

Arbitration Act, 1940

Chapter 07 - CHAPTER 07: MISCELLANEOUS

SECTION 40: SMALL CAUSE COURT NOT TO HAVE JURISDICTION OVER ARBITRATIONS SAVE ARBITRATIONS IN SUITS BEFORE IT- 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 COURTS Subject to the provisions of this Act and of rules

made thereunder-(a) the provisions of the Code of Civil Procedure, 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 clause (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 party 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 a[India] and registered under Chapter 6 of the Indian Post Office Act, 1898-

.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 desires to examine as the Court may issue in suits tried before it.(2) Person 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 a 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 a[Government]. SECTION 46: APPLICATION OF ACT TO STATUTORY

ARBITRATION The provisions of this Act, except sub-section (1) of Section 6-and Sections 7-,12-,a[36-]

and37-, 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-in arbitration

agreement, except in so far as this Act is inconsistent with that other enactment or with any rules made there

under. SECTION 47: ACT TO APPLY TO ALL ARBITRATIONS- Subject to the provisions of section 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 there under: 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 by the Repealing and Amending Act, 1945 (6 of 1945), S. 2 and Sch.. 1 (16-4-45).