

## THE ARBITRATION ACT

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## THE ARBITRATION ACT

Cap. 19.  
Act  
42 of 1969,  
2nd Sch.

[30th June, 1900.]

1. This Act may be cited as the Arbitration Act.

Short title.

2. In this Act—

Interpreta-  
tion.

“Court” means the Supreme Court;

“Judge” means a Judge of the Supreme Court;

“Registrar” means the Registrar of the Supreme Court of  
Judicature of Jamaica;

“rules of court” includes the Civil Procedure Rules,  
2002;

“Special Referee” means any Resident Magistrate, Clerk  
of the Courts, or other person who may be  
appointed in any action or matter as Special  
Referee by the Court or a Judge;

“submission” means a written agreement to submit  
present or future differences to arbitration, whether  
an arbitrator is named therein or not.

3. A submission, unless a contrary intention is expressed  
therein, shall be irrevocable, except by leave of the Court  
or a Judge, and shall have the same effect in all respects as  
if it had been made an order of Court.

Effect of a  
submission.

4. A submission, unless a contrary intention is expressed  
therein, shall be deemed to include the provisions set forth  
in the following paragraphs as far as they are applicable  
to the reference under the submission—

Provisions as  
to a sub-  
mission.

(a) if no other mode of reference is provided, the  
reference shall be to a single arbitrator;

- (b) if the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award;
- (c) the arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later day to which the arbitrators, by any writing signed by them, may from time to time enlarge the time for making the award;
- (d) if the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire a notice in writing stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators;
- (e) the umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire by any writing signed by him may from time to time enlarge the time for making his award;
- (f) the parties to the reference, and all persons claiming through them respectively, shall, subject to any legal objection, submit to be examined by the arbitrators or umpire, on oath or affirmation, in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire all books, deeds, papers, accounts, writings and documents within their possession or power respectively which may be required or called for, and do all other things which during the proceedings on the reference the arbitrators or umpire may require;

- (g) the witnesses on the reference shall, if the arbitrators or umpire think fit, be examined on oath or affirmation;
- (h) the award to be made by the arbitrators or umpire shall be final and binding on the parties and the persons claiming under them respectively;
- (i) the costs of the reference and award shall be in the discretion of the arbitrators or umpire, who may direct to and by whom and in what manner those costs or any part thereof shall be paid, and may tax or settle the amount of costs to be so paid or any part thereof, and may award costs to be paid as between solicitor and client.

5. If any party to a submission, or any person claiming through or under him, commences any legal proceedings in the Court against any other party to the submission, or any person claiming through or under him, in respect of any matter agreed to be referred, any party to such legal proceedings may at any time after appearance, and before delivering any pleadings or taking any other steps in the proceedings, apply to the Court to stay the proceedings, and the Court or a Judge thereof, is satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission, and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceedings.

Stay of proceedings.

6. In any of the following cases—

- (a) where a submission provides that the reference shall be to a single arbitrator, and all the parties do not after differences have arisen concur in the appointment of an arbitrator;

Notice to appoint arbitrator or umpire.

- (b) if an appointed arbitrator refuses to act, or is incapable of acting, or dies, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties do not supply the vacancy;
- (c) where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator and do not appoint him;
- (d) where an appointed umpire or third arbitrator refuses to act, or is incapable of acting, or dies, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties or arbitrators do not supply the vacancy,

any party may serve the other parties or the arbitrators, as the case may be, with a written notice to appoint an arbitrator, umpire, or third arbitrator.

If the appointment is not made within seven clear days after the service of the notice, the Court or a Judge may, on application by the party who gave the notice, appoint an arbitrator, umpire, or third arbitrator, who shall have the like powers to act in the reference, and make an award as if he had been appointed by consent of all parties.

Refusal,  
incapacity  
or death of  
arbitrator.  
Failure to  
appoint  
arbitrator.

7. Where a submission provides that the reference shall be to two arbitrators, one to be appointed by each party, then, unless the submission expresses a contrary intention—

- (a) if either of the appointed arbitrators refuses to act, or is incapable of acting, or dies, the party who appointed him may appoint a new arbitrator in his place;
- (b) if, on such a reference, one party fails to appoint an arbitrator, either originally or by way of substitution as aforesaid, for seven clear days after the other party, having appointed his arbitrator,