



LAWS OF MALAYSIA

Act A1395

ARBITRATION (AMENDMENT) ACT 2011

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LAWS OF MALAYSIA**Act A1395****ARBITRATION (AMENDMENT) ACT 2011**

An Act to amend the Arbitration Act 2005.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Arbitration (Amendment) Act 2011.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Amendment of section 2

2. The Arbitration Act 2005 [*Act 646*], which is referred to as the “principal Act” in this Act, is amended in paragraph 2(2)(b) by substituting for the words “sections 3 and 30” the words “section 3”.

Amendment of section 8

3. The principal Act is amended by substituting for section 8 the following section:

“Extent of court intervention

8. No court shall intervene in matters governed by this Act, except where so provided in this Act.”.

Amendment of section 10**4. Section 10 of the principal Act is amended—**

- (a) by substituting for subsection (1) the following subsection:

“(1) A court before which proceedings are brought in respect of a matter which is the subject of an arbitration agreement shall, where a party makes an application before taking any other steps in the proceedings, stay those proceedings and refer the parties to arbitration unless it finds that the agreement is null and void, inoperative or incapable of being performed.”;

- (b) by inserting after subsection (2) the following subsections:

“(2A) Where admiralty proceedings are stayed pursuant to subsection (1), the court granting the stay may, if in those proceedings property has been arrested or bail or other security has been given to prevent or obtain release from arrest—

- (a) order that the property arrested be retained as security for the satisfaction of any award given in the arbitration in respect of that dispute; or

- (b) order that the stay of those proceedings be conditional on the provision of equivalent security for the satisfaction of any such award.

(2B) Subject to any rules of court and to any necessary modifications, the same law and practice shall apply in relation to property retained in pursuance of an order under subsection (2A) as would apply if it were held for the purposes of proceedings in the court making the order.

(2C) For the purpose of this section, admiralty proceedings refer to admiralty proceedings under Order 70 of the Rules of the High Court 1980 [*P.U. (A) 50/1980*] and proceedings commenced pursuant to paragraph 24(b) of the Courts of Judicature Act 1964 [*Act 91*].”; and

- (c) by inserting after subsection (3) the following subsection:

“(4) This section shall also apply in respect of an international arbitration, where the seat of arbitration is not in Malaysia.”.

Amendment of section 11

5. Section 11 of the principal Act is amended—

(a) in paragraph (1)(e), by inserting after the word “dispute” the words “, whether by way of arrest of property or bail or other security pursuant to the admiralty jurisdiction of the High Court”; and

(b) by inserting after subsection (2) the following subsection:

“(3) This section shall also apply in respect of an international arbitration, where the seat of arbitration is not in Malaysia.”.

Amendment of section 30

6. Subsection 30(1) of the principal Act is amended by substituting for the words “In respect of” the words “Unless otherwise agreed by the parties, in respect of”.

Amendment of section 38

7. Subsection 38(1) of the principal Act is amended by substituting for the words “a domestic arbitration” the words “an arbitration where the seat of arbitration is in Malaysia”.

Amendment of section 39

8. Section 39 of the principal Act is amended—

(a) in subsection (1)—

(i) in subparagraph (a)(ii), by substituting for the word “Malaysia” the words “the State where the award was made”; and

- (ii) in subparagraph (a)(v), by substituting for the word “(2)” the word “(3)”; and
- (b) by inserting after subsection (2) the following subsection:

“(3) Where the decision on matters submitted to arbitration can be separated from those not so submitted, only that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced.”.

Amendment of section 42

- 9.** Section 42 of the principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) The High Court shall dismiss a reference made under subsection (1) unless the question of law substantially affects the rights of one or more of the parties.”.

Amendment of section 51

- 10.** Section 51 of the principal Act is amended—

- (a) in subsection (2) in the national language text, by deleting the words “perjanjian timbang tara dibuat atau”; and
- (b) by inserting after subsection (3) the following subsection:

“(4) Any court proceedings relating to arbitration commenced after the commencement of this Act shall be governed by this Act notwithstanding that such proceedings arose out of arbitral proceedings commenced before the commencement of this Act.”.