

CAYMAN ISLANDS



FOREIGN ARBITRAL AWARDS ENFORCEMENT LAW

(1997 Revision)

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ENFORCEMENT LAW
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(1997 Revision)

ENACTED by the Legislature of the Cayman Islands.

Short title

1. This Law may be cited as the *Foreign Arbitral Awards Enforcement Law (1997 Revision)*.

Definitions and application

2. (1) In this Law —

“**arbitration agreement**” means an agreement in writing (including an agreement contained in an exchange of letters or telegrams) to submit to arbitration present or future differences capable of being settled by arbitration;

“**Convention award**” means an award made in pursuance of an arbitration agreement in the territory of a State, other than the Islands, which is a party to the New York Convention;

“**domestic**” with reference to an arbitration agreement, means an agreement which does not provide expressly or by implication for arbitration in a State other than the Islands and to which neither —

- (a) an individual who is a national of, or habitually resident in, any State other than the Islands; nor
- (b) a body corporate which is incorporated in, or whose central management and control is exercised in, any State other than the Islands,



is a party at the time the proceeding are commenced; and

“**New York Convention**” means the Convention on the Recognition and Enforcement of Foreign Arbitral Awards adopted by the United Nations Conference on International Commercial Arbitration on the 10th of June, 1958.

- (2) If Her Majesty in Council, by Order in Council, declares that any State specified in the Order is a party to the New York Convention, the Order shall, while in force, be conclusive evidence that such State is a party to the Convention.
- (3) An Order in Council may be varied or revoked by a subsequent Order in Council.

Application

3. This Law has no application to domestic arbitration agreements, but section 4 applies to other arbitration agreements in lieu of section 6 of the *Arbitration Law (1996 Revision)*.

Staying of certain court proceedings

4. If any party to an arbitration agreement, or any person claiming through or under him, commences any legal proceedings in any court against any other party to the agreement, or any person claiming through or under him, in respect of any matter agreed to be referred, any party to the 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, unless satisfied that the arbitration agreement is null and void, inoperative or incapable of being performed or that there is not in fact any dispute between the parties with regard to the matter agreed to be referred, shall make an order staying the proceedings.

Effect of Convention awards

5. A Convention award shall, subject to this Law, be enforceable in the Grand Court in the same manner as an award under section 22 of the *Arbitration Law (1996 Revision)* and shall be treated as binding for all purposes on the persons between whom it was made and may accordingly be relied upon by any of those persons by way of defence, set off or otherwise in any legal proceedings in the Islands and any reference in this Law to enforcing a Convention award shall be construed as including references to relying upon such award.

Evidence

6. The party seeking to enforce a Convention award shall produce —
 - (a) the duly authenticated original award or a duly certified copy of it;
 - (b) the original arbitration agreement or a duly certified copy of it; and



- (c) where the award or agreement is in a foreign language, a translation of it certified by an official or sworn translator or by a diplomatic or consular agent.

Refusal of enforcement

7. (1) Enforcement of a Convention award shall not be refused except in the cases mentioned in subsections (2) and (3).
- (2) Enforcement of a Convention award may be refused if the person against whom it is invoked proves —
- (a) that a party to the arbitration agreement was (under the law applicable to him) under some incapacity;
 - (b) that the arbitration agreement was not valid under the law to which the parties subjected it or, failing any indication thereon, under the law of the country where the award was made;
 - (c) that he was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case;
 - (d) subject to subsection (4), that the award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration or contains decisions on matters beyond the scope of the submission to arbitration;
 - (e) that the composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, with the law of the country where the arbitration took place; or
 - (f) that the award has not yet become binding on the parties, or has been set aside or suspended by a competent authority of the country in which, or under the law of which, it was made.
- (3) Enforcement of a Convention award may also be refused if the award is in respect of a matter which is not capable of settlement by arbitration, or if it would be contrary to public policy to enforce the award.
- (4) A Convention award which contains decisions on matters not submitted to arbitration may be enforced to the extent that it contains decisions on matters submitted to arbitration which can be separated from those on matters not so submitted.
- (5) Where an application for the setting aside or suspension of a Convention award has been made to such a competent authority as is mentioned in paragraph (f) of subsection (2), the court, before which enforcement of the award is sought, may, if it thinks fit, adjourn proceedings and may, on the

application of the party seeking to enforce the award, order the other party to give security.

Publication in revised form authorised by the Governor in Council this 2nd day of September, 1997.

Carmena H. Parsons
Clerk of Executive Council

