

(3) An arbitral award on agreed terms shall be made in accordance with Section 25 and shall State that it is an arbitral award on agreed terms.

(4) An arbitral award on agreed terms has the same status and effect as any other arbitral award made in respect of the dispute.

PART V

CONDUCT OF ARBITRATION PROCEEDINGS

Duties of Arbitral Tribunal

15. (1) An arbitral tribunal shall deal with any dispute submitted to it for arbitration in an Impartial, practical and expeditious manner.

(2) An arbitral tribunal shall afford all the parties an opportunity, of presenting their respective cases in writing or orally and to examine all documents and other material furnished to it by the other parties or any other person. The arbitral tribunal may, at the request of a party, have an oral hearing before determining any question before it.

(3) An arbitral tribunal may, notwithstanding the failure of a party without reasonable cause, to appear before it, or to comply with any order made by it, continue the arbitral proceedings and determine the dispute on the material available to it.

(4) Parties may, introduce new prayers for relief provided that such prayers for relief fall within the scope of the arbitration agreement and it is not inappropriate to accept them having regard to the point of time at which they are introduced and to other circumstances. During the course of such proceedings, either party may, on like conditions, amend or supplement prayer for relief introduced earlier and rely on new circumstances in support of their respective cases.

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Place of arbitration.

16. (1) The parties to an arbitration proceeding shall be free to agree on the place of arbitration. Failing such agreement, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties.

(2) Notwithstanding the provisions of subsection (1) providing for the place of arbitration, the arbitral tribunal may, unless otherwise agreed upon by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, other property or documents.

17. Subject to the provisions of this Act, the parties shall be free to agree on the procedure to be followed by the arbitral tribunal in conducting the proceedings. The power

Determination
of rules of
procedures.

conferred upon the arbitral tribunal shall include the power to determine the admissibility, relevance, and weight of any evidence.

18. An arbitration shall be deemed to have been commenced if ---

(a) a dispute to which the relevant arbitration agreement applies has arisen: and

(b) a party to the agreement ---

(i) has received from another party to the agreement a notice requiring that party to refer, or to concur in the reference of, the dispute to arbitration; or

(ii) has received from another party to the agreement a notice requiring that party to appoint an arbitral tribunal or to join or concur in or approve the appointment of, an arbitral tribunal in relation to the dispute.

Commencement
of arbitral
proceedings.

19. (1) Unless a contrary intention is expressed in the arbitration agreement, any decision made in the course of arbitral proceedings, by a majority of the arbitrators and failing a majority, the decision of the arbitrator appointed by the other arbitrators, or where in terms of the arbitration agreement or this Act, there is Chairman, the decision of such Chairman, shall be binding.

Manner in
which
decisions are
made.

(2) Where there is a Chairman of an arbitral tribunal, the Chairman shall have the power to administer the conduct of the arbitral proceedings.

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20. (1) Any party to an arbitration agreement having obtained the prior consent in writing of the arbitral tribunal may apply to the High Court for summons requiring a person to attend for examination before the tribunal and to produce to the tribunal any document or thing specified in the summons.

Parties may
obtain
summons.

(2) A person shall not be compelled under any summons issued in accordance with subsection (1) to answer any question or produce any document or thing which that person could not be compelled to answer or produce at the trial in an action before court.

21. (1) Unless otherwise agreed upon by the parties, where any person not a party to the arbitration agreement ---

(a) refuses or fails to attend before the arbitral tribunal for examination when required under summons or by the arbitral tribunal to do so ;

(b) appearing as a witness before the arbitral tribunal ---

Refusal or
failure to
attend
before
arbitral
tribunal.

- (i) refuses or fails to take an oath or make an affirmation or affidavit when required by the arbitral tribunal to do so ; or
- ii) refuses or fails to answer a question that the witness is required by the arbitral tribunal to answer ; or
- (iii) refuses or fails to produce a document that he is required under summons or by the arbitral tribunal to produce; or

(c) Refuses or fails to do any other thing which the arbitral tribunal may require.

the High Court may order the defaulter to appear before the Court for examination or to produce to the Court the relevant document or thing or to do any relevant thing if a party to the arbitration proceedings makes an application to Court in that behalf.

(2) No such application shall be made except after notice to the other parties and with the prior sanction or consent of the arbitral tribunal and no order shall be made under subsection (1), unless the court after hearing the defaulter considers that it is necessary in the circumstances to make such order.

(3) Where the court makes an order under subsection (1) it shall, in addition make an order for the transmission to the arbitral tribunal of ---

- (a) a record of any evidence given pursuant to an order made under subsection (1) ;

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- (b) any document or thing produced pursuant to an order under subsection (1) or a copy of any such document ; or

- (c) particulars of anything done pursuant to an order under subsection (1) and any such evidence, document or thing shall be deemed to have been given, produced or done, as the case may be, in the course of the arbitration proceeding.

22. (1) Unless other wise agreed upon by the parties, evidence before the arbitral tribunal may be given orally, in writing or by affidavit.

Evidence before arbitral tribunal
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(2) Unless otherwise agreed upon by the parties, an arbitral tribunal may administer an oath or affirmation or take an affidavit for the purposes of proceedings under the agreement.

(3) Unless otherwise agreed upon by the parties, an arbitral tribunal in conducting proceedings in pursuance of an arbitration agreement shall not be bound by the provisions of the Evidence Ordinance.

23. Unless otherwise agreed in writing by the parties to the arbitration agreement, a party to an arbitration agreement ---

Represent-
ation.

(a) may appear before the arbitral tribunal personally or, where the party is a body of persons, whether corporate or unincorporated, by an officer, employee or agent of that body ; and

(b) may be represented by an attorney-at-law if the party so desires.

24. (1) An arbitral tribunal shall decide the dispute in accordance with such rules of law as are chosen by the parties as applicable to the substance of the dispute. Any designation of the law or legal system of a given State shall be construed, unless otherwise expressed, as referring to the substantive law of that State and not to its conflict of laws rules.

Law
applicable to
substance of
dispute.

(2) Failing any designation by the parties to any arbitration agreement, the arbitral tribunal shall apply the law determined by the conflict of laws rules which it considers applicable.

(3) The provision of subsection (1) and (2) shall apply only to the extent agreed to by the parties.

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(4) The arbitral tribunal shall decide according to considerations of general justice and fairness or trade usages only if the parties have expressly authorized it to do so.

PART VI

AWARDS

25. (1) The award shall be made in writing and shall be signed by the arbitrators constituting the arbitral tribunal. In arbitral proceedings with more than one arbitrator, the signatures of the majority of the members of the arbitral tribunal shall suffice, provided that the reason for any omitted signature is stated.

Form and
content of
award.

(2) The award shall state the reasons upon which it is based, unless the parties have agreed that no reasons are to be given or the award is an award on agreed terms under section 14.

(3) The award shall state its date and place of arbitration as determined in accordance with Section 16. The award shall be deemed to have been made at that place.

(4) After the award is made, a copy signed by the arbitrators constituting the arbitral tribunal in accordance with subsection (1) of this section shall be delivered to each party.