

SAMVĀD: PARTNERS

The Arbitration and Conciliation (Amendment) Ordinance, 2015: A step in the right direction

The President of India on October 23, 2015, has promulgated an ordinance amending various provisions of the Arbitration and Conciliation Act, 1996 (“Act”). The changes sought to be brought about have widespread and far reaching repercussions. The intention behind the Ordinance seems to be to address the role of Courts in arbitration proceedings, to provide for a time schedule for conduct and conclusion of arbitration proceedings and to clearly set out the role and responsibilities of an arbitral tribunal. The Ordinance also effectively negates a few judicial pronouncements, which had in effect proved detrimental to the effective use of arbitration as a method of alternate dispute resolution.

Some of the significant changes are as follows:

- a) Parties who opt for the seat of arbitration to be beyond India now have the choice of approaching Indian Courts for **interim relief**.
- b) The arbitral tribunal has been granted wide ranging powers and the status equivalent to a Court, for the purposes of granting interim relief.
- c) **Timelines have been introduced for Courts to dispose** of applications for appointment of tribunal or for extension of time for conclusion of arbitration proceedings.
- d) **Faster pace for conducting arbitration proceedings.**
- e) If the tribunal chooses to levy interest on the award, the rate of interest shall be two percent higher than the prevailing rate of interest.
- f) Guidelines have been introduced for imposition of costs on the losing party and on parties who may seek to delay proceedings without sufficient reason.
- g) The scope of challenging an award has been significantly narrowed.

The changes brought about through the Ordinance require an immediate review of all existing arbitration agreements. Wherever convenient and necessary, parties can choose to appropriately amend arbitration agreements, in order to protect their interests as well as to ensure that they are able to utilise the amendments to their benefit, in case of a dispute. In case you have any further questions, please feel free to write into infobl@samvadpartners.com