

Ordinance Summary

The Arbitration and Conciliation (Amendment) Ordinance, 2020

- The Arbitration and Conciliation (Amendment) Ordinance, 2020 was promulgated on November 4, 2020. It seeks to amend the Arbitration and Conciliation Act, 1996. The Act contains provisions to deal with domestic and international arbitration and defines the law for conducting conciliation proceedings. Key features of the Ordinance include:
 - **Automatic stay on awards:** The 1996 Act allowed a party to file an application to set aside an arbitral award (i.e., the order given in an arbitration proceeding). Courts had interpreted this provision to mean that an automatic stay on an arbitral award was granted the moment an application for setting aside an arbitral award was made before a court. In 2015, the Act was amended to state that an arbitral award would not be automatically stayed merely because an application is made to a court to set aside the arbitral award.
 - The Ordinance specifies that a stay on arbitral award can be provided (even during the
- pendency of the setting aside application) if the court is satisfied that: (i) the relevant arbitration agreement or contract, or (ii) the making of the award, was induced or effected by fraud or corruption. This change will be effective from October 23, 2015.
- **Qualifications of arbitrators:** The Act specified certain qualifications, experience and accreditation norms for arbitrators in a separate schedule. The requirements under the schedule include that the arbitrator must be: (i) an advocate under the Advocates Act, 1961 with 10 years of experience, or (ii) an officer of the Indian Legal Service, among others. Further, the general norms applicable to arbitrators include that they must be conversant with the Constitution of India. The Ordinance omits the Schedule for arbitrators and states that the qualifications, experience, and norms for accreditation of arbitrations will be specified by regulations.

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