GETTING THE DEAL THROUGH

Dispute Resolution

in 49 jurisdictions worldwide

2014

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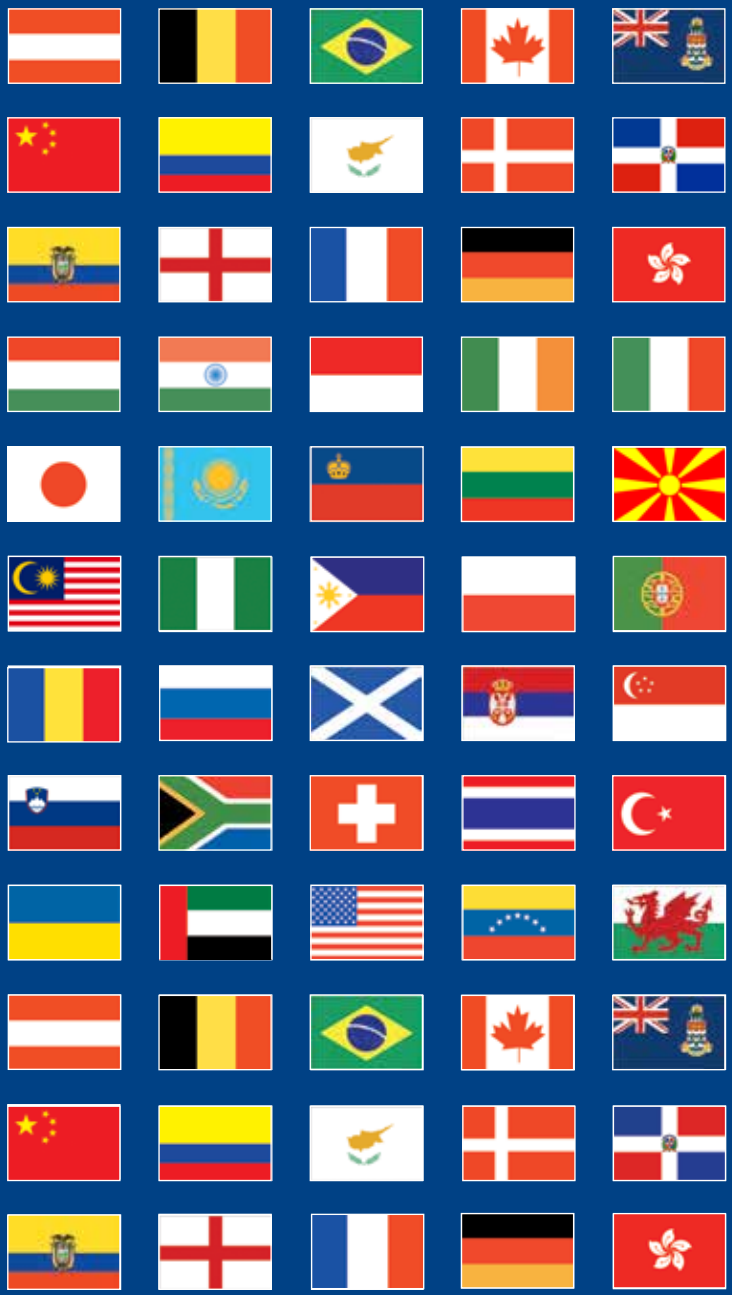

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Getting the Deal Through is delighted to publish the twelfth edition of *Dispute Resolution*, a volume in our series of annual reports, which provide international analysis in key areas of law and policy for corporate counsel, cross-border legal practitioners and business people.

Following the format adopted throughout the series, the same key questions are answered by leading practitioners in each of the 49 jurisdictions featured. New jurisdictions this year include Ecuador, Hong Kong, Indonesia, Kazakhstan, the Philippines, Portugal and the United Arab Emirates.

Every effort has been made to ensure that matters of concern to readers are covered. However, specific legal advice should always be sought from experienced local advisers. *Getting the Deal Through* publications are updated annually in print. Please ensure you are referring to the latest print edition or to the online version at www.gettingthedealthrough.com.

Getting the Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We would also like to extend special thanks to contributing editor Simon Bushell of Latham & Watkins for his continued assistance with this volume.

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Publisher
Gideon Roberton
gideon.roberton@lbresearch.com

Subscriptions
Rachel Nurse
subscriptions@gettingthedealthrough.com

Business development managers
George Ingledew
george.ingledew@lbresearch.com

Alan Lee
alan.lee@lbresearch.com

Dan White
dan.white@lbresearch.com

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South Africa

Des Williams

Werksmans Attorneys

Litigation

1 What is the structure of the civil court system?

Judicial powers are exercised in a formal court system. This comprises a hierarchy of courts, with each level in the hierarchy having a specified jurisdiction.

The lower courts are called magistrates' courts, which generally have jurisdiction over most criminal cases and civil cases where the amount in dispute is less than 100,000 rand. Magistrates are officials of the Department of Justice and are appointed by an independent body, the Magistrate's Commission.

The superior courts are called high courts. There are a number of provincial and local divisions of the high court. Judges, appointed by the Judicial Services Commission (an independent body), are usually chosen from the ranks of practising senior advocates, attorneys or academics, and they enjoy a high degree of autonomy and independence. The high court has original jurisdiction in respect of criminal matters and civil matters, and has appellate jurisdiction in respect of matters originally heard in the magistrates' courts and matters heard by single judges in the high court.

The highest court in South Africa for non-constitutional matters is the Supreme Court of Appeal. It is situated in Bloemfontein, and has appellate jurisdiction only. Its judgments are binding on all lower courts.

The Constitutional Court has jurisdiction throughout South Africa as a court of final instance over all matters relating to the interpretation, protection and enforcement of the provisions of the Constitution. Most constitutional disputes will first be heard by a high court. However, some constitutional matters fall exclusively within the jurisdiction of the Constitutional Court.

There are 10 Constitutional Court judges, 20 Supreme Court of Appeal judges and approximately 160 high court judges.

2 What is the role of the judge and the jury in civil proceedings?

The South African legal system is accusatorial, and the role played by the judge is largely passive. There is no jury system in South Africa in either civil or criminal proceedings.

3 What are the time limits for bringing civil claims?

Limitation issues are governed by the Prescription Act 68 of 1969. In terms of section 12 of the Prescription Act, prescription commences running as soon as the debt is due. A debt is not deemed to be due until the creditor has knowledge of the debtor and of the facts from which the debt arises, provided that a creditor is deemed to have such knowledge if it could have acquired it by exercising reasonable care.

The period of prescription in respect of most debts is three years. The running of prescription can be interrupted by agreement. Prescription is also interrupted by an express or tacit acknowledgement of liability by the debtor.

4 Are there any pre-action considerations the parties should take into account?

Generally, in commercial disputes, there are no steps that a party must take before issuing proceedings.

The Promotion of Access to Information Act 2000 gives effect to the right of access to information held by the state or any other person that is required for the exercise and protection of any rights, and that is guaranteed to everyone in terms of the Constitution. This right may be exercised before any proceedings are instituted. The right of access to information is increasingly being exercised before the institution of proceedings in order to obtain information and documentation relevant to a claim that a party intends pursuing by litigation.

5 How are civil proceedings commenced? How and when are the parties to the proceedings notified of their commencement?

Once a decision has been made to embark on litigation, it is necessary to choose between trial (action) and motion (application) proceedings.

Action is commenced by the issue of summons. The parties are required to file formal pleadings setting out the facts and legal bases upon which they rely for their claim or defence. The summons is the first such document.

Motion proceedings differ from actions in that, generally, no oral evidence is heard by the court (although there are circumstances in which matters may be referred for the hearing of oral evidence). The evidence is placed before the court in the form of affidavits. Motion proceedings (which are often referred to as application proceedings) are commenced by way of a notice of motion accompanied by a founding affidavit setting out the facts on which the claim is based, with all supporting documentation being annexed to the affidavits.

The summons in action proceedings, or the notice of motion and founding affidavit in motion proceedings, is served on the defendant by the sheriff, who is an officer of the court. A formal return of service is required confirming that service has been effected in accordance with the rules of court relating to the service of process.

6 What is the typical procedure and timetable for a civil claim?

The timetable in civil litigation varies considerably from one division of the high court to another.

In Johannesburg, for example, pleadings will generally be closed within two to three months. Thereafter, the matter is enrolled for the allocation of a trial date. A date is usually allocated within 12 months of enrolment.

In motion proceedings, the delivery of further affidavits, in the form of an answering affidavit and a replying affidavit, is usually completed within six weeks of the delivery of the notice of motion and founding affidavit. Thereafter, the matter may immediately be set down for hearing on the opposed motion role. Usually, opposed

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motion matters are set down for hearing on a date that is convenient to both sides, although there is no formal requirement that this be done.

7 Can the parties control the procedure and the timetable?

The parties can control the procedure and the timetable to a limited extent. This may be done by extending the time periods for the filing of pleadings, by agreement and by reaching agreement regarding the dates for hearing of motion matters, interlocutory applications and the trial. There is very little case management by judges before trial, as a trial judge is usually only allocated to a matter on, or shortly before, the day on which the trial commences. It is possible, however, for arrangements to be made through the judge president in most divisions of the high court for a judge to be allocated to a specific matter at an earlier stage, and, in cases where this happens, the judge is more actively involved in case management.

8 Is there a duty to preserve documents and other evidence pending trial? Must parties share relevant documents (including those unhelpful to their case)?

There is a duty to preserve documents and other evidence pending trial. Parties are required to disclose to each other all relevant documents and tape recordings that they or their agents have in their possession or under their control (including those unhelpful to their case).

9 Are any documents privileged? Would advice from an in-house lawyer (whether local or foreign) also be privileged?

Issues of privilege arise in South Africa mainly in the following contexts:

- legal professional privilege, which is based on the general rule that communications between a legal adviser and his or her client are privileged if the legal adviser was acting in a professional capacity at the time, the communication was made for the purpose of obtaining legal advice and the advice does not facilitate the commission of a crime or fraud;
- litigation privilege, which is the privilege attaching to materials obtained in anticipation of litigation, and which serves to protect from disclosure communications between the client or the legal adviser and third parties if those communications were made for the legal adviser's information for the purpose of pending or contemplated litigation; and
- South African courts have recognised that a salaried legal adviser employed by a single organisation may be said to be acting in a professional capacity for the purpose of privilege. The courts have stressed the importance of the distinction to be drawn between communications made by such employees in their capacity as legal adviser and other communications that would not be of a privileged nature.

10 Do parties exchange written evidence from witnesses and experts prior to trial?

Parties are required to deliver summaries of any expert evidence on which they intend to rely not less than 10 court days before the trial. Generally, witness statements for non-expert witnesses are not required. The evidence of witnesses and experts is presented by way of oral evidence at the trial.

11 How is evidence presented at trial? Do witnesses and experts give oral evidence?

The evidence of witnesses and experts is presented by way of oral evidence at the trial.

12 What interim remedies are available?

The interim remedies that are available include the *Anton Piller* order and the anti-dissipation interdict, or *Mareva* injunction, which is derived from English law. The anti-dissipation interdict is aimed at restraining a respondent from dissipating or concealing assets pending the outcome of an action.

13 What substantive remedies are available?

Punitive damages are not available. Generally, the policy of South African law and practice is that for both the breach of contract and the assessment of the quantum of damages, the injured party is entitled to no more than compensation for the damages actually suffered by him or her; the award of punitive damages in such instances is alien to the South African legal system.

Interest is payable on money judgments. Mora interest is governed by the Prescribed Rate of Interest Act 55 1975. The Minister of Justice prescribes a rate of interest for the purposes of the Act from time to time. The current prescribed rate is 15.5 per cent per annum.

14 What means of enforcement are available?

All orders of court, whether correctly or incorrectly granted, must be obeyed unless and until set aside. Civil contempt is the wilful and mala fide refusal or failure to comply with an order of court other than a money judgment. Civil contempt proceedings exist in order that a court order stemming from civil proceedings may be brought to a logical conclusion by the imposition of a penalty in order to vindicate the court's authority. Contempt proceedings are usually initiated by way of notice of motion and such applications are usually, by their nature, urgent. The application should be brought in the court that made the order with which compliance is sought.

Contempt flowing from civil proceedings is itself a criminal offence and, as such, can be prosecuted by the state. However, it is usually the aggrieved party in civil litigation that approaches the court for its assistance to compel performance of its order. Although civil imprisonment has been abolished, the court's power to order committal for contempt has not been affected, especially for a failure to comply with an order ad factum praestandum.

15 Are court hearings held in public? Are court documents available to the public?

Save as is otherwise provided in law, all proceedings in any South African court are, except insofar as the court may in special cases otherwise direct, required to be carried on in open court. Generally, what constitutes a 'special case' depends upon the circumstances of the case.

Documents, such as pleadings, expert witness statements and orders, become available to the public once the matter has been called in open court.

16 Does the court have power to order costs?

The court does have the power to order costs. The general rule is that costs are awarded to the party who is substantially successful. The successful party is required to draw up a bill of costs that itemises all attendances in the matter according to the tariff set out in a schedule to the rules of court. The bill of costs is taxed by a high court official, known as a taxing master, after notice has been given to the party against whom the bill is taxed. The taxation of a bill of costs may be opposed and, if opposed, a hearing takes place before the taxing master, who determines the amount payable.

The successful litigant only recovers a portion of his or her costs. Costs are normally recovered on a scale as between party and party, although special awards of costs may be made by the court in certain cases.

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A litigant (usually the defendant or the respondent) may, under certain circumstances, be entitled to call upon the plaintiff (or applicant) to furnish security for costs.

The court will order the furnishing of security for costs when:

- the party from whom security is requested is neither resident nor domiciled within South Africa, and does not own immoveable property within the Republic;
- a party institutes proceedings that the court considers to be vexatious;
- the party who instituted the proceedings is litigating in a nominal capacity and is found by the court to be a 'man of straw' behind whom the real plaintiff is sheltering; or
- a company or other body corporate is the plaintiff or applicant in legal proceedings, if it appears that there is reason to believe that the company or body corporate will be unable to pay the costs of the defendant or respondent if he or she is successful in his or her defence.

17 Are 'no win, no fee' agreements, or other types of contingency or conditional fee arrangements between lawyers and their clients, available to parties? May parties bring proceedings using third-party funding? If so, may the third party take a share of any proceeds of the claim? May a party to litigation share its risk with a third party?

The Contingency Fees Act 66 of 1997 provides for two forms of contingency fees agreements that attorneys and advocates may enter into with their clients. The first is a 'no win, no fee' agreement, and the second is an agreement in terms of which the legal practitioner is entitled to fees higher than the normal fee if the client is successful. The second type of agreement is subject to limitations. Higher fees may not exceed the normal fees of the legal practitioner by more than 100 per cent, and in the case of claims sounding in money, this fee may not exceed 25 per cent of the total amount awarded or any amount obtained by the client in consequence of the proceedings, excluding costs.

In the case of *PricewaterhouseCoopers Inc and others v National Potato Co-operative Limited* 2004 (6) SA 66 (SCA), the Supreme Court of Appeal held that a champertous agreement in terms of which a person provides a litigant with funds to litigate in return for a share of the proceeds of litigation is neither contrary to public policy nor void. The *PricewaterhouseCoopers* case has opened the way to more innovative funding of expensive litigation in South Africa, but has not yet led to the development of any meaningful litigation funding business in South Africa.

In the recent case of *Children's Resources Centre Trust v Pioneer Food* (50/2012) [2012] ZASCA 182 (29 November 2012), the Supreme Court of Appeal dealt with the circumstances in which South African law permits a class action to be brought and the requirements for doing so. In prescribing appropriate procedures, the Supreme Court of Appeal has introduced important safeguards. If class action litigation is to be funded on a contingency fee basis, the court must be satisfied that the litigation is not being pursued at the instance of the lawyers for their own gain rather than in the genuine interest of class members, as the risk of conflicts of interest is inherent in that situation.

18 Is insurance available to cover all or part of a party's legal costs?

Insurance is available to cover all or part of a party's legal costs (either its own costs or its potential liability for an opponent's costs).

19 May litigants with similar claims bring a form of collective redress? In what circumstances is this permitted?

The absence of established procedures in South Africa for handling major group or class actions has been addressed in the recent judgment of the Supreme Court of Appeal in the case of *Children's Resources Centre Trust v Pioneer Food* (50/2012) [2012] ZASCA 182 (29 November 2012). The Court held that courts must address the issue of their inherent power to protect and regulate their own process and to develop the common law in the interests of justice. In addressing this issue, the Supreme Court of Appeal held that a court faced with an application for certification of a class action must consider the following factors before granting certification:

- the existence of a class identifiable by objective criteria;
- a cause of action raising a triable issue;
- that the right to relief depends upon the determination of issues of fact or law, or both, common to all members of the class;
- that the relief sought, or damages claimed, flow from the cause of action and are ascertainable and capable of determination;
- that where the claim is for damages there is an appropriate procedure for allocating the damages to the members of the class;
- that the proposed representative is suitable to be permitted to conduct the action and represent the class; and
- whether, given the composition of the class and the nature of the proposed action, a class action is the most appropriate means of determining the claims of class members.

20 On what grounds and in what circumstances can the parties appeal? Is there a right of further appeal?

An appeal against the decision of a single judge will lie only with the leave of the court appealed from or, where such leave is refused, with the leave of the Supreme Court of Appeal. The court granting leave to appeal directs that the appeal be heard by a full court unless it is satisfied that the appeal requires the attention of the Supreme Court of Appeal, in which case it directs that the appeal be heard by the Supreme Court of Appeal.

An appeal lies from a decision of a court of a provincial division or local division sitting as a court of appeal, with the special leave of the Supreme Court of Appeal.

A notice of appeal is required to state whether the whole or only part of the judgment or order is appealed against, and if only part of the judgment or order is appealed against, it is required to state which part and further to specify the finding of fact or ruling of law (or both) appealed against and the grounds upon which the appeal is founded.

A direct appeal to the Constitutional Court lies against a decision of the Supreme Court of Appeal or the high court, provided that the matter appealed is a constitutional matter. The appealing party must obtain leave to appeal from the Constitutional Court. The test used by the Constitutional Court in determining whether leave to appeal should be granted is whether it is in the interests of justice for the prospective appellant to be granted leave to the Constitutional Court.

21 What procedures exist for recognition and enforcement of foreign judgments?

Provisional sentence will be granted on a foreign judgment provided that the judgment appears ex facie to be final and has not become superannuated. The onus is on the plaintiff to prove that the foreign court from which the judgment emanates has jurisdiction according to the principles recognised by South African law with reference to foreign judgments. South African courts do not recognise the jurisdiction of a foreign court unless the foreign court has, according to South African law, international competency to grant an order against a defendant. The defendant, at the institution of the proceedings, must be, or must have been, domiciled or resident within the jurisdiction of the foreign court.

22 Are there any procedures for obtaining oral or documentary evidence for use in civil proceedings in other jurisdictions?

In 1997, South Africa acceded to the 1970 Convention on the Taking of Evidence Abroad in Civil or Commercial matters of The

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Hague Convention on Private International Law (Convention), subject to certain reservations and declarations. South Africa's accession to the Convention has been accepted by a number of contracting states, including the US, the UK and Germany. South Africa's accession to the Convention has brought a degree of uniformity to the procedures followed where evidence is sought in another contracting state, but even in those cases there are areas in which difficulties remain. Where evidence is sought in a non-contracting state, different procedures are followed, including the widely used letters rogatory procedure.

Where evidence is sought in South Africa for use in civil proceedings in other jurisdictions, the procedures under the Convention are available where the request emanates from another contracting state. In addition to the Convention procedures, there are procedures available under the Foreign Courts Evidence Act 80 of 1962 and section 33 of the Supreme Court Act 59 of 1959. The Foreign Courts Evidence Act provides that the high court may order the examination of witnesses in South Africa in connection with civil proceedings pending in a foreign court. Section 33 of the Supreme Court Act sets out the manner of dealing with commissions rogatoires, letters of request and documents for service originating from foreign countries.

Arbitration

23 Is the arbitration law based on the UNCITRAL Model Law?

The South African Law Commission has recommended the compulsory application of the UNCITRAL Model Law to international commercial arbitration and the embodiment of all South African legislation on international arbitration in a new International Arbitration Act. This recommendation has not yet been implemented. The present position, therefore, is that the arbitration law is based on the Arbitration Act 1965, and not on the UNCITRAL Model Law.

24 What are the formal requirements for an enforceable arbitration agreement?

In terms of section 1 of the Arbitration Act, 'arbitration agreement' is defined as meaning: 'A written agreement providing for the reference to arbitration of an existing dispute or any future dispute relating to a matter specified in the agreement, whether an arbitrator is named or designated therein or not.'

Although an oral arbitration agreement is not invalid, such agreements are regulated by common law and not by the Arbitration Act. In practice, most commercial arbitration agreements are in writing and are regulated by the Arbitration Act.

Although an arbitration agreement under the Arbitration Act is required to be in writing, it is not necessary for the agreement to be signed by the parties or to be contained in one document. A written arbitration agreement may, for example, be concluded by an exchange of letters between the parties.

25 If the arbitration agreement and any relevant rules are silent on the matter, how many arbitrators will be appointed and how will they be appointed? Are there restrictions on the right to challenge the appointment of an arbitrator?

In terms of section 9 of the Arbitration Act, unless a contrary intention is expressed in the arbitration agreement, the reference shall be to a single arbitrator.

In the absence of agreement between the parties, the court has the power, in terms of section 12 of the Arbitration Act, to appoint an arbitrator or umpire. Unless a contrary intention is expressed in the arbitration agreement, the court will therefore appoint a single arbitrator. There are no statutory restrictions on the right to challenge the appointment of an arbitrator.

26 Does the domestic law contain substantive requirements for the procedure to be followed?

There are no statutory laws or rules governing the procedure of arbitration. The procedure will usually be in terms of the rules of the arbitration organisation administering the arbitration. In the absence of such rules, the parties usually agree on procedure, and the rules of the high court are often followed, mutatis mutandis.

The powers conferred upon an arbitration tribunal in terms of section 14 of the Arbitration Act include powers in relation to procedural issues, including the power to require any party, subject to any legal objection, to make discovery of documents by way of affidavit or by answering interrogatories on oath, and require the parties to deliver pleadings or statements of claim and defence.

27 On what grounds can the court intervene during an arbitration?

In terms of section 21 of the Arbitration Act, for the purpose of and in relation to a reference under an arbitration agreement, the court has the same power of making orders in respect of matters specified in the section as it has for the purposes of and in relation to any action or matter in that court.

The matters specified include the following:

- security for costs;
- discovery of documents and interrogatories;
- the examination of any witness before a commissioner in the Republic or in the territory or abroad and the issue of a commission or a request for such examination;
- the giving of evidence by affidavit;
- securing the amount in dispute in the reference;
- substituted service of notice required by the Act or of summonses; and
- the appointment of a receiver.

In terms of section 20 of the Act an arbitration tribunal may, on the application of any party to the reference, and shall, if the court on the application of any such party so directs, or if the parties to the reference so agree, at any stage before making a final award, state any question of law arising in the course of the reference in the form of a special case for the opinion of the court or for the opinion of counsel. Any such opinion is final and not subject to appeal, and is binding on the arbitration tribunal and on the parties to the reference. Clearly, the court's power in terms of section 20 goes beyond procedural issues, as the court has the power finally to determine a question of law arising in the course of the reference.

28 Do arbitrators have powers to grant interim relief?

In terms of section 21 of the Arbitration Act, the matters in respect of which the court has the same power of making orders as it has for the purpose of and in relation to any action or matter in that court, also include the following forms of interim relief: the inspection or the interim custody or the preservation or the sale of goods or property, and an interim interdict or similar relief.

29 When and in what form must the award be delivered?

In terms of section 23 of the Arbitration Act, an arbitration tribunal is required, unless the arbitration agreement otherwise provides, to make its award within four months after the date on which the arbitrator or arbitrators entered on the reference or the date on which the arbitrator or arbitrators were called upon to act by notice in writing from any party to the reference, whichever is the earlier date. Section 23 provides that the time for making the award may, from time to time, be extended by written agreement between the parties.

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30 On what grounds can an award be appealed to the court?

A distinction must be drawn between appeal and review. An award may be set aside in terms of section 33 of the Arbitration Act where:

- any member of the arbitration tribunal has misconducted him or herself in relation to his or her duties as arbitrator or umpire;
- an arbitration tribunal has committed any gross irregularity in the conduct of the arbitration proceedings;
- an arbitration tribunal has exceeded its powers; or
- an award has been improperly obtained.

31 What procedures exist for enforcement of foreign and domestic awards?

Where the award complies with the requirements of the Arbitration Act and is made pursuant to an arbitration agreement as defined in the Arbitration Act, the successful party may apply to court, in terms of section 31(1) and (3) of the Arbitration Act, to have the award made an order of court. The procedure is a quick and effective remedy for the enforcement of the award.

The court will not consider the merits of the dispute. All that the applicant is required to prove is that the dispute was submitted to arbitration in terms of an arbitration agreement, that an arbitrator was appointed and that there was a valid award in terms of the reference.

South Africa is a party to the New York Convention. The Recognition and Enforcement of Foreign Arbitral Awards Act 1977 was enacted to give effect to the New York Convention. The court may, on its own initiative, refuse to grant an application for the recognition of a foreign arbitral award if the court finds that:

- a reference to arbitration is not permissible in South Africa in respect of the subject matter of the dispute; or
- the enforcement of the award would be contrary to public policy in South Africa.

The other defences that may be raised by the party against whom the enforcement of the award is sought are as follows:

- that the parties to the arbitration agreement concerned had, under the law applicable to them, no capacity to contract, or if the agreement is invalid under the law to which the parties subjected it or of the country in which the award was made;
- that the party did not receive the required notice of the appointment of the arbitrator or of the arbitration proceedings, or was otherwise not able to present his or her case;
- that the award deals with a dispute outside the provision of the reference to arbitration or contains a decision on matters beyond the scope of the reference;
- that the constitution of the arbitration tribunal or the arbitration proceedings was not in accordance with the relevant arbitration agreement or with the law of the country in which the arbitration took place; or
- that the award has not yet become binding on the parties, or has been set aside or suspended by a competent authority of the country in which, or under the law of which, the award was made.

Unless one of the defences referred to above is established, the foreign arbitral award may be made an order of court and is then enforced in the same manner as a judgment of the court.

Update and trends

It is expected that a new International Arbitration Act will be enacted during 2014. It is therefore expected that the long overdue reform of South African arbitration law will soon be implemented. A clear move towards the implementation of internationally recognised arbitration procedures will probably promote the growth of South Africa as an important regional arbitration centre.

There have been significant developments in the field of class actions. In two recent cases, known as 'The Bread Price Cases', the Constitutional Court upheld the judgments of the Supreme Court of Appeal in which the Supreme Court of Appeal had prescribed appropriate procedures to enable litigants to pursue claims by means of class actions. The Constitutional Court emphasised that a flexible approach should be applied in applications for the certification of class actions in common law claims 'case by case'. These important judgments will result in class actions increasingly becoming an important feature of the South African dispute resolution landscape.

32 Can a successful party recover its costs?

In terms of section 35(1) of the Arbitration Act, unless the arbitration agreement provides otherwise, the award of costs in connection with the reference and award is at the discretion of the arbitration tribunal, which is required, if it awards costs, to give directions as to the scale on which such costs are to be taxed, and may direct to and by whom and in what manner such costs or any part thereof are to be paid, and may tax or settle the amount of such costs or any part thereof, and may award costs as between attorney and client.

The basic principle in awarding costs is that a party who is substantially successful is entitled to be awarded costs in the absence of special circumstances.

Alternative dispute resolution

33 What types of ADR process are commonly used? Is a particular ADR process popular?

The ADR process most commonly used is arbitration. Mediation is also becoming increasingly popular in commercial disputes.

WERKSMANS ATTORNEYS

Des Williams **dwilliams@werksmans.com**

155 Fifth Street
Sandton
Johannesburg
South Africa

Tel: +27 11 535 8234
Fax: +27 11 535 8634
www.werksmans.com

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34 Is there a requirement for the parties to litigation or arbitration to consider ADR before or during proceedings? Can the court or tribunal compel the parties to participate in an ADR process?

There is no requirement for parties to litigation or arbitration to consider ADR before or during proceedings. No court or tribunal can compel the parties to participate in an ADR process to which they have not agreed.

Miscellaneous

35 Are there any particularly interesting features of the dispute resolution system not addressed in any of the previous questions?

There have been significant developments in the field of class actions, and it is expected that class actions will increasingly become an important feature in the South African dispute resolution landscape. This issue is dealt with more fully in the 'Update and trends' section.

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