

UNEDITED

# *The Arbitration Act*

*being*

Chapter 70 of *The Revised Statutes of Saskatchewan, 1909*  
(effective March 15, 1911).

FOR HISTORICAL REFERENCE ONLY

## **NOTE:**

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

## Table of Contents

	SHORT TITLE		
1	Short title	10	Enlargement of time for award
	INTERPRETATION	11	Reconsideration by arbitrator
	REFERENCES BY CONSENT OUT OF COURT	12	Misconduct of arbitrator
3	Effect of submission	13	Enforcement of award
4	Submission includes provisions in schedule		GENERAL
5	Stay of proceedings	14	Attendance of witness before referee or arbitrator
6	Appointment of arbitrator in certain cases	15	Special case for opinion of court
7	Appointment of arbitrators where two required	16	Costs
8	Powers of arbitrator	17	Directions for arbitration to be deemed submission
9	Summoning of witnesses		SCHEDULE

## CHAPTER 70

### An Act respecting Arbitration

#### SHORT TITLE

##### Short title

- 1 This Act may be cited as “*The Arbitration Act.*”

C. O. 1898, c.35, s.1; R.S.S. 1909, c.70, s.1.

#### INTERPRETATION

- 2 In this Act unless the context otherwise requires the expression:

##### “Submission”

1. “**Submission**” means a written agreement to submit present or future differences to arbitration whether an arbitrator is named therein or not;

##### “Court”

2. “**Court**” means the supreme court of Saskatchewan;

##### “Judge”

3. “**Judge**” means a judge of the said court;

##### “Rules of court”

4. “**Rules of court**” means the rules of the said court.

C. O. 1898, c.35, s.2; R.S.S. 1909, c.70, s.2.

#### REFERENCES BY CONSENT OUT OF COURT

##### Effect of submission

- 3 A submission unless a contrary intention is expressed therein shall be irrevocable except by leave of the court or a judge and shall have the same effect in all respects as if it had been made an order of court.

C. O. 1898, c.35, s.3; R.S.S. 1909, c.70, s.3.

##### Submission includes provisions in schedule

- 4 A submission unless a contrary intention is expressed therein shall be deemed to include the provisions set forth in the schedule to this Act so far as they are applicable to the reference under submission.

C. O. 1898, c.35, s.4; R.S.S. 1909, c.70, s.4.

**Stay of proceedings**

**5** If any party to a submission or any person claiming through or under him commences any legal proceedings in any court against any other party to the submission or any person claiming through or under him in respect to any matter agreed to be referred any party to such legal proceedings may at any time after appearance and before delivering any pleadings or taking any other steps in the proceedings apply to that court to stay the proceedings; and that court or a judge thereof if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission and that the applicant was at the time when the proceedings were commenced and still remains ready and willing to do all things necessary to the proper conduct of the arbitration may make an order staying the proceedings.

C. O. 1898, c.35, s.5; R.S.S. 1909, c.70, s.5.

**Appointment of arbitrator in certain cases**

**6** In any of the following cases:

- (a) Where a submission provides that a reference shall be to a single arbitrator and all the parties do not after differences concur in the appointment of an arbitrator;
- (b) If an arbitrator refuses to act or is incapable of acting or dies and the submission does not show that it was intended that the vacancy should not be supplied and the parties do not supply the vacancy;
- (c) Where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator and do not appoint him;
- (d) Where an appointed umpire or arbitrator refuses to act or is incapable of acting or dies or is removed by the court or a judge and the submission does not show that it was intended that the vacancy should not be supplied and the parties or arbitrators do not supply the vacancy;

any party may serve the other parties or the arbitrators, as the case may be, with a written notice to appoint an arbitrator, umpire or third arbitrator, as the case may be. If the appointment is not made within seven clear days after the service of the notice the court or a judge may on application by the party who gave the notice appoint an arbitrator, umpire or third arbitrator, as the case may be, who shall have the like powers to act in the reference and make an award as if he had been appointed by consent of all parties.

C. O. 1898, c.35, s.6; R.S.S. 1909, c.70, s.6.

**Appointment of arbitrators where two required**

**7** Where a submission provides that the reference shall be to two arbitrators one to be appointed by each party then unless the submission expresses a contrary intention:

- 1. If either of the appointed arbitrators refuses to act or is incapable of acting or dies the party who appointed him may appoint a new arbitrator in his place;

2. If on such a reference one party fails to appoint an arbitrator either originally or by way of substitution as aforesaid for seven clear days after the other party having appointed his arbitrator has served the party making default with notice to make the appointment the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference and his award shall be binding on both parties as if he had been appointed by consent:

Provided that the court or a judge may set aside any appointment made in pursuance of this section.

C. O. 1898, c.35, s.7; R.S.S. 1909, c.70, s.7.

#### **Powers of arbitrator**

8 The arbitrators or umpire acting under a submission shall unless the submission expresses a contrary intention have power:

1. To administer oaths to or take the affirmations of the parties and witnesses appearing; and
2. To state an award as to the whole or part thereof in the form of a special case for the opinion of the court; and
3. To correct in an award any clerical mistake or error arising from any accidental slip or omission.

C. O. 1898, c.35, s.8; R.S.S. 1909, c.70, s.8.

#### **Summoning of witnesses**

9 For the purpose of procuring the attendance of a witness at an arbitration any party to a submission may sue out a writ of *subpoena ad testificandum* or a writ of *subpoena duces tecum* but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.

(2) Such writs may be obtained from any local registrar of the court on payment of the fees prescribed by the rules of court.

C. O. 1898, c.35, s.9; R.S.S. 1909, c.70, s.9.

#### **Enlargement of time for award**

10 The time for making an award may from time to time be enlarged by order of the court or a judge whether the time for making an award has expired or not.

C. O. 1898, c.35, s.10; R.S.S. 1909, c.70, s.10.

#### **Reconsideration by arbitrator**

11 In all cases of reference to arbitration the court or a judge may from time to time remit the matters referred or any of them to the reconsideration of the arbitrators or umpire.

(2) Where an award is remitted the arbitrators or umpire shall unless the order otherwise directs make their award within six weeks after the date of the order.

C. O. 1898, c.35, s.11; R.S.S. 1909, c.70, s.11.

**Misconduct of arbitrator**

**12** Where an arbitrator or umpire has misconducted himself the court or a judge may remove him.

**Setting aside award**

(2) Where an arbitrator or umpire has misconducted himself or an arbitration or award has been improperly procured the court may set the award aside.

C. O. 1898, c.35, s.12; R.S.S. 1909, c.70, s.12.

**Enforcement of award**

**13** An award on a submission may by leave of the court or a judge be enforced in the same manner as a judgment or order to the same effect.

C. O. 1898, c.35, s.13; R.S.S. 1909, c.70, s.13.

## GENERAL

**Attendance of witness before referee or arbitrator**

**14** The court or a judge may order that a writ of *subpoena ad testificandum* or of a *subpoena duces tecum*, shall issue to compel the attendance before an official or special referee or before any arbitrator or umpire of a witness wherever he may be within Saskatchewan.

(2) The court or a judge may also order that a writ of *habeas corpus ad testificandum* shall issue to bring up a prisoner for examination before an official or special referee or before any arbitrator or umpire.

C. O. 1898, c.35, s.14; R.S.S. 1909, c.70, s.14.

**Special case for opinion of court**

**15** Any referee, arbitrator or umpire may at any stage of the proceedings under a reference and shall if so directed by the court or a judge state in the form of a special case for the opinion of the court any question of law arising in the course of the reference.

C. O. 1898, c.35, s.15; R.S.S. 1909, c.70, s.15.

**Costs**

**16** Any order made under this Act may be made on such terms as to costs or otherwise as the authority making the order thinks just.

C. O. 1898, c.35, s.16; R.S.S. 1909, c.70, s.16.

**Directions for arbitration to be deemed submission**

**17** Whenever it is directed by any Act that any party or parties shall proceed to the appointment of arbitrators or appoint arbitrators as provided by this Act or that any party or parties shall proceed to arbitration under this Act or any similar direction shall be made with respect to arbitration under this Act such direction shall be deemed a submission.

C. O. 1898, c.35, s.17; R.S.S. 1909, c.70, s.17.

## SCHEDULE

**Single arbitrator**

- (a) If no other mode of reference is provided the reference shall be to a single arbitrator.
- (b) If the reference is to two arbitrators the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

**Time and manner of award**

- (c) The arbitrators shall make their award in writing within six weeks after entering on the reference or after having been called on to act by notice in writing from any party to the submission or on or before any later day to which the arbitrators by any writing signed by them may from time to time enlarge the time for making the award.

**Arbitrators not agreeing, umpire to act**

- (d) If the arbitrators have allowed their time or extended time to expire without making an award or have delivered to any party to the submission or to the umpire a notice in writing stating that they cannot agree the umpire may forthwith enter on the reference in lieu of the arbitrators.

**Time for umpire's award**

- (e) The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired or on or before any later day to which the umpire by any writing signed by him may from time to time enlarge the time for making his award.

**Examination of parties/Production of papers**

- (f) The parties to the reference and all persons claiming through them respectively shall subject to any legal objection submit to be examined by the arbitrators or umpire on oath or affirmation in relation to the matters in dispute and shall subject as aforesaid produce before the arbitrators or umpire all books, deeds, papers, accounts, writings and documents within their possession or power respectively which may be required or called for and do all other things which during the proceedings on the reference the arbitrators or umpire may require.

**Oath or affirmation**

- (g) The witnesses on the reference shall if the arbitrators or umpire think fit be examined on oath or affirmation.

**Finality of award**

- (h) The award to be made by the umpire or arbitrators shall be final and binding on the parties and the persons claiming under them respectively.

**Costs of reference**

- (i) The costs of the reference and award shall be in the discretion of the arbitrators or umpire who may direct to and by whom and in what manner the costs or any part thereof shall be paid and may tax or settle the amount of costs to be so paid or any part thereof.

