

Sierra Leone



Arbitration Act (2022)

No 18

PART I – PRELIMINARY

1. In this Act, unless the context otherwise requires-

"international arbitration" means an arbitration where –

(a) at least one of the parties to an arbitration agreement, at the time of the conclusion of that agreement, has its place of business in a State other than Sierra Leone;

(b) the parties have their place of business in Sierra Leone and one of the following is situated in another State –

(i) the seat of arbitration, if determined in or pursuant to the arbitration agreement;

(ii) a place where a substantial part of the obligations of a commercial relationship is to be performed or the place with which the subject-matter of the dispute is most closely connected; or

(iii) the parties have expressly agreed that the subject-matter of the arbitration agreement relates to more than one State

"New York Convention" means the New York Convention on the Recognition and Enforcement of Arbitral Awards 1958;

2. (1) This Act shall apply to -

(a) domestic arbitration and international arbitration where the seat of arbitration is Sierra Leone;

(b) an arbitration agreement to which the Government of Sierra Leone is a party; and

(c) arbitral proceedings commenced on or after the commencement of this Act under an arbitration agreement whether made before or after the commencement of this Act.

(2) This Act shall not apply to arbitral proceedings originated before the commencement of this Act, unless the parties have agreed otherwise.

PART XII - RECOGNITION AND ENFORCEMENT OF AWARDS

65. (1) An arbitral award shall, irrespective of the country or State in which it is made, be recognised as binding and upon application in writing to the Court, be enforced by the Court subject to this section and section 66.

(2) The party relying on an award or applying for its enforcement shall supply –

(a) the original award or a certified copy thereof;

(b) the original arbitration agreement or a certified copy thereof; and

(c) a certified translation thereof into the English language, where the award or arbitration agreement is not made in the English.

(3) An award may, by leave of the Court, be enforced in the same manner as a judgment or order to the same effect.

66. (1) A party to an arbitration agreement may request the Court to refuse recognition or enforcement of an award.

(2) Irrespective of the country in which the award was made, the Court may only refuse recognition or enforcement of an award at the request of the party against whom it is invoked, if that party furnishes the Court with proof that –

(a) a party to the arbitration agreement was under some incapacity;

(b) the arbitration agreement is not valid under the law to which the parties have indicated should be applied, or, failing such indication, that the arbitration agreement is not valid under the law of the country where the award was made;

(c) the party against whom the award was invoked was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise not able to present his case;

(d) the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration;

(e) the award contains decisions on matters which are beyond the scope of the submission to arbitration, so however that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the award which contains decisions on matters submitted to arbitration may be recognised and enforced;

(f) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties;

(g) the composition of the arbitral tribunal, or the arbitral procedure was not in accordance with the law of the country where the arbitration took place or that there is no agreement between the parties;

(h) the award has not yet become binding on the parties or has been set aside or suspended by a Court of the country in which, or under the law of which, the award was made.

67. (1) The New York Convention shall, subject to this Act, have the force of law in Sierra Leone.

(2) Without prejudice to sections 65 and 68, where the recognition and enforcement of an award made in an arbitration in a country other than Sierra Leone is sought, the New York Convention on the Recognition and Enforcement of Foreign Awards set out in the Second Schedule shall apply: Provided that –

(a) the country is a party to the New York Convention;

(b) the differences arise out of a legal relationship, whether contractual or not, considered commercial under the laws of Sierra Leone; and

(c) the differences arise out of arbitration agreements concluded and arbitral awards rendered after the date of Sierra Leone's accession to the New York Convention.

(3) The Rules of Court Committee may make rules necessary to give effect to the section and in the absence of such rules, the rules in Schedule 3 shall apply.

PART XIII - ENFORCEMENT OF ICSID CONVENTION AWARDS

68. (1) Where, for any reason, it is necessary or expedient to enforce an award made by the International Centre for Settlement of Investment Disputes in Sierra Leone, a copy of the award duly certified by the Secretary- General of the Centre, if filed in the Supreme Court by the party seeking its recognition for enforcement in Sierra Leone, shall for all purposes have effect as if it were an award contained in a final judgment of the Supreme Court, and the award shall be enforceable accordingly.

(2) The Rules of Court Committee may make rules necessary to give effect to this section.

69. The ICSID Convention shall not apply to Parts I-XIII and XV- XVII of this Act.

70. (1) Articles 18 to 24 of the ICSID Convention, which governs the immunities status, of the International Centre for Settlements and privileges of Investment Disputes, of members of its Council and Secretariat and of persons concerned with conciliation or arbitration under the ICSID Convention, shall have the force of law.

(2) Nothing in Article 24 (1) of the ICSID Convention shall be construed as –

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

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

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

(3) For the purposes of Article 20 and Article 21(a) of the ICSID Convention, 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 of such waiver.

71. The Ministry of Finance may discharge out of money provided by Parliament, obligations of the Government arising under Article 17 of the ICSID Convention, which obliges the Contracting States to meet any deficit of the International Centre for Settlement of Investment Disputes and any sums required for that purpose.

PART XVI - ADDITIONAL PROVISIONS RELATING TO INTERNATIONAL COMMERCIAL ARBITRATION

81. The Foreign Judgments (Reciprocal Enforcement) Act, Chapter 21 of the Laws of Sierra Leone 1960, shall continue to apply in relation to foreign awards which are not enforceable under the New York Convention.