production of a prisoner issued or made in civil proceedings by the High Court shall apply in relation to a subpoena or order made under this section.

15. Any arbitrator or umpire may at any stage of the proceedings under a reference, and shall, if so directed by the court or a judge, state in the form of special case for the opinion of the court any question of law arising in the course of the reference.

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

17. The Chief Judge, with the approval of the Governor, may make rules of court conferring on any officer of the High Court all or any of the jurisdiction conferred by this Law on the court or a judge.

18. This Law shall apply to every arbitration under any Act or Law passed before or after the commencement of this Law as if the arbitration were pursuant to a submission, except in so far as this Law is inconsistent with the Act or Law regulating the arbitration or with any rules of procedure authorised or recognized by that Act or Law.

19. This Law shall apply to and in respect of an arbitration to which the Government of the Federation of Nigeria or of any State thereof is a party, but nothing in this Law shall affect the law as to costs payable by the State. Provided that the Government of Gongola State may, in any agreement, deed or other instrument to which it is a party, contract out of the provisions of this Law.

SCHEDULE
PROVISIONS TO BE IMPLIED IN SUBMISSIONS

- (a)* If no other mode of reference is provided the reference shall be to a single arbitrator.
 - (b)* If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.
 - (c)* The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any part to the submission, or on or before any later day to which the arbitrators, by any writing signed by them, may from time to time enlarge the time for making the award.
 - (d)* If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, 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.
 - (e)* The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire by any writing signed by him may from time to time enlarge the time for making his award.
 - (f)* The parties to the reference, and all persons claiming through them respectively, shall, subject to any legal objection, submit to be examined by the arbitrators or umpire, on oath or affirmation, in relation to the matters of dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire, all books, deeds, papers, accounts, writings, and documents within their possession or power respectively which may be required or called for, and do all other things which during the proceedings on the reference the arbitrators or umpire may require.
 - (g)* The witnesses on the reference shall, if the arbitrators or umpire think fit, be examined on oath or affirmation.
 - (h)* The award to be made by the arbitrators or umpire shall be final and binding on the parties and the persons claiming under them respectively.
 - (i)* The costs of the reference and award shall be in the discretion of the arbitrators 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 to be so paid or any part thereof, and may award costs to be paid as between solicitor and client.
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