

Indian Contract Act, 1872

Section 28 - Agreements in Restraint of Legal Proceedings Void

1[Every agreement, by which any party thereto is restricted absolutely from enforcing his rights under or in respect of any contract, by the usual legal proceedings in the ordinary tribunals, or which limits the time within which he may thus enforce his rights, is void to that extent.]

Exception 1.- Saving of contract to refer to arbitration dispute that may arise.- This section shall not render illegal a contract, by which two or more persons agree that any dispute which may arise between them in respect of any subject or class of subjects shall be referred to arbitration, and that only the amount awarded in such arbitration shall be recoverable in respect of the dispute so referred.

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Exception 2.- Saving of contract to refer questions that have already arisen.- Nor shall this section render illegal any contract in writing, by which two or more persons agree to refer to arbitration any question between them which has already arisen, or affect any provision of any law in force for the time being as to references to arbitration.3

1. Section 28 as substituted by the Indian Contract (Amendment) Act, 1997, subsequently repealed by Repealing and Amending Act, 2001, previously read as under:

Every agreement,-

(a) by which any party thereto is restricted absolutely from enforcing his rights under or in respect of any contract, by the usual legal proceedings in the ordinary tribunals, or which limits the time within which he may thus enforce his rights; or

(b) which extinguishes the rights of any party thereto, or discharges any party thereto, from any liability, under or in respect of any contract on the expiry of a specified period so as to restrict any party from enforcing his rights, is void to the extent.]

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2. The second clause of Exception 1 to section 28 rep. by Act 1 of 1877, section 2 and Schedule
3. Cf. the Arbitration Act, 1940 (10 of 1940) and the Companies Act, 1956 (1 of 1956), section 389.