CHAPTER XLIII-A

RULES RELATING TO ARBITRATION AND CONCILIATION ACT, 1996

[1][**803A. Title of application –** (a) Save as hereinafter otherwise provided, all applications, affidavits and proceedings under the Arbitration and Conciliation Act, 1996 (hereafter in this chapter referred to as the "Act") shall be intituled in the matter of the Act and in the matter of the Arbitration.

(b) Application under Section 8 and 54 of the Act shall be intituled in the Suit or matter in which the Order of reference is made.

(c) Application under section 9 of the Act shall be intituled in the arbitral proceedings in which interim measures are ordered.

803B.Mode of application – Save as hereinafter otherwise provided, all Applications under the Act shall be made by petition and shall be placed on board for admission after prior notice to all parties concerned. The judge may consider admission of the Petition in exercise of his discretion even though no such notice is served on the other side. The Judge may admit or reject the Petition or pass such other orders thereon as he may deem fit.

803C. Contents of Petition – (a) Every petition shall be divided into paragraphs numbered consecutively and shall contain a concise form of statement of the material facts relied on and the nature of the relief asked for and shall clearly specify the persons liable to be affected thereby.

The original Arbitration Agreement or the Award or duly certified copy thereof, if any, shall whenever necessary be annexed to the petition.

(b) Every petition under section 27 of the Act shall specify:-

(i) the names and addresses of the parties and the arbitrators;

(ii) the general natural of the claim and the relief sought;

(iii) the evidence to be obtained in particular;

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1. Rules 803A to 803F Inserted by G.N.No.12261, dated 18-11-1996.

(a) the name and address of any person to be heard as witness or expert witness and a statement of the subject matter of the testimony required;

(b) the description of any document to be produced or property to be inspected;

(c) Every petition under section 47 of the Act shall be accompanied by the original Award or a copy thereof, duly authenticated in the manner required by the law of the country in which it was made; the original agreement for arbitration or a duly certified copy thereof; and such documentary evidence as may be necessary to prove that the award is a foreign award. If the award or agreement to be produced is in a foreign language, the party seeking to enforce the award shall produce a translation into English certified as correct by a diplomatic or a consular agent of the country to which that party belongs or certified as correct in such other manner as may be sufficient according to the law in force in India.

(d) Every petition under section 56 of the Act shall be accompanied by the Original Award or a copy thereof duly authenticated in the manner required by Law of the Country in which it was made; evidence proving that the Award has become final; and such documentary evidence as may be necessary to prove that the conditions mentioned in clauses (a) and (c) of sub-section (1) of section 57 of the Act are satisfied. Where any documents to be produced, alongwith the petition is in a foreign language the party seeking to enforce the award shall produce a translation into English certified as correct by a diplomatic or consular agent of the country to which the party belongs or certified as correct in such other manner as may be sufficient according to the law in force in India.

(e) Every petition for enforcement of a foreign award shall be accompanied by an affidavit or affidavits showing that :-

(i) the award has been made in pursuance of a submission to arbitration which is valid under the law applicable thereto;

(ii) the subject matter of award is capable of settlement by Arbitration under the law of India;

(iii) the award has been made by the arbitral tribunal provided for in the submission to a arbitration or constituted in the manner agreed upon by the parties and in conformity with the law governing the arbitration procedure;

(iv) the award has become final in the country in which it has been made, in the sense that it will not be considered a such if it is open to opposition or appeal or if it is proved that any proceedings for the purpose of contesting the validity of the award are pending;

(v) the enforcement of the award in not country to the public policy or the law of India.

(f) **Procedure to be followed in case of non-production of documents with petition -** If the application under section 47 and 56 of the Act, be presented without the document specified in Rule 803C (c) and (d) it shall forthwith be returned to the party presenting it. If such application is not accompanied by the documents specified in Rule 803C (c) and (d) the Judge may allow, time to file such documents.

803D. Fees of the Arbitrator – When the Court makes an order referring the matter in dispute to arbitration, it shall make such provision as it thinks proper for securing the fees of the arbitrator.

803E. Notice of filling Application to persons likely to be affected - Upon any application by petition under the Act, the Judge in chambers shall, if he accepts the petition, direct notice thereof to be given to all persons mentioned in the petition and to such other persons as may seem to him to be likely to be affected by the proceedings requiring all or any of such persons to show cause, within the time specified in the notice, why the relief sought in the petition should not be granted.

803F. Processes to be issued on Application by Arbitrator or a party – Processes to the parties to arbitration proceedings or to witnesses shall be issued by the Prothonotary and Senior Master on the written application of the arbitrator or a party with specifications as provided under section 27(2) of the Act.

[1][**803G.** Rule 313 to 318, 323 to 329,333 to 344, 345 to 354 of the Bombay High Court Original Side Rules, 1980 with consequential changes shall apply to the enforcement of the Award under the said Act.

803H. The Execution application in the prescribed form for enforcement of the Award should be accompanied by the Affidavit in support, which shall contain a statement whether an application has been made for setting aside the Award and if so, a copy of the order passed on such application should be annexed to the affidavit.

803I. Upon the receipt of the Execution application in the prescribed form along with the Award or a certified copy thereof, the same shall be processed as per the provisions of Order XXI of the Code of Civil Procedure, 108.

803J. The Execution application should be presented to the Original Side of the Bombay High Court if the person against whom the Award is to be executed ordinarily reside or has property within the jurisdiction of the Original Side of the Bombay High Court.

803K. The Execution application should be presented to the concerned Court within whose jurisdiction the person ordinary resides or has property against whom or which the execution is sought]

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1. Rule 803G to K inserted by G.N. of 3-8-2000, (Pub. In M.G.G. Pt. IV-C, p.360)