

Arbitration and Conciliation Act, 1996

Chapter 5 - Conduct of Arbitral Proceedings

The parties shall be treated with equality and each party shall be given a full opportunity to present his case.

Section 19 - Determination of rules of procedure

- (1) The arbitral tribunal shall not be bound by the Code of Civil Procedure, 1908 (5 of 1908) or the Indian Evidence Act, 1872(1 of 1872).
 - (2) Subject to this Part, the parties are free to agree on the procedure to be followed by the arbitral tribunal in conducting its proceedings.
 - (3) Failing any agreement referred to in sub-section (2), the arbitral tribunal may, subject to this Part, conduct the proceedings in the manner it considers appropriate.
 - (4) The power of the arbitral tribunal under sub-section (3) includes the power to determine the admissibility , relevance, materiality and weight of any evidence.
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Section 20 - Place of arbitration

- (1) The parties are free to agree on the place of arbitration.
 - (2) Failing any agreement referred to in sub-section (1), the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties.
 - (3) Notwithstanding sub-section (1) or sub-section (2), the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of documents, goods or other property.
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Section 21 - Commencement of arbitral proceedings

Unless otherwise agreed by the parties, the arbitral proceedings, in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent.

Section 22 - Language

- (1) The parties are free to agree upon the language or languages to be used in the arbitral proceedings.

(2) Failing any agreement referred to in sub-section (1), the arbitral tribunal shall determine the language or languages to be used in the arbitral proceedings.

(3) The agreement or determination, unless otherwise specified, shall apply to any written statement by a party, any hearing and any arbitral award, decision or other communication by the arbitral tribunal.

(4) The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the languages agreed upon by the parties or determined by the arbitral tribunal.

Section 23 - Statements of claim and defence

(1) Within the period of time agreed upon by the parties or determined by the arbitral tribunal, the claimant shall state the facts supporting his claim, the points at issue and the relief or remedy sought, and the respondent shall state his defence in respect of these particulars, unless the parties have otherwise agreed as to the required elements of those statements.

(2) The parties may submit with their statements all documents they consider to be relevant or may add a reference to the documents or other evidence they will submit.

(3) Unless otherwise agreed by the parties, either party may amend or supplement his claim or defence during the course of the arbitral proceedings, unless the arbitral tribunal considers it inappropriate to allow the amendment or supplement having regard to the delay in making it.

Section 24 - Hearings and written proceedings

(1) Unless otherwise agreed by the parties, the arbitral tribunal shall decide whether to hold oral hearings for the presentation of evidence or for oral argument, or whether the proceedings shall be conducted on the basis of documents and other materials;

Provided that the arbitral tribunal shall hold hearings, at an appropriate stage of the proceedings, on a request by a party, unless the parties have agreed that no oral hearing shall be held.

(2) The parties shall be given sufficient advance notice of any hearing and of any meeting of the arbitral tribunal for the purposes of inspection of documents, goods or other property.

(3) All statements, documents or other information supplied to, or applications made to, the arbitral tribunal by one party shall be communicated to the other party, and any expert report or evidentiary document on which the arbitral tribunal may rely in making its decision shall be communicated to the parties.

Section 25 - Default of a party

Unless otherwise agreed by the parties, where, without showing sufficient cause,--

- (a) the claimant fails to communicate his statement of claim in accordance with sub-section (1) of section 23, the arbitral tribunal shall terminate the proceedings;
- (b) the respondent fails to communicate his statement of defence in accordance with sub-section (1) of section 23, the arbitral tribunal shall continue the proceedings without treating that failure in itself as an admission of the allegations by the claimant;
- (c) a party fails to appear at an oral hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings and make the arbitral award on the evidence before it.

Section 26 - Expert appointed by arbitral tribunal

- (1) Unless otherwise agreed by the parties, the arbitral tribunal may--
 - (a) appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal, and
 - (b) require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods or other property for his inspection.
- (2) Unless otherwise agreed by the parties, if a party so requests or if the arbitral tribunal considers it necessary, the expert shall, after delivery of his written or oral report, participate on an oral hearing where the parties have the opportunity to put questions to him and to present expert witnesses in order to testify on the points at issue.
- (3) Unless otherwise agreed by the parties, the expert shall, on the request of a party, make available to that party for examination all documents, goods or other property in the possession of the expert with which he was provided in order to prepare his report.

Section 27 - Court assistance in taking evidence

- (1) The arbitral tribunal, or a party with the approval of the arbitral tribunal, may apply to the Court for assistance in taking evidence.
- (2) The application shall specify
 - (a) the names and addresses of the parties and the arbitrators.
 - (b) the general nature of the claim and the relief sought;
 - (c) the evidence to be obtained, in particular,
 - (i) the name and address of any person to be heard as witness or expert witness and a statement of the subject-matter of the testimony required;
 - (ii) the description of an document to be produced or property to be inspected.
- (3) The Court may, within its competence and according to its rules on taking evidence, execute the request or ordering that the evidence be provided directly to the arbitral tribunal.
- (4) The Court may, while making or order under sub-section (3), issue the same processes to witnesses as it may issue in suits tried before it.

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

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