

CHAPTER 104

ARBITRATION

Ordinances Nos.15of1866, 2 of 1889.

AN ORDINANCE RELATING TO ARBITRATION AND AWARDS, AND TO PROVIDE FOR SUMMARY REFERENCE TO COURTS.

[12th December, 1866.]

Short title-

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

5. If at the time of making reference, or at any time thereafter, it shall appear to the court, on a report to that effect made by the arbitrators, that the allowance or disallowance of any particular item in such account depends upon a question of law fit to be decided by the court, it shall be lawful for such court to try and determine such question, and the finding of the court thereupon shall be taken and acted upon by the arbitrators as conclusive.

Court may determine any question of law upon which allowance of any item of account may depend.

PART I

REFERENCE To ARBITRATION

All civil matters may be referred to arbitration.

2. All matters in dispute between parties, which may form the subject of civil action, and not that of an indictment or criminal proceeding, may be submitted to arbitration.

Arbitration may be compulsory or voluntary.

3. A submission to arbitration may be compulsory by order of court, or voluntary by the consent of parties.

6. In every case where reference shall be made to arbitration by the order of court as aforesaid, the court shall, in addition to the general power to remit conferred upon it by section 15, have power from time to time to remit the matters referred, or any of them, for the reconsideration and redetermination of the said arbitrators or umpire upon such terms as to costs and otherwise as to the court may seem proper.

Power to send back to arbitrators

PART II

COMPULSORY REFERENCE

Power of court to direct arbitration.

4. If at any time after the institution of an action it shall appear to the satisfaction of the court that it relates wholly or in part to matters of mere account of an intricate and complicated character, which cannot conveniently be tried in the ordinary way, it shall be lawful for such court to order that such matters, either wholly or in part, be referred to one or more arbitrators to be nominated by the parties, or if they cannot agree or refuse to nominate them, by the court itself upon such terms as to the cost? and otherwise as such court shall think reasonable. The award of the arbitrators or of the umpire shall be reported to the court, and shall, subject to the provisions hereinafter contained, be treated as if it were a finding of the court on the particular matter referred to arbitration.

7. Whenever the parties to any deed or instrument in writing to be hereafter made or executed, or any of them, shall agree that any existing or future differences between them shall be referred to arbitration, and any one or more of the said parties, or any person claiming through or under them, shall nevertheless commence any action against the other party, or against any person claiming through or under them, in respect of the matters so agreed to be referred, it shall be lawful for the court in which the action is brought, on application by the defendants, or any of them, upon being satisfied that no sufficient reason exists why such matters cannot be referred to arbitration according to such agreement as aforesaid, and that the defendants or any of them were, at the time of the bringing of

If action commenced by one party after all have agreed to arbitration, court may stay proceedings.

such action, and still are, ready and willing to join and concur in all acts necessary and proper for causing such matters to be decided by arbitration, to make an order staying all proceedings in such action, and compelling reference to arbitration on such terms as to costs and otherwise as to such court may seem fit:

Provided always that any such rule or order may, at any time afterwards, be discharged or varied as justice may require.

examined upon oath, it shall be lawful for the arbitrators or umpire, or any one arbitrator, and they are hereby authorized and required, to administer oaths to such witnesses, or to take their affirmation, in cases where affirmation is allowed by law instead of oath; and if, upon such oath or affirmation, any person making the same shall wilfully and corruptly give false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall be prosecuted and punished accordingly.

Proceedings before, and power of such arbitrator.

8. The proceedings upon any compulsory arbitration shall, unless otherwise directed hereby, or by the deed or instrument authorizing the reference, be conducted in like manner, and subject to the same rules as to the power of the arbitrator and of the court, the attendance of witnesses, the production of documents, the enforcing or setting aside the award, and otherwise, as upon a reference made by consent under a rule of court.

11. The arbitrators acting under any deed of submission or compulsory order of reference, shall make their award under their hand and (unless such document or order shall contain a different limit of time) within three months after they shall have been appointed and shall have entered on the reference, or shall have been called upon to act by a notice in writing from any party, but the court or the parties by consent in writing may enlarge the time for making the award. If no period be stated for the enlargement in such consent or such order for such enlargement, it shall be deemed to be an enlargement for one month ; and, in any case when an umpire shall have been appointed, it shall be lawful for him to enter on the reference in lieu of the arbitrators, if the latter shall have allowed their time, or their extended time, to expire without making an award, or shall have delivered to any party or to the umpire, a notice in writing stating that they cannot agree.

Award to be made in three months unless parties or court enlarge time.

PART III

PROCEEDINGS BEFORE ARBITRATORS*

Power of arbitrators appointed under order of court or in pursuance of submission which may be made on rule of court.

9. When a reference is made to arbitration by an order of court, or in pursuance of an agreement that such reference shall be made an order of court, the court shall issue the same process to the parties and witnesses whom the arbitrators or umpire may desire to have examined as the court is authorized to issue in suits tried before it; and persons not attending in consequence of such process, or making any other default, or refusing to give their testimony, or being guilty of any contempt to the arbitrators or umpire during the investigation of the suit, shall be made subject to the like disadvantages, penalties, and punishments, by order of the court, on the representation of the arbitrators or umpire, as they would incur for the same offence in suits tried before the court.

PART IV

AWARD*

12. When an award in a suit shall be made either by the arbitrators or the umpire, it shall be submitted to the court under the signature of the person by whom It may be made, together with all the proceedings, depositions, and exhibits in the suit.

Award must be signed by party making, and submitted with proceedings, depositions, and exhibits.

When arbitrators may administer oath; false oath before them made perjury.

10. When in any order of reference, or in any submission to arbitration, containing an agreement that the submission shall be made a rule or order of court, it shall be ordered or agreed that the parties and witnesses upon such references shall be

13. It shall be lawful for the arbitrators or umpire, upon any reference, by an order of court, if they shall think fit, and if it is not provided to the contrary, to state their award as to the whole or any part thereof,

Arbitrators may state their award in the form of a special case.

* So much of the provisions of this Part as regards voluntary references are repealed by Ordinance No. 2 of 1889, which is reproduced in this Edition as the Civil Procedure Code.

in the form of a special case for the opinion of the court.

(c) if an objection to the legality of the award is apparent upon the face of the award.

When court may modify or correct an award.

14. The court may, on the application of either party, modify or correct an award, where it appears that a part of the award is upon matters not referred to the arbitrators (provided that such part can be separated from the other part and does not affect the decision on the matter referred), or where the award is imperfect in form, or contains any obvious error which can be amended without affecting such decision. The court may also, on such application, make such order as it thinks just respecting the costs of the arbitration, if any question arise respecting such costs and the award contains no sufficient provision concerning them.

16. No award shall be liable to be set aside except on the ground of corruption or misconduct of the arbitrators or umpire. Any application to set aside an award shall be made within ten days after the same has been submitted to the court and notified to the parties in the suit, and not thereafter.

Setting aside of awards.

17. If the court shall not see cause to remit the award or any of the matters referred to arbitration for reconsideration in manner aforesaid, and if no application shall have been made to set aside the award, or if the court shall have refused such application, the court shall proceed to pass judgment according to the award, or according to its own opinion on the special case if the award shall have been submitted to it in the form of a special case; and the judgment which shall be so given shall be carried into execution in the same manner as other decrees of the court. In every case in which judgment shall be given according to the award, the judgment shall be final, and shall not be subject to appeal. Where judgment shall be given in any case of compulsory reference, such judgment shall be subject to appeal.

Judgment upon awards.

Appeal.

When court may remit award.

15. In any of the following cases the court shall have power to remit the award or any of the matters referred to arbitration to the reconsideration of the same arbitrators or umpire, upon such terms as it may think proper, that is to say —

- (a) if the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration ;
- (b) if the award is so indefinite as to be incapable of execution;

18. If there be no cause pending in court, and the submission has not been made a rule of court, the mode of enforcing the award is by action on the bond of submission.

Proceedings on awards not made a rule of court.