

Act No.: 10/2013

Arbitration Act

Chapter 1

Preamble

- Introduction and Title**
1. (a) This Act sets out the principles to enable settlement of commercial disputes between two or more parties who are legally bound, in accordance with international standards of arbitration.
 - (b) This Act shall be cited as the “Arbitration Act”.
- Objectives**
2. The objectives of the Act are the following:
 - (a) To enable settlement of commercial disputes, by legally enforceable means as an alternative to court proceedings or prior to initiating court proceedings;
 - (b) To introduce and give legislative force to arbitration as a mechanism for dispute resolution;
 - (c) To introduce and give a legislative process to the principles of dispute resolution by an independent third party appointed by the parties to a commercial dispute;
 - (d) Provide for the role of the courts in relation to arbitration and set out the relationship between the courts and arbitration;
 - (e) To enable speedy resolution of commercial disputes without recourse to courts, through a private and independent third party with knowledge and experience of the subject matter of the dispute and who is appointed by the consent of the parties;
 - (f) To establish and provide a framework for arbitration in the Maldives in accordance with the model principles of United Nations Commission on International Trade Law (UNCITRAL).
- Scope of application of provisions**
3. The resolution of commercial disputes through arbitration in the Maldives shall be decided in accordance with the principles set out in this Act. That is, unless specified otherwise in an international convention or Agreement between the Maldives and another state or multiple states. This Act does not prevent the conduct of arbitral proceedings in a manner stipulated in a contract between the Maldives and another state or states if such agreement states otherwise.

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| Circumstances in which certain sections shall not apply | 4. | (a) Unless stated otherwise in this Act, the provisions of the Act shall apply if there is an arbitration agreement and the agreement states that the seat of arbitration is Maldives. |
| | | (b) Notwithstanding (a) of this section, if the seat of arbitration is not Maldives under an arbitration agreement, sections 15, 40 and 43 of this Act shall not apply with respect to the arbitration. |
| Relationship with Laws | 5. | (a) Notwithstanding the provisions of this Act, if another Act sets out that certain commercial disputes are not arbitrable or that certain commercial disputes shall be subject to the mandatory jurisdiction of the court, this Act does not prohibit such a law being enacted. |
| | | (b) Notwithstanding the provisions of this Act, if another Act sets out that certain matters can be subject to arbitration in accordance with the procedures set out in that act, this Act does not prohibit the enactment of such a law. |
| | | (c) The fact that an act provides that a certain court has jurisdiction to preside over certain types of disputes or if an act does not explicitly state that certain disputes can be submitted to arbitration, it shall not prevent the dispute from being submitted to arbitration in accordance with this Act. |

Chapter 2

Definitions of Terms

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| Underlying concepts of Terms | 6. | The terms stated in sections 7 to 11 shall constitute the underlying principles on which this Act is based. The terms are defined in these sections, to preserve basis of this Act and to enable the objectives of the Act to be achieved to widest manner possible. The provisions of this Act shall be read in line with these concepts to the fullest extent, in a manner that shall not be restrictive. |
| Arbitration | 7. | “Arbitration” shall mean the international principles of resolution of commercial disputes between two or more parties who are bound legally, as an alternative to court proceedings, by an independent third party appointed by the parties to a dispute who makes a binding decision in accordance with the principles stated in this Act. |
| Arbitral Tribunal | 8. | “Arbitral Tribunal” shall mean, the third party, appointed to preside over a case, deliberate over and make a decision with respect to the matter at dispute. Such a third party that is appointed may be a single party appointed by the parties to the dispute to resolve that particular dispute. Otherwise it may be a 3 (three) person tribunal or a tribunal consisting of more members. Or it may be a permanent institution duly registered to offer arbitral services and is providing such services. |

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| Arbitrator | 9. | “Arbitrator” shall mean, a third party or parties appointed to preside over a case, deliberate over and make a decision with respect to the matter at dispute. |
| Arbitral Proceedings | 10. | “Arbitral Proceedings” shall mean, the meetings and hearings conducted by the Arbitrator. |
| Arbitral Award | 11. | “Arbitral Award” shall mean, the decision that the Arbitrator issues to the parties to the dispute upon deliberation on the matter submitted for arbitration and the relief or remedy granted in the matter. |

Chapter 3

Arbitration Agreement

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| Definition of arbitration agreement | 12. | (a) An arbitration agreement, is the agreement by two or more parties to submit certain or all disputes arising as a result of or during the course of a defined legal relationship between the parties. |
| | | (b) An arbitration agreement may be in the form of a separate agreement. Or it may be a clause in the agreement between two or more parties. |
| Arbitration agreement to be in writing | 13. | (a) The arbitration agreement shall be in writing. |
| | | (b) An arbitration agreement is in writing if its content is in written form or if there is a written record of an agreement if it was concluded orally or by other means. Otherwise, if a record exists in a form that is acceptable as evidence. |
| Acceptable forms of an arbitration agreement | 14. | (a) An arbitration agreement may be considered to validly exist based on the information contained in an electronic communication between two or more parties. |
| | | (b) An arbitration agreement may be considered to validly exist if in a communication between two or more parties, one party states that an arbitration agreement exists and if it is not denied by the other party or parties. |
| | | (c) An arbitration agreement may be considered to validly exist if a contract between one or more parties contains a clause referring to arbitration and if that clause forms part of that contract. |

- Substantive claim before Court regarding existence of an arbitration agreement**
15. (a) If an action brought to a court in a matter which is the subject of an arbitration agreement, and if the following two conditions are satisfied, the court shall order a stay of legal proceedings and refer the matter to arbitration.
- (1) If the respondent so requests to resolve the matter through arbitration, in the first statement of defense to a claim; and
- (2) If the court has not found that the contract at dispute, is null and void or inoperative or not capable of being performed.
- (b) Where an action is brought in a court in relation to a matter which is the subject of an arbitration agreement, the parties to an arbitration nevertheless have the discretion to commence or continue arbitral proceedings, and for an award to be rendered. This applies even where the issue is pending before the court in accordance with paragraph (a).

Chapter 4

Arbitral Tribunal

- Determining the number of arbitrators**
16. (a) The parties submitting a matter to arbitration are free to determine whether one or more arbitrators shall be appointed.
- (b) Notwithstanding (a) of this section, if more than one arbitrator is being appointed the total number of arbitrators shall be an odd number.
- (c) Failing the agreement between the parties to a dispute on the determination of a number of arbitrators to resolve the dispute submitted to arbitration, the following shall apply.
- (1) If the dispute submitted to arbitration involves a sum equivalent to or more than MVR 1.5 Million (One Million Five Hundred Thousand Maldivian Rufiyaa), 3 (three) arbitrators shall be appointed;
- (2) If the dispute submitted to arbitration involves a sum less than MVR 1.5 Million (One Million Five Hundred Thousand Maldivian Rufiyaa), a single arbitrator shall be appointed.
- No discrimination based on nationality**
17. (a) Maldivian nationals and nationals of any country with which Maldives has established diplomatic relations may be appointed as arbitrators in a matter submitted to arbitration under this Act.
- (b) In accordance with (a) of this section, unless otherwise agreed by the parties to a dispute submitted to arbitration, no person shall be precluded

by reason of his nationality from acting as an arbitrator.

- Freedom to decide on appointment procedure** 18. The parties to a dispute that is submitted to arbitration are free to discuss and agree on a procedure of appointing the arbitrator or arbitrators.
- Procedure for appointing three arbitrators** 19. (a) If the parties to a dispute that is submitted to arbitration agree on 3 (three) arbitrators, each party shall appoint 1 (one) arbitrator. The 2 (two) arbitrators thus appointed shall unanimously agree on the third arbitrator.
- (b) Notwithstanding (a) of this section, under the following circumstance the arbitrator shall be appointed by the Arbitration Centre.
- (1) If the parties to the dispute fail to appoint their arbitrators within 30 (thirty) days;
- (2) If a party to the dispute requests another party to the dispute to appoint an arbitrator and within 30 (thirty) days of such request the party fails to appoint an arbitrator to represent that party; or
- (3) If the 2 (two) arbitrators fail to agree on the appointment of the third arbitrator, within 30 (thirty) days of their appointment.
- Procedure for appointing a sole arbitrator** 20. (a) If the parties to a dispute submitted to arbitration, determine that the matter shall be decided by a sole arbitrator, the parties are free to discuss and agree on the appointment of the arbitrator.
- (b) Where the parties fail to appoint an arbitrator in accordance with (a) of this section, the Arbitration Centre shall appoint the arbitrator upon request by either of the parties.
- Measures that the Arbitration Centre can implement** 21. (a) Where the parties to a dispute submitted to arbitration have decided on an appointment procedure, either party may request the Arbitration Centre to take necessary action under the following circumstances.
- (a) If a party or parties that have to appoint an arbitrator fail to comply with the agreed procedure;
- (b) If either of the parties to the dispute fails to act as required under such agreed procedure;
- (c) If after the appointment of the 2 (two) arbitrators, the third arbitrator is not appointed in accordance with the agreed procedure.
- (d) If a third party, fails to perform any function entrusted to it under such procedure.
- (b) The parties to a dispute may agree that a decision made by the Arbitration

Centre under this section is not subject to appeal.

- (c) If the total number of arbitrators appointed under this section is 3 (three) or more arbitrators, the arbitrators shall determine a presiding arbitrator amongst themselves. Unless otherwise decided by such tribunal, the presiding arbitrator shall have the responsibility to chair such an arbitral tribunal.

Matters to be considered by the Arbitration Centre in appointing arbitrators

- 22. The Arbitration Centre shall have due regard to the following in appointing an arbitrator or arbitrators.
 - (a) The competence required of such an arbitrator;
 - (b) The qualifications required by such an arbitrator;
 - (c) Independence and impartiality required to resolve a dispute submitted to arbitration;
 - (d) In the circumstances where 1 (one) arbitrator is appointed, if the parties to the dispute are of different nationalities, appointing an arbitrator of a nationality other than those of the parties.

Disclosure of Conflicts of Interest

- 23. (a) When a person is approached in connection with his possible appointment as an arbitrator, he shall disclose to the requesting party any circumstances likely to give rise to any doubts as to his impartiality or independence and recuse himself from accepting the appointment.
- (b) Even after the appointment as an Arbitrator, if there is reason to believe that he may not be able to discharge his duties with impartiality and independence such circumstances shall be disclosed to the party that appointed the Arbitrator and he shall recuse himself from the position. And if the arbitrator is presiding over a tribunal of more than one arbitrator, the rest of the arbitral tribunal shall be notified in such an event.

Ethical Conduct of Arbitrators

- 24. A person acting as an Arbitrator shall maintain ethical conduct in accordance with the standards set out in the Bangalore Principles.

Grounds for challenging an arbitrator

- 25. An arbitrator appointed under this Act, shall be challenged and removed from the post only under the following four circumstances.
 - (a) If circumstances exist that give rise to justifiable doubts as to his impartiality or independence;
 - (b) If he does not possess the necessary qualifications required of an arbitrator to that dispute;

- (c) If there are unreasonable delays on the arbitrator in the discharge of his duties;
- (d) If the arbitrator fails to discharge duties properly.
- Procedure for removal of an arbitrator** 26. (a) The parties to a dispute submitted to arbitration, may decide on a procedure for challenging and removal of an Arbitrator in circumstances set out in section 25 of this Act.
- (b) Failing an agreement between parties to a dispute submitted to arbitration, on a procedure in accordance with (a) of this section, the party who wishes to challenge and remove an arbitrator, as set out in section 25 of this Act, shall submit it a challenge to the arbitral tribunal within 15 (fifteen) days of the constitution of the arbitral tribunal. Or if the party became aware of such a circumstance after 15 (fifteen) days from its constitution, the party shall submit the challenge to the arbitral tribunal within 15 (fifteen) days of becoming aware of such a circumstance.
- (c) Where an arbitral tribunal receives a statement of challenge, the challenged arbitrator may withdraw from office or if the other party or parties to the dispute agree, he may be removed from office. If the other party does not accept the challenge, a decision on his removal shall be made by the arbitral tribunal. This applies if the arbitral tribunal consists of 3 or more arbitrators. If the tribunal consists of a sole arbitrator, the determination on a challenge shall be made by the Arbitration Centre.
- (d) If a challenge is submitted in accordance with (b) of this section and a decision is made in accordance with (c) of this section to not remove the arbitrator from office, the arbitral tribunal shall notify the challenging party of its decision within 30 (thirty) days and the challenging party may appeal this decision to the Arbitration Centre. The parties to the dispute may agree that a decision on such an appeal by the Arbitration shall be final.
- (e) Until a decision is made by the Arbitration Centre in accordance with (d) of this section, the challenged arbitrator may continue duties of his office.
- (f) If an arbitrator withdraws from office when a challenge is made against him in accordance with (b) of this section, it shall not amount to an admission to the subject matter of the challenge.
- Appointment of a substitute arbitrator** 27. (a) Where a position of an arbitrator becomes vacant pursuant to section 26 a substitute arbitrator shall be appointed.
- (b) A substitute arbitrator shall be appointed as set out in (a) of this section, in accordance with the rules that were applicable to the appointment of the arbitrator being replaced.
- Effect of the** 28. (a) Unless otherwise agreed by the parties to a dispute submitted to

removal of an arbitrator on the proceedings

arbitration, if a substitute arbitrator is appointed in accordance with section 27 of this Act, and if that arbitrator is the sole arbitrator appointed to the arbitration, or if he is the presiding arbitrator of the arbitral tribunal, all previous proceedings in relation to the arbitration shall be void and proceedings shall be commenced again.

- (b) If a substitute arbitration is appointed in accordance with section 27 of this Act and if that arbitrator is not the sole arbitrator or a presiding arbitrator of the arbitral tribunal, the parties to the dispute have the discretion to allow previous proceedings in the arbitration to stand.

Chapter 5

Jurisdiction of the Arbitral Tribunal

Competence to rule on its own Jurisdiction

- 29. (a) The arbitral tribunal constituted in accordance with this Act, have the power to rule on its own jurisdiction with respect to the dispute submitted to arbitration.
- (b) The jurisdiction referred to in (a) of this section shall include power to rule on any objections with respect to the existence or validity of the arbitration agreement.
- (c) The jurisdiction referred to in (a) of this section shall include power to rule on any objections to the jurisdiction of the arbitral tribunal to preside over the matter at dispute.

Validity of the arbitration agreement

- 30. (a) For the purposes of (b) and (c) of section 29 of this Act, an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract.
- (b) If an arbitral tribunal determines that an agreement containing an arbitration clause is null and void or partially invalid, it shall not entail *ipso jure* the invalidity of the arbitration clause. This applies as the matter is first referred to arbitration by virtue of that clause.

Plea of lack of jurisdiction

- 31. (a) A plea that the arbitral tribunal does not have jurisdiction shall be raised no later than in the time given for the submission of the first statement by that party to the dispute.
- (b) A party is not precluded or restricted from raising such a plea by the fact that he has appointed, or participated in the appointment of an arbitrator.

Exceeding the scope of its jurisdiction

- 32. (a) A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised by a party to the dispute at the time of occurrence of the matter alleged to be beyond the scope of its authority.

- (b) If a plea that the arbitral tribunal is exceeding the scope of its authority is raised by a party to the dispute in accordance with (a) of this section, the arbitral tribunal has the discretion to suspend proceedings related to the dispute and rule on the plea. Otherwise, the arbitral tribunal may continue proceedings and include a ruling on the plea in the award issued.
- (c) If a plea is raised in accordance with (a) of this section and the arbitral tribunal rules as a preliminary question that it has not exceeded its jurisdiction, any party not satisfied with the ruling shall have the discretion to submit it to a court of law for review, within 30 (thirty) days from the such ruling.
- (d) The parties and the arbitral tribunal may agree, that a decision of the court in relation to a submission in accordance with (c) of this section, shall be final and shall be subject to no appeal.
- (e) While a decision by the court on a submission in accordance with (c) is pending at the relevant court, the arbitral tribunal may continue the proceedings and its work.

Chapter 6

Power to Order Interim Measures and Preliminary Orders

Order of interim measures by the Arbitral Tribunal

33. (a) Unless otherwise agreed by the parties to a dispute submitted for arbitration, the arbitral tribunal has the power, at the request of a party, to grant interim measures.
- (b) An “interim measure” stated in (a) of this section shall mean, an order by the tribunal, at any time prior to the issuance of the award by which the dispute is finally decided, in order to ensure the following.
- (1) Maintain or restore the status quo of the relationship between the parties to the dispute submitted for arbitration, pending determination of the dispute; or
 - (2) To prevent an action that is likely to cause, or prejudice to the arbitral process itself; or
 - (3) Provide a means of preserving assets out of which a subsequent award may be satisfied; or
 - (4) Preserve evidence that may be relevant and material to the resolution of the dispute.
- (c) Unless otherwise provided for in this Act, an order for an interim measure in accordance with (a) of this Act shall be issued by the arbitral tribunal only after notifying the parties to the dispute, and giving the opportunity

to the parties to respond to the matter.

Granting an Ex Parte order for interim measures

34. (a) Notwithstanding (c) of section 33 of this Act, the arbitral tribunal has the power to grant an order for interim measures upon the application by one party without notice to the other party. Nevertheless, such an order shall be issued by the arbitral tribunal only if it considers that notice to the other party shall frustrate the purpose of the interim measure.
- (b) Upon the issuance of an order as stated in (a) of this section, the arbitral tribunal shall without delay provide all information related to the order to all parties to the dispute.
- (c) In providing the information stated in (b) of this section, all relevant information including, the request for an order for interim measures under (a) of this section, documents received by the arbitral tribunal in relation the subject matter and any oral statements in relation the subject matter shall be disclosed.
- (d) If a determination is made by the arbitral tribunal in accordance with (a) of this section, the party to whom the preliminary order is directed to shall be given the opportunity to respond and present its case. And once the party responds, the arbitral tribunal shall decide promptly on any objection to the preliminary order and inform its decision to all the parties to the dispute.

Conditions to be satisfied for granting interim orders

35. (a) The party requesting an interim measure under sections 33 and 34 of this Act, shall satisfy the arbitral tribunal of the following conditions.
- (1) If it results in the damages provided by the Arbitral Award not being paid, in the event the measure is not ordered;
- (2) If the harm that is likely to result if the measure is not granted substantially outweighs the harm to the party against whom the measure is directed;
- (3) There is a reasonable possibility that the requesting party will succeed on the merits of the claim.
- (b) A decision by the arbitral tribunal pursuant to (3) of paragraph (a) of this section, shall not be reason enough to necessitate the arbitral tribunal from determining the merit of the dispute in that manner.
- (c) With regard to a request for an interim measure under (a) of this section, the requirements in (1) to (3) of the paragraph shall apply only to the extent the arbitral tribunal considers appropriate.

Modification of

36. (a) The arbitral tribunal has the power to modify, suspend or terminate an

order for interim measures

interim measure or a preliminary order it has granted.

- (b) The power of the arbitral tribunal to make a decision in accordance with (a) of this section, shall be made upon application of any party and if it is satisfied that such a decision shall be made in that matter or, in exceptional circumstances on the arbitral tribunal's own initiative

Provision of security

- 37. (a) The arbitral tribunal may require the party requesting an interim measure to provide appropriate security in connection with the measure. And it shall issue an order, without requiring the party to provide security only if it considers it inappropriate or unnecessary to do so.
- (b) The "provision of security" stated in (a) of this section shall mean, a deposit paid to the arbitral tribunal of an adequate amount by the party requesting an interim measure for costs that the party against whom the interim measure is directed to may incur or damages that may be awarded to that party. This can be in the form of a guarantee issued from an institution acceptable to the arbitral tribunal.

Disclosure of modification

- 38. The Arbitral tribunal may require prompt disclosure to the tribunal any change in factors or circumstances on the basis of which the measure was requested or granted.

Costs and Damages

- 39. (a) The party requesting an interim measure or applying for a preliminary order shall be liable for any costs and damages caused by the measure or the order to any party if the arbitral tribunal later determines that, in the circumstances, the measure or the order should not have been granted.
- (b) In accordance with (a) of this section, arbitral tribunal may award such costs and damages at any point during the proceedings.

Recognition and Enforcement

- 40. (a) A competent court has the power to recognize an interim measure issued by an arbitral tribunal and enforce it, unless otherwise provided by the arbitral tribunal.
- (b) An order for recognition and enforcement of an interim measure in accordance with (a) of this section, shall be issued by a competent court, after considering the appropriate factors, upon an application made by the party seeking enforcement.

Notifying the Court of modification of an order

- 41. The party who is seeking recognition or enforcement of an interim measure in accordance with paragraph (a) of section 40 of this Act, shall promptly inform the court of any subsequent termination, suspension or modification of that interim measure.

Provision of security to court

- 42. In seeking recognition and enforcement of an interim measure issued under this Act, the court may require the party to provide security and this shall apply even if the interim measure was issued without provision of security.

Grounds for refusing recognition and enforcement

43. (a) Recognition and enforcement of an interim measure issued by the arbitral tribunal in accordance with this Act, may be refused by the court if the party against whom the enforcement of the order is invoked can prove the existence of any of the following circumstances to the court.
- (1) The existence of circumstances stated under (1) of paragraph (a) of section 74 of this Act, and the enforcement of the interim measure is not warranted under such circumstances; or
 - (2) The arbitral tribunal's decision with respect to the provision of security in connection with the interim measure issued by the arbitral tribunal has not been complied with; or
 - (3) The interim measure has been terminated or suspended by the arbitral tribunal or, by a court of competent jurisdiction.
- (b) Where a party against whom enforcement of an interim measure issued by an arbitral tribunal in accordance with this Act, is unable to satisfy the court of the existence of the circumstances stated (a) of this section, the court may still refuse recognition and enforcement of an order on its own initiative, under the following circumstances.
- (1) The enforcement of the interim measure is incompatible with powers conferred upon the court; or
 - (2) In the circumstances of (1) of this paragraph, the court decides to reformulate the order to the extent necessary to adapt it to its own powers in order to enforce the order; or
 - (3) If the court takes the view that any of the grounds set forth in in (2) of paragraph (a) of section 74 of this Act, apply to the recognition and enforcement of the interim measure.

Considerations by the Court in relation to an order

44. (a) In making a determination on the recognition and enforcement of an interim measure by an arbitral tribunal under this Act, the court shall consider the extent of purposes for which the recognition and enforcement of the interim measure is sought.
- (b) In making a determination under (a) of this section, the court shall not make a determination on the validity of the interim measure issued by the arbitral tribunal. The court shall not undertake a review of the substance of the interim measure.

Court ordered interim measures

45. (a) A court shall have the same power of issuing an interim measure on its own initiative, in relation to arbitration proceedings to the same extent that the arbitral tribunal has the power to issue interim measures in relation to the dispute subject to arbitration. This applies irrespective of whether the arbitration is taking place outside the territory of Maldives.

- (b) A court shall exercise its power to order interim measures in relation to matter under arbitration, in accordance with its own procedures in consideration of the specific features of international arbitration.

Chapter 7

Arbitral Proceedings

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| Equal treatment of parties | 46. | <ul style="list-style-type: none">(a) All parties to a dispute submitted to the arbitral tribunal shall be treated with equality and each party shall be assured fairness.(b) All parties to a dispute shall have the full opportunity of presenting their case in accordance with procedures set by the arbitral tribunal. |
| Determination of rules of procedure | 47. | <ul style="list-style-type: none">(a) Unless otherwise stated in this Act, parties to an arbitration have the power to determine the procedure to be followed by the arbitral tribunal in conducting the arbitral proceedings.(b) Unless otherwise stated in this Act, if the parties to an arbitration have not decided on the procedure to be followed by the arbitral tribunal in conducting the arbitral proceedings or the parties have failed to agree on the procedure, the arbitral tribunal has the power to determine the procedure to be followed in conducting the arbitral proceedings.(c) As stipulated in (c) of this section, the power conferred to the arbitral tribunal includes determining the rules for admissibility, relevance, weight that is to be given to the evidence presented. |
| Place of arbitration | 48. | <ul style="list-style-type: none">(a) Unless otherwise stated in this Act, the parties are free to agree on the place of arbitration.(b) If the parties have not agreed on the place of arbitration as stipulated in (a) of this section or if the parties fail to agree on the place of arbitration, the arbitral tribunal has the power to determine the place of arbitration, unless otherwise stated in this Act.(c) When the arbitral tribunal makes a determination on a place for the arbitral proceedings as stated in (b) of this section, due consideration must be given to the convenience of the place, the current circumstances of the parties and the nature and stage of the dispute between the parties.(d) Notwithstanding (a) of this section, the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, other property or documents. |

Commencement of arbitral proceedings	49.	Unless otherwise agreed by the parties, arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent.
Language	50.	<p>(a) Unless otherwise stated in this Act, the parties are free to agree on the language to be used in the arbitral proceedings.</p> <p>(b) If the parties have not agreed on the language to be used in the arbitral proceedings as stipulated in (a) of this section or if the parties have failed to come to an agreement with regard to the language, the arbitral tribunal shall determine the language to be used in the proceedings.</p> <p>(c) If the language of arbitration has been determined as set out in (a) or (b) of this section and if the parties have not agreed otherwise, that language shall apply to any written statement by a party, any hearings and any award issued by arbitral tribunal during the course of the proceedings.</p> <p>(d) The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal as set out in (a) and (b) of this section.</p>
Governing law	51.	<p>(a) The parties are free to agree on the governing law applicable to the substance of dispute in the conduct of the arbitral proceedings.</p> <p>(b) If the parties have not agreed on the governing law applicable to the arbitration as stipulated in (a) of this section, the arbitral tribunal shall make a determination on the choice of law on the basis of the parties to the dispute, the countries involved and the conflict of laws rules with due consideration to the applicable laws.</p> <p>(c) If the parties have not agreed on the governing law applicable to the arbitration as stipulated in (a) of this section, the governing law applied shall be the most relevant law or laws of a country that is most relevant to the substance or principal basis of the dispute.</p> <p>(d) Notwithstanding (b) of this section, the conflict of laws rules, or the disparities when a law applicable to one national is subject to a national of another country shall not apply in that particular state of the arbitration.</p> <p>(e) In accordance with (b) of this section, the arbitral tribunal shall only decide on an applicable law for the arbitration if the parties confer such power to the arbitral tribunal.</p> <p>(f) The arbitral tribunal must at all times refer to the agreement between the parties, international best practices and rules relating to the commercial transaction between the parties in all instances and stages of the dispute.</p>

Statements of Claim and Defence	52.	<p>(a) Within the time agreed by the parties or failing an agreement by the parties as determined by the arbitral tribunal, the claimant shall state the facts supporting his claim, the points at issue and the relief or remedy sought to the arbitral tribunal.</p> <p>(b) Within 15 (fifteen) days of the receipt of the statement of claim by the arbitral tribunal in accordance with (a) of this section, the respondent shall submit a statement of defence in respect of all particulars stated in the claimant's statement.</p>
Submission of evidence	53.	<p>The parties shall submit all supporting or relevant documents or may add a reference to a document with the statement of claim and statement of defence as stipulated in (a) and (b) section 52. The parties shall also submit all the written evidence and a summary of all other evidence they wish to present for consideration by the arbitral tribunal.</p>
Amending the Statements of Claim and Defence	54.	<p>Unless determined other by the arbitral tribunal, or if the arbitral tribunal deems it inappropriate to do so, or unless otherwise agreed by the parties, the parties may amend or supplement the statement of claim and statement of defence submitted in accordance with (a) and (b) of section 52.</p>
Arbitral proceedings	55.	<p>(a) Subject to an agreement to the contrary by the parties, the arbitral tribunal shall decide whether to hold hearings for the presentation or whether the proceedings shall be conducted on the basis of documents and other materials.</p> <p>(b) If the parties decide to hold oral hearings as stipulated in (a) of this section, the arbitral tribunal shall determine a procedure on how the parties should be given opportunities for oral arguments, presentation of evidence, rebuttals and cross examination of evidence.</p> <p>(c) If the parties decide to conduct the proceedings on the basis of documents and other materials as stipulated in (a) of this section, the arbitral tribunal shall determine a procedure on how the hearing should be conducted.</p>
Right to attend hearings	56.	<p>Unless the parties have agreed that no hearings shall be held, the arbitral tribunal shall hold such hearings at an appropriate stage of the proceedings, and shall give the parties the opportunity to attend hearings, and reasonable opportunity to the parties for their oral arguments, present evidence and give the opportunity for rebuttals.</p>
Notice	57.	<p>The parties to the dispute shall be given sufficient notice by the arbitral tribunal of any hearing or of any meeting for the purpose of inspection of goods, other property or documents.</p>
Written statements	58.	<p>(a) All statements, documents or other information supplied to the arbitral tribunal by one party shall be communicated to the other party by the arbitral tribunal.</p>

- (b) A copy of any expert report or evidentiary document on which the arbitral tribunal may rely in making its decision shall be communicated to the parties.

- Default of a party** 59. Unless otherwise agreed by the parties, if without showing sufficient cause,
- (a) The claimant fails to communicate his statement of claim within the time period given, the arbitral tribunal shall terminate the proceedings;
 - (b) The respondent fails to communicate his statement of defence within the time period given, the arbitral tribunal shall continue the proceedings without treating such failure in itself as an admission to the claimant's allegations;
 - (c) Any party fails to appear at a hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings and make the award on the evidence before it.
- Appointments of experts** 60. (a) Unless otherwise agreed by the parties, the arbitral tribunal may appoint one or more experts or direct one party or parties to produce a report on a specific issue to be determined by the arbitral tribunal.
- (b) The arbitral tribunal may order a party to appoint an expert or experts appointed pursuant to (a) of this section, to provide a specific information, a specific document, to give access to a place or to facilitate for examination of documents.
 - (c) Unless otherwise agreed by the parties or if one of the parties requests or if the arbitral tribunal or the arbitral tribunal considers it necessary, the expert shall, after delivery of his written or oral report, participate in a hearing where the parties have an opportunity to put questions to him and to present or to present additional evidence.
- Court assistance in taking evidence** 61. The arbitral tribunal or a party with the approval of the arbitral tribunal may request from a competent court for assistance in taking evidence. Evidence should be taken according to the procedures of the court.

Chapter 8

Making of award and termination of proceedings

- Decision making by the arbitral tribunal** 62. (a) In an arbitral proceeding with more than one arbitrator, any decision of the arbitral tribunal shall be made, unless otherwise agreed by the parties, by a majority of all its members.
- (b) Notwithstanding the (a) of this section, questions of procedure may be decided by a presiding arbitrator, if so authorized by the parties or all members of the arbitral tribunal.

- Settlement**
63. (a) If during arbitral proceedings, the parties settle the dispute, the proceedings shall be terminated.
- (b) If the parties come to an agreement as stipulated in (a) of this section and if requested by the parties, and not objected by the arbitral tribunal, the settlement shall be recorded in the form of an arbitral award on agreed terms.
- (c) The terms of settlement stipulated in (b) of this section shall be recorded as arbitral award issued by the arbitral tribunal.
- (d) A decision by the arbitral tribunal, pursuant to (b) of this section shall be determined in compliance with Section 64 of this Act.
- (e) A decision by the arbitral tribunal, pursuant to (b) of this section shall have the same status and effect as an arbitral award as stated in this Act.
- Form and content of an award**
64. (a) The arbitral award shall be in writing and shall be signed by the arbitrator or arbitrators constituting the arbitral tribunal.
- (b) Notwithstanding (a) of this section, in an arbitration with more than one arbitrator, the signatures of the arbitrators forming the majority decision by the arbitral tribunal shall suffice.
- (c) If in an arbitration with more than one arbitrator and if the award lacks a signature of an arbitrator, the reasons for omitting the signature must be stated.
- (d) The award shall state the decision and reasons upon which it is based, unless the parties have agreed that no reasons are to be given or it is an award given pursuant to Section 63 of this Act.
- (e) The award shall state its date and the place of arbitration. The award shall be deemed to have been made at that place.
- (f) After the award is made, a copy shall be delivered to each party.
- Termination of proceedings**
65. (a) The arbitral proceedings are terminated by two acts. It is by final award or in accordance with (b) of this Section.
- (b) In the following circumstances, the arbitral tribunal shall determine that that the proceedings are terminated.
- (1) The claimant withdraws his claim and the respondent does not object;
- (2) The parties agree on the termination of the proceedings;

- (3) The arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.
- (c) If the respondent objects to the claimant's withdrawal of his claim as stipulated (1) of paragraph (a) of this section, and if the tribunal recognizes an interest for the respondent by issuing a final award, the arbitral tribunal may continue the proceedings.
- (d) The mandate of the arbitral tribunal terminates with the termination of the arbitral proceedings, subject to the provisions of Section 66 and 67 of this Act.
- Correction of an award** 66. (a) Within thirty days of receipt of the award, a party with notice to the other party, may request the arbitral tribunal to correct in the award any typographical error or to give an interpretation of a specific point or part of the award.
- (b) If the arbitral award considers a request in accordance with (a), to be justified, it shall give the correction or interpretation within thirty days of receipt of the request.
- (c) Any corrections or interpretation to the arbitral award shall form part of the award.
- (d) The arbitral tribunal may correct any error referred to in (a), on its own initiative within thirty days of the date of the award.
- Additional award** 67. (a) Unless otherwise agreed by the parties or if a decision has not been made in the arbitral award, a party, with notice to the other party, may request, within thirty days of receipt of the award, the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted in the award.
- (b) If the arbitral tribunal is to act in accordance with (a), the time period to issue the additional award will be deemed to be part of the proceedings.

Chapter 9

Application for Setting Aside

- Application to court** 68. A party to the arbitration may make an application to a court to set aside an award.
- Setting aside of an award** 69. An arbitral award may be set aside under section 68 by the court in one of the two following instances.
- (a) The party making the application furnishes proof that;

- (1) A party to the arbitration agreement was under an incapacity that prevented him from entering into an agreement; or
- (2) A party to the arbitration agreement was under an incapacity as defined in law; or
- (3) The arbitration agreement is not valid under the Maldivian law which the parties are subjected to; or
- (4) The party making the application was not given proper notice of appointment of arbitrator; or
- (5) A party was not given adequate opportunity to present his case; or
- (6) The award deals with a dispute that was not presented during the proceedings; or
- (7) The award contains decisions on matters beyond the scope of submission; or
- (8) The composition of the arbitral tribunal or the arbitral proceedings was not in accordance with the agreement of the parties.
- (9) It is found that the arbitrator is found guilty of corruption or fraud while the proceedings were ongoing.

(b) The court finds that:

- (1) The subject matter of the dispute is not capable of settlement by arbitration under Maldivian law; or
- (2) The award is in conflict with the public policy of Maldives.

Period to set aside an award 70.

- (a) An application to set aside an award should be made within 3 (three) months from the date of an award is given. An application cannot be made once this period passes.
- (b) If an application to court is made in accordance with Section 65 of this Act, the three months' period stipulated in (a) of this section will be counted from the date a decision is made.

Period to amend an award 71.

- (a) A responding party to a claim submitted to a court to set aside an award in accordance with section 68, may ask the court to halt hearings while the award is sent back to arbitration to be amended or changed so court will not have to set it aside.
- (b) If a party makes a request in accordance with (a) of this section, the court may halt the case to set aside the award.

Chapter 10

Recognition and enforcement of awards

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| Recognition and enforcement | 72. | A foreign arbitral award made in accordance with this Act shall be recognized and enforced in the Maldives. Also, it shall be mandatory to be acted upon. |
| Application to court | 73. | <p>(a) A request for enforcement of an award in Maldives shall be made to the relevant court. An award shall be enforced in Maldives according to an order issued by the relevant court.</p> <p>(b) A party relying on the award shall make an application in accordance with (a) of this section.</p> <p>(c) An original or an attested copy of the award shall be submitted while making an application in accordance with (a) of this section.</p> <p>(d) A translation of an award shall be submitted if the award is not in Dhivehi.</p> |
| Grounds for refusing recognition or enforcement | 74. | <p>(a) Recognition or enforcement of an award an arbitral award, irrespective of the country in which it was made, maybe refused by the court in one of the following instances.</p> <p>(1) At the request of the party against whom the award is invoked, if the party proves that:</p> <ul style="list-style-type: none">1.1. A party to the arbitration agreement was under an incapacity that prevented him from entering into an agreement; or1.2. A party to the arbitration agreement was under an incapacity as defined in law; or1.3. The arbitration agreement is not valid under the Maldivian law which the parties are subjected to; or1.4. The party making the application was not given proper notice of appointment of arbitrator; or1.5. A party was not given adequate opportunity to present his case; or1.6. The award deals with a dispute that was not presented during the proceedings; or |

1.7. The award contains decisions on matters beyond the scope of submission; or

1.8. The composition of the arbitral tribunal or the arbitral proceedings was not in accordance with the agreement of the parties.

1.9. It is found that the arbitrator is found guilty of corruption or fraud while the proceedings were ongoing.

(2) The court finds that:

2.1 The subject matter of the dispute is not capable of settlement by arbitration under Maldivian law; or

2.2 The award is in conflict with the public policy of Maldives

(b) If an application to set aside an award is made in a court, the court has the power to halt the application made for recognition and enforcement of an arbitral award in accordance with 72 of this Act.

Chapter 11

Establishment of the Arbitration Centre

Constituting the Arbitration Centre

75. (a) For the purposes of this Act, and to undertake and execute the duties set out in this Act, the “Maldives International Arbitration Centre” shall be constituted, upon commencement of this Act.
- (b) The Arbitration Centre formed pursuant to (a) of this section, shall be a separate legal entity, having the rights to sue and to be sued, to transact in its own name, the right to acquire and hold assets in its own name, and with the power to undertake all functions in relation to the discharge of its duties set out in this Act.
- (c) All work leading up to the establishment of the Arbitration Centre pursuant to (a) of this section and up until commencement of its operation in accordance with this Act, shall be undertaken by the Attorney General.
- (d) The duties entrusted to the Attorney General under (c) of this section, shall be fully executed and discharged within 6 (six) months from the commencement of this Act.

Organization of the Arbitration Centre

76. (a) The policy and strategic direction of the Arbitration Centre shall be determined by a Board of Directors consisting of 3 (three) members.

- (b) The Board of Directors shall be constituted in accordance with (a) of this section and members appointed to the Board, by the President of the Maldives, upon recommendation of the Attorney General.
- (c) A member appointed to the Board of Directors stated in (a) of this section shall be removed from office, in the following circumstances, by the President of the Maldives, upon recommendation by the Attorney General.
 - (1) Failing to meet a qualifications required of a member of the Board of Directors as set out in this Act;
 - (2) Committing an act that is unbecoming of his post;
 - (3) The incapacity to perform responsibilities related to the post;
 - (4) The inability or incompetence to discharge duties related to the post.
- (d) If a member of the Board of Director wishes to resign from office, he shall submit a letter of resignation to the President of Maldives and upon receipt of the letter of resignation shall be deemed to have been removed from office.

Board Members

77. (a) Members appointed to the Board of Directors stated in section 76 shall have the following qualifications.
- (1) Be at least 30 years of age;
 - (2) Shall not have been convicted of corruption, fraud or deception or criminal breach of trust;
 - (3) If convicted of a criminal offence, at least 5 (five) years have passed since conviction was served or grant of pardon;
 - (4) Shall not have financial or other interests, that may prevent him from undertaking duties as a member of the Board of Directors.
- (b) The Attorney General shall ensure that that the members appointed to the Board of Directors in accordance with (a) of this section, in addition to possessing the qualifications stated in this section, have the knowledge, experience and necessary skills to serve on the Board of Directors of the Arbitration Centre determined based on their past 10 (ten) years of service.
 - (c) The members appointed to the Board of Directors in accordance with (a) of this section shall be appointed for a 5 (five) year term. There is no prohibition to reappoint a member for a subsequent term of 5 (five) years

at the end of the initial term.

- (d) For each Board meeting attended by a member appointed to the Board of Directors in accordance with (a) of this section, the Minister of Finance and Treasury shall determine a remuneration upon recommendation by the Attorney General.

Chairman and Vice Chairman of the Board

- 78. (a) The President shall appoint a Chairman and Vice Chairman from the members appointed to of the Board of Directors in accordance with section 76 of the Act upon recommendation of the Attorney General.
- (b) The Chairman of the Board shall hold the highest ranking office of the Arbitration Centre and Vice Chairman shall be the immediate subordinate assisting the Chairman.
- (c) The Chairman of the Board and the Vice Chairman shall hold their office, for the entirety of their tenure on the Board of Directors.
- (d) If the Chairman of the Board or the Vice Chairman wishes to resign from the post, a letter of resignation shall be submitted to the President of Maldives and upon receipt of the letter of resignation he shall be deemed removed from office.
- (e) The Chairman of the Board and the Vice Chair shall not receive any remuneration by virtue of their position.

Duties of the Arbitration Centre

- 79. The duties of the Arbitration Centre established under this Act are stated below.
 - (a) Promote the Maldives as a hub of arbitration;
 - (b) Promote and arrange means and facilities of carrying out arbitration in the Maldives;
 - (c) Encourage the use of arbitration as a means of dispute resolution;
 - (d) Introduce and determine policies to register persons willing to act as arbitrators in the Maldives, and maintain a register of arbitrators and continue such registration of arbitrators;
 - (e) Facilitate the provision of arbitration services in the Maldives;
 - (f) Undertake all responsibilities assigned to the Arbitration Centre under this Act or any other law;
 - (g) Undertake the responsibility of implementing policies and standards related to arbitration determined by the United Nations Commission on International Trade Law (UNCITRAL).

- Chief Executive Officer** 80. (a) The Arbitration Centre shall have Chief Executive Officer responsible for managing and overseeing the administrative functions of the Arbitration Centre. The Chairman, in consultation with the Board of Directors shall recruit and make appointments for this role.
- (b) The salary and allowances of the Chief Executive Officer shall be determined by the Chairman in consultation with the Minister of Finance and Treasury.
- Employees** 81. (a) The Chairman, upon consultation of the Board of Directions shall determine the number of the staff to be employed at the Arbitration Centre.
- (b) The designation, rank, job description, salary and allowances of the employees stated in (a) of this section, shall be determined by the Chairman in consultation with the Minister of Finance and Treasury.
- Budget Allocation** 82. An adequate annual budget shall be allocated from the National Budget of the Maldives for the operation of the Arbitration Centre established in accordance with section 75 of this Act, to implement this Act and to ensure the proper discharge of functions entrusted to the Arbitration Centre.

Chapter 12

General Provisions

- Confidentiality** 83. (a) Unless otherwise agreed by the parties to a dispute, all information, records, evidence and the Arbitral Award shall be confidential.
- (b) With the exception of the following two circumstances, the confidential information shall not be disclosed to a third party.
- (1) With the agreement and consent of the parties;
- (2) To the extent required review a matter related to an arbitral award duly submitted to a court or other institution.
- (c) A court in reviewing a matter related to an ongoing or completed arbitration shall in making a determination undertake measures to keep documents and information related to the dispute confidential.
- Cost of arbitration** 84. (a) The cost of arbitration including the arbitrators fees and all other fees and expenses to be borne by the parties to a dispute can be shared among the parties as agreed by the parties.
- (b) Failing an agreement between the parties on the cost of arbitration including the arbitrators fees and all other fees and expenses, the arbitral tribunal shall make a determination on how the costs shall be shared

among the parties.

Liability of arbitrators

85. (a) An arbitrator shall not be held liable for an act or omission without the express intent to commit fraud or deception or an intent to commit a crime, or not being aware of a law, fact or procedure made in the course of arbitral proceedings.
- (b) Notwithstanding (a) of this section, the arbitrator shall be held liable for his acts or omissions in the capacity of an arbitrator that amounts to fraud or deception or a criminal offence.

Appointment of counsel

86. The party to a dispute that is subject to arbitration under this Act, may, if he chooses to do so, appoint a legal practitioner or an authorized party as its representative.

Regulations

87. (a) Unless this Act specifically prescribes the power to the court to issue regulations, the Attorney General shall have the authority to make and administer regulations necessary for the enforcement of this Act. The court shall have the power to make regulations expressly reserved for the courts.
- (b) The regulations prescribed under this Act, shall be published within 6 (six) months from the ratification of this Act.

Commencement

88. This Act shall come into force, on the date of its publication on the Government Gazette.

Definitions

89. In this Act, unless the context otherwise requires, the following words and phrases shall have the following meanings:
- (a) "Bangalore Principles" shall refer to the international standards of practice titled "Bangalore Principles of Judicial Conduct" which set out ethical code of conduct relating to the independence and impartiality of judges working in the judicial sector.
- (b) "Court" shall refer to the high court of the Maldives having the jurisdiction to decide matters set out on in this Act.
- (c) "Arbitration Centre" shall refer to the Maldives International Arbitration Centre formed under this Act.
- (d) "Vice Chairman" shall mean the vice chairman appointed to the Board of Directors of the Arbitration Centre, under section 78 of this Act.
- (e) "Commercial Disputes" shall mean, disputes connected to or resulting from a commercial transaction between two parties.
- (f) "Commercial Relationship" shall means a contractual relationship

between two parties whether in writing or in another form.

- (g) "Writing" or "written form" shall mean, a record of information in any of the following forms:
 - (1) A written or printed document (including charts, plans, graphs and drawings);
 - (2) An electronic file;
 - (3) Photos;
 - (4) Voice or other type of data recorded on a disc, tape or film;
 - (5) Picture or other data recorded on a film or in another form.
 - (h) "Chief Executive Office" refers to the chief executive officer of the Arbitration Centre appointed in accordance with section 80 of this Act, by the Chairman in consultation with the Board of Directors.
 - (i) "Chairman" is the Chairman appointed to the Board of Directors of the Arbitration in accordance with section 78 of this Act.
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