

Samoa Arbitration Act Part 2

~~Arbitration Act 1976~~

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~~(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, although proceedings under the reference are still pending.~~

~~(3) A decision of the Court under this section is taken to be a judgment of the Court, but no appeal shall lie from the decision of the Court on a case stated under subsection (1)(a) without the leave of the Court.~~

PART 2 FOREIGN AWARDS

21. Effect of foreign awards – (1) A foreign award shall, subject to this Part, be enforceable in Samoa either by action or in the same manner as a judgment or order to the same effect.

(2) A foreign award which would be enforceable under this Part:

- (a) is treated as binding for all purposes on the persons as between whom it was made; and
- (b) may be relied on by any of those persons by way of defence, set off, or otherwise in any legal proceedings in Samoa,–

and any references in this Part to enforcing a foreign award is construed as including references to relying on an award.

22. Conditions for enforcement of foreign awards – (1) In order that a foreign award may be enforceable under this Part it shall:

- (a) be made under an agreement for arbitration which was valid under the law by which it was governed;
- (b) be made by the tribunal provided for in the agreement or constituted in manner agreed upon by the parties;
- (c) be made in conformity with the law governing the arbitration procedure;
- (d) become final in the country in which it was made;
- (e) be in respect of a matter which may lawfully be referred to arbitration under the law of Samoa, –

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

(2) Subject to this subsection, a foreign award is not enforceable under this Part if the Court dealing with the case 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 that party to present his or her 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:

PROVIDED that, 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 a ground other than the non-existence of the conditions specified in subsection (1)(a), (b) or (c), or the existence of the conditions specified in subsection (2)(b) and (c), entitling the party 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.

23. Evidence – (1) The party seeking to enforce a foreign award must produce:

- (a) the original award or a copy thereof duly authenticated in manner required by the law of the country in which it was made; and
- (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 22(1)(a), (b) and (c) are satisfied.

(2) If a document required to be produced under subsection (1) is in a foreign language, the party seeking to enforce the award shall 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 Samoa.

(3) Subject to this section, rules of Court may be made under the Judicature Act 2020 with respect to the evidence which must be provided by a party seeking to enforce an award under this Part.

24. Meaning of “final award” – For the purposes of this Part, an award is taken not to be final if any proceedings for the purpose of contesting the validity of the award are pending in the country in which it was made.

25. Saving – Nothing in this Part:

- (a) prejudices any rights which a person would have had of enforcing in Samoa an award or of availing himself or herself in Samoa of an award if this Part had not been enacted; or
- (b) applies to an award made on an arbitration agreement governed by the law of Samoa.

PART 3 MISCELLANEOUS

26. Power to enlarge time for making award – The time for making an award may be enlarged by order of the Court, whether the time for making the award has expired or not.

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

(2) If an award is remitted, the arbitrator or umpire shall, unless the order otherwise directs, make the award within 3 months after the date of order.

28. Enforcing award – An award on a submission may, by leave of the Court, be enforced in the same manner as a judgment or order to the same effect; and judgment may be entered in terms of the award.

29. Interest on awards – A sum directed to be paid by an award, unless the award otherwise directs, carries interest as from the date of the award and at the same rate as a judgment debt.

30. Limitation of time for commencing arbitration proceedings – Where: