

## Ministry of Law and Justice

Press Release dated 26-08-2015

### Amendments to the Arbitration and Conciliation Bill, 2015

The Union Cabinet chaired by the Prime Minister, Shri Narendra Modi, today gave its approval for amendments to the Arbitration and Conciliation Bill, 2015 taking into consideration the Law Commission's recommendations, and suggestions received from stake holders. The Government of India has decided to amend the Arbitration and Conciliation Act, 1996 by introducing the Arbitration and Conciliation (Amendment) Bill, 2015 in the Parliament.

The salient features of the amendments are as under:

(i) In order to ensure neutrality of arbitrators, it is proposed to amend Section 12 to the effect that when a person is approached in connection with possible appointment of arbitrator, he shall disclose in writing about existence of any relationship or interest of any kind, which is likely to give rise to justifiable doubts. Further, if a person is having specified relationship, he shall be ineligible to be appointed as an arbitrator.

(ii) Insertion of a new provision that the Arbitral Tribunal shall make its award within a period of 12 months. Parties may extend such period up to six months. Thereafter, it can only be extended by the Court, on sufficient cause. The Court while extending the period may also order reduction of fees of arbitrator(s) not exceeding five percent for each month of delay, if the court finds that the proceedings have been delayed for reasons attributable to the arbitral tribunal. If the award is made within a period of six months, arbitrator may get additional fees if the parties may agree.

(iii) It is proposed to insert a provision for fast track procedure for conducting arbitration. Parties to the dispute may agree that their dispute be resolved through fast track procedure. Award in such cases shall be given in six months period.

(iv) Amendment of Section 34 relating to grounds for challenge of an arbitral award, to restrict the term 'Public Policy of India' (as a ground for challenging the award) by explaining that only where making of award was induced or affected by fraud or corruption, or it is in contravention with the fundamental policy of Indian Law or is in conflict with the most basic notions of morality or justice, the award shall be treated as against the Public Policy of India.

(v) A new provision to provide that application to challenge the award is to be disposed of by the Court within one year.

(vi) Amendment to Section 36 to the effect that mere filing of an application for challenging the award would not automatically stay execution of the award. Award can only be stayed where the Court passed any specific order on an application filed by the party.

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This document has been compiled as service to our clients. We recommend that you seek professional advise prior to initiating action on specific issues.

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(vii) A new sub-section in Section 11 to be added to the effect that an application for appointment of an Arbitrator shall be disposed of by the High Court or Supreme Court as expeditiously as possible and an endeavour should be made to dispose of the matter within 60 days.

(viii) A new Section 31A is to be added for providing comprehensive provisions for costs regime. It is applicable both to arbitrators as well as related litigation in Court. It will avoid frivolous and meritless litigation/arbitration.

(ix) Section 17 is to be amended for empowering the Arbitral tribunal to grant all kinds of interim measures which the Court is empowered to grant, under Section 9 and such order shall be 'enforceable in the same manner as if it is an order of Court.

Apart from above, amendments in Sections 2(1)(e) , 2(1)(f)(iii), 7(4)(b), 8(1) and (2), 9, 11, 14(1), 23, 24, 25, 28(3), 31(7)(b), 34 (2A) 37, 48, 56 and in Section 57 are also proposed for making the arbitration process more effective.

**Background:**

The Government of India has under its consideration proposals for making Arbitration a preferred mode for settlement of commercial disputes by making it more user-friendly and cost effective. This will lead to expeditious disposal of cases. The Govt. of India is committed to improve its legal framework relating to Arbitration. The Law Commission of India in its 246th Report has recommended various amendments in the Arbitration and Conciliation Act, 1996, so that India may become a hub of International Commercial Arbitration. The Law Commission has also submitted a Supplementary to Report No. 246 on "Amendments to the Arbitration Act, 1996 on 'Public Policy'- Developments post Report 246", wherein the Law Commission taking into account subsequent decisions of the Supreme Court has recommended reformulation of amendment in Section 34(2)(b) of the Act

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