

Arbitration and Conciliation Act, 1996

Section 11 - Appointment of Arbitrators

- (1) A person of any nationality may be an arbitrator, unless otherwise agreed by the parties.
- (2) Subject to sub-section (6), the parties are free to agree on a procedure for appointing the arbitrator or arbitrators.
- (3) Failing any agreement referred to in sub-section (2), in an arbitration with three arbitrators, each party shall appoint one arbitrator, and the two appointed arbitrators shall appoint the third arbitrator who shall act as the presiding arbitrator.
- (4) If the appointment procedure in sub-section (3) applies and
 - (a) a party fails to appoint an arbitrator within thirty days from the receipt of a request to do so from the other party; or
 - (b) the two appointed arbitrators fail to agree on the third arbitrator within thirty days from the date of their appointment,the appointment shall be made, upon request of a party, by the Chief Justice or any person or institution designated by him.
- (5) Failing any agreement referred to in sub-section (2), in an arbitration with a sole arbitrator, if the parties fail to agree on the arbitrator within thirty days from receipt of a request by one party from the other party to so agree the appointment shall be made, upon request of a party, by the Chief Justice or any person or institution designated by him.
- (6) Where, under an appointment procedure agreed upon by the parties,-
 - (a) a party fails to act as required under that procedure; or
 - (b) the parties, or the two appointed arbitrators, fail to reach an agreement expected of them under that procedure; or
 - (c) a person, including an institution, fails to perform any function entrusted to him or it under that procedure,a party may request the Chief Justice or any person or institution designated by him to take the necessary measure, unless the agreement on the appointment procedure provides other means for securing the appointment.
- (7) A decision on a matter entrusted by sub-section (4) or sub-section (5) or sub-section (6) to the Chief Justice or the person or institution designated by him is final.
- (8) The Chief Justice or the person or institution designated by him, in appointing an arbitrator, shall have due regard to-
 - (a) any qualifications required of the arbitrator by the agreement of the parties; and

(b) other considerations as are likely to secure the appointment of an independent and impartial arbitrator.

(9) In the case of appointment of sole or third arbitrator in an international commercial arbitration, the Chief Justice of India or the person or institution designated by him may appoint an arbitrator of a nationality other than the nationalities of the parties where the parties belong to different nationalities.

(10) The Chief Justice may make such scheme as he may deem appropriate for dealing with matters entrusted by sub-section (4) or sub-section (5) or sub-section (6) to him.

(11) Where more than one request has been made under sub-section (4) or sub-section (5) or sub-section (6) to the Chief Justices of different High Courts or their designates, the Chief Justice or his designate to whom the request has been first made under the relevant sub-section shall alone be competent to decide on the request.

(12) (a) Where the matters referred to in sub-sections (4), (5), (6), (7), (8) and (10) arise in an international commercial arbitration the reference to "Chief Justice" in those sub-sections shall be construed as a reference to the "Chief Justice of India".

(b) Where the matters referred to in sub-sections (4), (5), (6), (7), (8) and (10) arise in any other arbitration, the reference to "Chief Justice" in those sub-section shall be construed as a reference to, the Chief Justice of the High Court within whose local limits the principal Civil Court referred to in clause (e) of sub-section (1) of section 2 is situate and, where the High Court itself is the "Court referred to in that clause, to the Chief Justice of that High Court.