



**THE FOLLOWING LEGISLATION
HAS BEEN REPEALED
BY**

ACT NO. 43 OF 2009

CHAPTER 181

ARBITRATION CLAUSES (PROTOCOL)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Staying of court proceedings in respect of matters to be referred to arbitration under commercial agreement.

SCHEDULE —Protocol on Arbitration Clauses.

CHAPTER 181

ARBITRATION CLAUSES (PROTOCOL)

An Act give effect to a Protocol on Arbitration Clauses signed on behalf of His Majesty at a meeting of the Assembly of the League of Nations held on the twenty-fourth day of September, nineteen hundred and twenty-three. *11 cf 1931*

[Commencement 28th May, 1931]

WHEREAS at a meeting of the Assembly of the League of Nations held on the twenty-fourth day of September, nineteen hundred and twenty-three, the protocol on arbitration clauses set forth in the Schedule to this Act was signed on behalf of His Majesty;

AND WHEREAS for the purpose of giving effect to the said protocol it is expedient that the provisions hereinafter contained shall have effect;

1. This Act may be cited as the Arbitration Clauses (Protocol) Act. *Short title.*

2. Notwithstanding anything in the Arbitration Act, if any party to a submission made in pursuance of an agreement to which the said protocol applies or any person claiming through or under him, commences any legal proceedings in any 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 other steps in the proceedings, apply to that court to stay the proceedings, and that court or a judge thereof, unless satisfied that the agreement or arbitration has become inoperative or cannot proceed 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. *Staying of court proceedings in respect of matters to be referred to arbitration under commercial agreement. Ch. 180.*

SCHEDULE**PROTOCOL ON ARBITRATION CLAUSES**

Note.—This protocol remains in force under the auspices of the United Nations Organisation and the Secretary-General of U.N.O. carries out the functions of the Secretary-General of the League of Nations under the protocol.

The undersigned, being duly authorised, declare that they accept, on behalf of the countries which they represent, the following provisions¹. Each of the Contracting States recognises the validity of an agreement whether relating to existing or future differences between parties, subject respectively to the jurisdiction of different Contracting States by which the parties to a contract agree to submit to arbitration all or any differences that may arise in connection with such contract relating to commercial matters or to any other matter capable of settlement by arbitration, whether or not the arbitration is to take place in a country to whose jurisdiction none of the parties is subject.

Each Contracting State reserves the right to limit the obligation mentioned above to contracts which are considered as commercial under its national law. Any Contracting State which avails itself of this right will notify the Secretary-General of the League of Nations, in order that the other Contracting States may be so informed.

2. The arbitral procedure, including the constitution of the arbitral tribunal, shall be governed by the will of the parties and by the law of the country in whose territory the arbitration takes place. The Contracting States agree to facilitate all steps in the procedure which requires to be taken in their own territories, in accordance with the provisions of their law governing arbitral procedure applicable to existing differences.

3. Each Contracting State undertakes to ensure the execution by its authorities and in accordance with the provisions of its national laws of arbitral awards made in its own territory under the preceding articles.

4. The tribunals of the Contracting Parties, on being seized of a dispute regarding a contract made between persons to whom Article 1 applies and including an arbitration agreement whether referring to present or future differences which is valid in virtue of the said article and capable of being carried into effect, shall refer the parties on the application of either of them to the decision of the arbitrators.

Such reference shall not prejudice the competence of the judicial tribunals in case the agreement or the arbitration cannot proceed or becomes inoperative.

5. The present protocol, which shall remain open for signature by all States, shall be ratified. The ratifications shall be deposited as soon as possible with the Secretary-General of the League of Nations, who shall notify such deposit to all the signatory States.

6. The present protocol shall come into force as soon as two ratifications have been deposited. Thereafter it will take effect, in the case of each Contracting State, one month after the notification by the Secretary-General of the deposit of its ratification.

7. The present protocol may be denounced by any Contracting State on giving one year's notice. Denunciation shall be effected by a notification addressed to the Secretary-General of the League, who will immediately transmit copies of such notification to all the other signatory States and inform them of the date on which it was received. The denunciation shall take effect one year after the date on which it was notified to the Secretary-General, and shall operate only in respect of the notifying State.

8. The Contracting States may declare that their acceptance of the present protocol does not include any or all of the undermentioned territories: that is to say, their colonies, overseas possessions or territories over which they exercise a mandate. The said States may subsequently adhere separately on behalf of any territory thus excluded. The Secretary-General of the League of Nations shall be informed as soon as possible of such adhesions. He shall notify such adhesions to all signatory States. They will take effect one month after the notification by the Secretary-General to all signatory States.

The Contracting States may also denounce the protocol separately on behalf of any of the territories referred to above. Article 7 applies to such denunciation.