

**RULES GOVERNING ARBITRATION
OF
FEDERATION OF PAPER TRADERS ASSOCIATIONS OF INDIA
COIMBATORE**

1. The Arbitration Act is a special Act which provide for quick resolution of disputes between the parties and Section 18 of the Act makes it clear that the parties shall be treated with equality.

2. Section 2 (a) defined an "arbitration agreement" to mean a written agreement to submit present or future differences to arbitration whether an arbitrator is named therein or not.

APPOINTMENT OF ARBITRATORS

1) The applicant shall in his application for reference to arbitration shall also exercise the option of choosing an arbitrators of his choice from the panel arbitrator is not

2) If the proposed arbitrator is not acceptable to the respondent shall intimate his objection in writing to the Federation within 15 days of the service of the application for reference to arbitration on the respondent, the Federation shall initiate efforts to arrive at a consensus between the parties to the dispute towards the choice of the sole arbitrator from the panel of arbitrators.

3) A person of any nationality may be an arbitrator, unless otherwise agreed by the parties.

3. An arbitration agreement may contain only the terms of reference to arbitration or it may be an arbitration clause in a commercial or other contract. Such a Clause is generally in the following terms.

Every dispute, difference or question which may at any time arise between the parties hereto or any person claiming under them, touching

or arising out of or in respect of this agreement or the subject matter thereof, shall be referred to the arbitration of A, B, etc, and the decision of the arbitrator shall be final and binding on the parties.

4. The parties to an arbitration agreement may agree that any reference there under shall be to an arbitrator or arbitrators to be appointed by a person designated in the agreement either by name or as the holder for the time being of any office or appointment. The authority of an appointed arbitrator or umpire shall not be revocable except with the leave of the court, unless a contrary intention is expressed in the arbitration agreement. An arbitration agreement shall not be discharged by the death of any party thereto, either in respect of the deceased or any other party, but shall in such event be enforceable by or against the legal representative of the deceased. The authority of an arbitrator shall not be revoked by the death of any party by whom he was appointed.

WITHDRAWAL OF AN ARBITRATOR FROM OFFICE:

Withdrawal of an arbitrator from the office for any reason is within the purview of Section 15(1)(a) of the Act. Obviously, therefore Section 15 (2) would be attracted and a substitute arbitrator has to be appointed according to the rules that are applicable for the appointment of the arbitrator to be replaced.

5. APPLICABILITY:

These rules shall govern arbitration of disputes between Paper Traders (Members of the association) and members/non-members/customers/suppliers/paper mills etc., arising out of or in relation to commercial transaction or under a contract made subject to

arbitration or otherwise by Federation of Paper Traders Associations of India, Coimbatore or words or abbreviations to a similar effect irrespective of whether the parties thereto or any of them are/is a member of the federation.

6. **DEFINITIONS:**

1) "legal representative" means a person who in law represents the estate of a deceased person and includes any person who intermediates with the estate of the deceased and where a party acts in a representative character, the person on whom the estate devolves on the death of the party so acting.

7. **ARBITRATION AGREEMENT:**

1. 'Arbitration agreement' means an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contracted or not.
2. An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.
3. An arbitration agreement shall be in writing.
4. An arbitration agreement is in writing if it is contained to –
 - a) a document signed by the parties;
 - b) an exchange of letters, telex, telegrams or other means of telecommunications including communication through electronic means which provide a record of the agreement; or
 - c) an exchange of statements of claim and defence in which the existence of the agreement is alleged by one party and not denied by the other.

5. An arbitrator is not a conciliator and can not ignore the law or misapply it in order to do what he thinks is just and reasonable. He is a tribunal selected by the Federation to decide parties disputes according to law and so is bound to follow and apply the law.

6. The Federation shall determine the fees of the arbitral tribunal and the manner of its payment to the arbitral tribunal subject to the rates specified in the Fourth Schedule to the Arbitration and Conciliation "Act, 1996 as amended.

8. **POWER TO REFER PARTIES TO ARBITRATION WHERE THERE IS AN ARBITRATION AGREEMENT:**

1. A judicial authority, before which an action is brought in a matter, which is the subject of an arbitration agreement shall if a party to the arbitration agreement, or any person claiming through or under him, so applies not later than the date of submitting his first statement on the substance of the dispute, refer the parties to arbitration.

2. The application referred to in sub-section (1) shall not be entertained unless it is accompanied by the original arbitration agreement or a duly certified copy thereof.

9. **COMPOSITION OF ARBITRAL TRIBUNAL**

1. **Number of arbitrators:-**

i. The parties are free to determine the number of arbitrators, provided that such number shall not be an even number;

ii. Failing the determination referred to in sub-section (i) the arbitral tribunal shall consist of a sole arbitrator.

2. **Appointment of arbitrators:-**

- i. A person of any nationality may be an arbitrator, unless otherwise agreed by the parties;
- ii. The parties are free to agree on a procedure for appointing the arbitrator or arbitrators;
- iii. Failing any agreement referred to in sub-section (ii) in an arbitration with three arbitrators, each party shall appoint one arbitrator and the two appointed arbitrators shall appoint the third arbitrator who shall act as a presiding arbitrator.

10. **Termination of mandate and substitution of arbitrator:-**

- i. The mandate of an arbitrator shall terminate:-
 - a) whether he withdraws from office for any reason; or
 - b) by or pursuant to agreement of the parties;
- ii. Where the mandate of an arbitrator terminates, a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced;
- iii. Unless otherwise agreed by the parties, an order or ruling of the arbitral tribunal made prior to the replacement of an arbitrator shall not be invalid solely because there has been a change in the composition of the arbitral tribunal.

11. **Competence of arbitral tribunal to rule on its jurisdiction:**

The arbitral tribunal may rule on its own jurisdiction, including ruling on any objections with respect to the existence or validity of the arbitration agreement.

12. **Conduct of Arbitral Proceedings Determination of Rules of procedure:**

- i. 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)

- ii. The parties are free to agree on the procedure to be followed by the arbitral tribunal in conducting its proceedings.

Commencement of arbitral proceedings:

- i. 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

- ii. **Language:**

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

- ii. **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.

14. **AWARD:**

Time limit for arbitral award:

1. The award shall be made by the arbitral tribunal within a period of twelve months from the date of completion of proceedings under sub-section (4) of Section 23 of the Act.
2. If the award is made within a period of six months from the date the arbitral enters upon the reference, the arbitral tribunal shall be entitled to receive such amount of additional fees as the parties may agree.
3. The parties may, by consent, extend the period specified in sub-section (1) for making award for a further period not exceeding six months.

4. If the award is not made within the period specified in sub-section(1) or the extended period specified under sub-section 93) the mandate of the arbitrators(s) shall terminate unless the court has, either prior to or after the expiry of the period so specified, extend the period.

15. **FAST TRACK PROCEDURE:**

Notwithstanding anything contained in this act, the parties to an arbitration agreement may, at any stage either before or at the time of appointment of the arbitral tribunal, agree in writing to have their dispute resolved by fast track procedure.

16. **SETTLEMENT:**

It is not incompatible with an arbitration agreement for an arbitral tribunal to encourage settlement of the dispute and with the agreement of the parties, the arbitral tribunal may use mediation, conciliation or other procedures at any time during the arbitral proceedings to encourage settlement.

17. **FORM AND CONTENTS OF ARBITRAL AWARD:**

1. An arbitral award shall be made in writing and shall be signed by the members of the arbitral tribunal.
2. In arbitral proceedings with more than one arbitrator, the signatures of the majority shall be sufficient so long as the reason for any omitted signature is stated.
3. The arbitral award shall state the reasons upon which it is based.
4. After the arbitral award is made a signed copy shall be delivered to each party.

5. The arbitral tribunal may at any time during the arbitral proceedings make an interim arbitral award on any matter respect to which it may make a final arbitral award.
6. If the arbitral award is for the payment of money, the arbitral tribunal may include in the sum for which the award is made interest at such rate as it deems reasonable.
7. A sum directed to be paid by an arbitral award shall, unless the award otherwise directs, carry interest at the rate of two per cent higher than the current rate of interest prevalent on the date of award, from the date of award to the date of payment.

18. **REGIME FOR COSTS**

In relation to any arbitration proceedings the court or arbitral tribunal, notwithstanding anything contained in the code of Civil Procedure, 1908 shall have the discretion to determine the costs.

19. **TERMINATION OF PROCEEDINGS:**

1. The arbitral proceedings shall be terminated by the final arbitral award or
2. The arbitral tribunal shall issue an order for the termination of the arbitral proceedings where -
 - a) the claimant withdraw his claim
 - b) the parties agree on the termination of the proceedings, or
 - c) the arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.
 - d) The mandate of the arbitral tribunal shall terminate with the termination of the arbitral proceedings.

20. **ENFORCEMENT OF ARBITRAL AWARD:**

1. Where the time for making an application to set aside the arbitral award has expired, then such award shall be enforced in accordance with the provisions of the Code of Civil Procedure, 1908 in the same manner as if it were a decree of the court.
2. Where an application to set aside the arbitral award has been filed, the filing of such an application shall not by itself render that award unenforceable, unless the court grants an order of stay of the operation of the said arbitral award.

21. **APPEALS:**

1. Appeal shall lie from the following orders to the court authorized by law to hear appeals from original decrees of the court passing the order, namely:-
 - a) refusing to refer the parties to arbitration under Section 8.
 - b) granting or refusing to grant any measure under Section 9.
 - c) setting aside or refusing to set aside an arbitral award under Section 34.
2. Appeal shall also lie to a court from an order of the arbitral tribunal:-
 - a) accepting the plea that the arbitral tribunal does not have jurisdiction or
 - b) the arbitral tribunal is exceeding the scope of its authority.
3. No second appeal shall lie from an order passed in appeal under this Section (Section 37), but nothing in this section shall affect or take away any right to appeal to the Supreme Court.

22.

1. An arbitration agreement shall not be discharged by the death of any party thereto either as respects the deceased or as respects any other party, but shall in such event be enforceable by or against the legal representative of the deceased.
2. The mandate of an arbitrator shall not be terminated by the death of any party by whom he was appointed.

23. **LIMITATION:**

Section 43 provides that the Limitation Act, 1963, shall apply to arbitrations as it applies to proceedings in court.

24. **PROTECTION OF ACTION IN GOOD FAITH:**

No suit or other legal proceedings shall lie against the arbitrator for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

25. **STAMP DUTY AND REGISTRATION:**

Awards, except those directing partition, on the reference made otherwise than by an order of the court in the course of the suit are chargeable to stamp duty under Article 12, Schedule 1 of the Stamp Act. An award directing partition is chargeable as an instrument of partition under Article 45. Only awards on private references fall under Article 12 and not awards made on references by the courts.

SCHEDULE 1 ARTICLE 12

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| a) Where the amount of the value of the :
Property to which the award relates
as set forth in such award, does not
exceed Rs/ 1000/- | The same duty as
bottomry bond
(No.16) for such
amount. |
| b) If it exceeds Rs.1000/- but does :
Not exceed Rs/5000/-
and for every additional :
Rs.1000/- or part thereof in
excess of Rs.5000/- | 1) Fifty Rupees

2) Two rupees
subject to a maximum
of one hundred and
fifty rupees. |

1. The words 'fifty rupees' were substituted for the words 'thirty five rupees' by Tamil Nadu Act 39 of 1992 w.e.f. 01.07.1992