

L.D. – O.10/93

AN ACT TO PROVIDE FOR THE CONDUCT OF ARBITRATION PROCEEDINGS: TO GIVE EFFECT TO THE CONVENTION ON THE RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS: TO REPEAL THE ARBITRATION ORDINANCE (CHAPTER 93) AND CERTAIN SECTIONS OF THE CIVIL PROCEDURE CODE (CHAPTER 101): AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

WHEREAS it is necessary to make comprehensive legal provision for the conduct of arbitration proceedings and the enforcement of awards made thereunder:

AND WHEREAS it is necessary to make legal provision to give effect to the principles of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958:

BE It therefore enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:

1. This Act may be cited as the Arbitration Act No. 11 of 1995 and shall come into operation on such date as the Minister may appoint by Order published in the Gazette (hereinafter referred to as the "appointed date").

Short title and date of operation.

PART I PRELIMINARY

2 (1) The provisions of this Act shall, subject to the provisions of Section 48, apply to all arbitration proceedings commenced in Sri Lanka after the appointed date, whether the arbitration agreement in pursuance of which such arbitration proceedings are commenced, was entered into before or after the appointed date.

Application.

(2) Where arbitration proceedings were commenced prior to the appointed date, the law in force prior to the appointed date, shall, unless the parties otherwise agree, apply to such arbitration proceedings.

(3) Where the State is a party to an arbitration agreement (whether in right of the Republic or in any other capacity) the State shall be bound by the provision of this Act.

PART II

ARBITRATION AGREEMENT

Form of arbitration agreement.

3. (1) An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.

(2) An arbitration agreement shall be in writing. An agreement shall be deemed to be in writing if it is contained in a document signed by the parties or in an exchange of letters, telexes, telegrams or other means of telecommunication which provide a record of the agreement.

Arbitrability of the dispute

4. Any dispute which the parties have agreed to submit to arbitration under an arbitration agreement may be determined by arbitration unless the matter in respect of which the arbitration agreement is entered into is contrary to public policy or, is not capable of determination by arbitration.

Jurisdiction of Court in respect of dispute covered by arbitration agreement.

5. Where a party to an arbitration agreement institutes legal proceedings in a court against another party to such agreement in respect of a matter agreed to be submitted for arbitration under such agreement, the Court shall have no jurisdiction to hear and determine such matter if the other party objects to the court exercising jurisdiction in respect of such matter.

PART III

COMPOSITION OF THE ARBITRAL TRIBUNAL

Number of Arbitrators

6. (1) The parties shall be free to determine the number of arbitrators of an arbitral tribunal subject to the provisions of subsection (3) of this section.

(2) Where no such determination is made, the number of arbitrators shall be three.

(3) Where the parties appoint an even number of arbitrators, the arbitrators so appointed shall jointly appoint an additional arbitrator who shall act as Chairman.

Appointment of arbitrators

7. (1) The parties shall be free to agree on a procedure for appointing the arbitrators, subject to the provisions of this Act.