

# CHAPTER 20 ARBITRATION (FOREIGN AWARDS) ACT

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• Act • Subsidiary Legislation •

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## ACT

Chapter No. 21 of 1958

### Amended by

Act No. 13 of 1978

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## CHAPTER 20 ARBITRATION (FOREIGN AWARDS) ACT

### An Act to secure the execution of foreign arbitral awards.

[Cap. 21 of 1958 amended by Act No. 13 of 1978.]

[3rd January, 1931.]

#### 1. Short title

This Act may be cited as the Arbitration (Foreign Awards) Act.

#### 2. Application of Act

(1) This Act applies to all awards made after the twenty-eighth day of July, one thousand nine hundred and twenty-four—

- (a) in pursuance of an agreement for arbitration to which the protocol set out in the Schedule to the Arbitration Clauses (Protocol) Act, Chapter 10 of 1934, applies;
- (b) between persons of whom one is subject to the jurisdiction of some one of such powers as Her Majesty, being satisfied that reciprocal provisions have been made, may by Order in Council declare to be parties to the said Convention, and of whom the other is subject to the jurisdiction of some other of the powers aforesaid; and
- (c) in one of such territories as Her Majesty, being satisfied that reciprocal provisions have been made, may by Order in Council declare to be territories to which the said Convention applies,

and an award to which this Act applies is in this Act referred to as a "foreign award".

(2) This section is subject to any revocation or variation of such Order as above as Her Majesty may be pleased to make.

### **3. Effect of foreign awards**

(1) A foreign award shall subject to the provisions of this Act be enforceable in Grenada either by action or under the provisions of section 69 or the Civil Procedure Act, Chapter 55.

(2) Any foreign award which would be enforceable under this Act shall be treated as binding for all purposes on the persons as between whom it was made, and may accordingly be relied on by any of those persons by way of defence, set-off or otherwise in any legal proceedings in Grenada, and any references in this Act to enforcing a foreign award shall be construed as including references to relying on an award.

### **4. Conditions for enforcement of foreign awards**

(1) In order that a foreign award may be enforceable under this Act it must have—

- (a) been made in pursuance of an agreement for arbitration which was valid under the law by which it is governed;
- (b) been made by the tribunal provided for in the agreement or constituted in manner agreed upon by the parties;
- (c) been made in conformity with the law governing the arbitration procedure;
- (d) become final in the country in which it was made;
- (e) been in respect of a matter which may lawfully be referred to arbitration under the law of Grenada,

and the enforcement thereof must not be contrary to the public policy or the law of Grenada.

(2) Subject to the provisions of this subsection, a foreign award shall not be enforceable under this Act if the court dealing with the case is satisfied that—

- (a) the award has been annulled in the country in which it was made;
- (b) the party against whom it is sought to enforce the award was not given notice of the arbitration proceedings in sufficient time to enable him or her to present his case, or was under some legal incapacity and was not properly represented; or
- (c) the award does not deal with all the questions referred or contains decisions on matters beyond the scope of the agreement for arbitration:

Provided that, if the award does not deal with all the questions referred, the court may, if it thinks fit, either postpone the enforcement of the award or order its enforcement subject to the giving of such security by the person seeking to enforce it as the court may think fit.

(3) If a party seeking to resist the enforcement of a foreign award proves that there is any ground other than the non-existence of the conditions specified in subsections (1)(a), (b) and (c) or the existence of the conditions specified in subsection (2)(b) and (c) entitling him or her to contest the validity of the award, the court may if it thinks fit, either refuse to enforce the award or adjourn the hearing until after the expiration of such period as appears to the court to be reasonably sufficient to enable that party to take the necessary steps to have the award annulled by the competent tribunal.

(4) After the first day of January, one thousand nine hundred and seventy-eight the United Kingdom and Grenada are separate parties for the purposes of this Act.

## 5. Evidence

(1) The party seeking to enforce a foreign award must produce the—

- (a) the original award or a copy thereof duly authenticated in manner required by the law of the country in which it was made;
- (b) evidence proving that the award has become final; and
- (c) such evidence as may be necessary to prove that the award is a foreign award and that the conditions mentioned in section 4(1)(a), (b) and (c) are satisfied.

(2) In any case where a document required to be produced under subsection (1) is in a foreign language, it shall be the duty of the party seeking to enforce the award to produce a translation certified as correct by a diplomatic or consular agent of the country to which that party belongs, or certified as correct in such other manner as may be sufficient according to the law of Grenada.

(3) Subject to the provisions of this section, rules of Court may be made under section 108 of the West Indies Associated States Supreme Court (Grenada) Act, Chapter 336, with respect to the evidence which must be furnished by a party seeking to enforce an award under this Act.

## 6. Meaning of "final award"

For the purposes of this Act an award shall not be deemed final if any proceedings for the purpose of contesting the validity of the award are pending in the country in which it was made.

## 7. Saving

Nothing in this Act shall—

- (a) prejudice any rights which a person would have had of enforcing in Grenada any award or of availing himself or herself in Grenada of any award if this Act had not been enacted; or
- (b) apply to any award made on an arbitration agreement governed by the law of Grenada.

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### **Schedule** ARBITRATION (FOREIGN AWARDS) ACT

#### *Convention on the Execution of Foreign Arbitral Awards*

#### ARTICLE 1

In the territories of any High Contracting Party to which the present Convention applies, an arbitral award made in pursuance of an agreement, whether relating to existing or future differences (hereinafter called a "submission to arbitration") covered by the Protocol on Arbitration Clauses, opened at Geneva on the 24th September, 1923, shall be recognised as binding and shall be enforced in accordance with the rules of the procedure of the territory where the award is relied upon:

Provided that the said award has been made in a territory of one of the High Contracting Parties to which the present Convention applies and between persons who are subject to the jurisdiction of one of the High Contracting Parties.

To obtain such recognition or enforcement, it shall, further, be necessary—

- (a) that the award has been made in pursuance of a submission to arbitration which is valid under the law applicable thereto;

- (b) that the subject-matter of the award is capable of settlement by arbitration under the law of the country in which the award is sought to be relied upon;
- (c) that the award has been made by the arbitral tribunal provided for in the submission to arbitration or constituted in the manner agreed upon by the parties and in conformity with the law governing the arbitration procedure;
- (d) that the award has become final in the country in which it has been made, in the sense that it will not be considered as such if it is open to opposition, *appel* or *pourvoi en cassation* (in the countries where such forms of procedure exist) or if it is proved that any proceedings for the purpose of contesting the validity of the award are pending;
- (e) that the recognition or enforcement of the award is not contrary to the public policy or to the principles of the law of the country in which it is sought to be relied upon.

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**CHAPTER 20  
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**SUBSIDIARY LEGISLATION**

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*No Subsidiary Legislation*

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