

Arbitration Act, 1940 [Repealed]

Chapter VII - Miscellaneous

A Small Cause Court shall have no jurisdiction over any arbitration proceedings or over any application arising thereout save on application made under section 21.

Section 41 - Procedure and powers of court

Subject to the provisions of this Act and of rules made thereunder :

(a) the provisions of Code of Civil Procedure, 1908 (5 of 1908), shall apply to all proceedings before the Court, and to all appeals, under this Act, and

(b) the Court shall have, for the purpose of, and in relation to, arbitration proceedings, the same power of making orders in respect of any of the matters set out in the Second Schedule as it has for the purpose of, and in relation to any proceedings before the Court:

Provided that nothing in Cl. (b) shall be taken to prejudice any power which may be vested in an arbitrator or umpire for making orders with respect to any of such matters.

Section 42 - Service of notice by party or arbitrator

Any notice required by this Act to be served otherwise than through the Court by a part to an arbitration agreement or by an arbitrator or umpire shall be served in the manner provided in the arbitration agreement, or if there is no such provision, either -

(a) by delivering it to the person on whom it is to be served, or

(b) by sending it by post in a letter addressed to that person at his usual or last known place of abode or business in [1](#)[India] and registered under Chapter VI of the Indian Post Office Act, 1898 (6 of 1898).

1. Substituted by A.O. 1950, for "the Provinces".

Section 43 - Power of court to issue processes for appearance before arbitrator

(1) The Court shall issue the same processes to the parties and witnesses whom the arbitrator or umpire desire to examine as the Court may issue in suits tried before it.

(2) Persons failing to attend in accordance with such process, or making any other default, or refusing to give their evidence, or guilty of any contempt to the arbitrator or umpire during the investigation of the reference, shall be subject to the like disadvantages, penalties and punishments by order of the Court on the representation of the arbitrator or umpire as they would incur for the like offences in suits tried before the Court.

(3) In this section the expression "processes" includes summonses and commissions for the examination of witnesses and summonses to produce documents.

Section 44 - Power to high court to make rules

The High Court may make rules consistent with this Act as to -

- (a) the filing of awards and all proceedings consequent thereon or incidental thereto;
- (b) the filing and hearing of special cases and all proceedings consequent thereon or incidental thereto ;
- (c) the staying of any suit or proceeding in contravention of an arbitration agreement;
- (d) the forms to be used for the purposes of this Act;
- (e) generally, all proceedings in Court under this Act;

Section 45 - Government to be bound

The provisions of this Act shall be binding on the Government.

Section 46 - Application of act to statutory arbitrations

The provisions of this Act, except sub-section (1) of Sec. 6 and Sections. 7, 12,¹[36] and 37, shall apply to every arbitration under any other enactment for the time being in force, as if the arbitration were pursuant to an arbitration agreement and as if that other enactment were an arbitration agreement, except in so far as this Act is inconsistent with that other enactment or with any rules made thereunder.

1. Inserted By Act 25 of 1952, Sec. 3 and Schedule. II

Section 47 - Act to apply to all arbitrations

Subject to the provisions of Sec. 46, and save in so far as is otherwise provided by any law for the time being in force, the provisions of this Act shall apply to all arbitrations and to all proceedings thereunder:

Provided that an arbitration award otherwise obtained may with the consent of all the parties interested be taken into consideration as a compromise or adjustment of a suit by any Court before which the suit is pending.

Section 48 - Saving for pending references

The provisions of this Act shall not apply to any reference pending at the commencement of this Act, to which the law in force immediately before the commencement of this Act shall, notwithstanding any repeal effected by this Act, continue to apply.

Section 49 - Repeals and amendments [Repealed]

[Repealed by the Repealing and Amending Act, 1945, Sec. 2 and Schedule I].
