

Session 1
Fundamentals and Scheme of Arbitration :
Setting the context

THIRD PARTY FUNDING

Bar Council of India Rules, 1975

Rules Governing Advocates

Part VI - Chapter II deals with Standards of Professional Conduct and Etiquette :

Rule 18 : An Advocate shall not at any time, be a party to fomenting of litigation.

Rule 20 : An Advocate shall not stipulate for a fee contingent on the results of litigation or agree to share the proceed thereof.

Bar Council of India Rules, 1975

Rules Governing Advocates

Rule 21 : An Advocate shall not buy or traffic in or stipulate for or agree to receive any share or interest in any actionable claim. Nothing in this Rule shall apply to stock, shares and debentures or Government securities, or to any instruments, which are, for the time being, by law or custom negotiable, or to any mercantile document of title to goods.

Bar Council of India Rules, 1975

Rules Governing Advocates

Rule 22 : An Advocate shall not, directly or indirectly, bid for or purchase, either in his own name or in any other name, for his own benefit or for the benefit of any other person, any property sold in the execution of a decree or order in any suit, appeal or other proceeding in which he was in any way professionally engaged. This prohibition, however, does not prevent an Advocate from bidding for or purchasing for his client any property, which his client may, himself legally bid for or purchase, provided the Advocate is expressly authorised in writing in this behalf.

Order XXV of the Civil Procedure Code, 1908 was amended for Maharashtra by Bombay High Court vide Notification P 0102/77, dated 5th September, 1983

3. (1) Where any plaintiff has for the purpose of being financed in the suit transferred or agreed to transfer any share or interest in the property in the suit to a person who is not already a party to the suit, the Court may order such person to be made a plaintiff to the suit if he consents, and may either of its own motion or on the application of any defendant order such person, within a time to be fixed by it, to give security for the payment of all costs incurred and likely to be incurred by any defendant. In the event of such security not being furnished within the time fixed, the Court may make an order dismissing the suit so far as his right to, or interest in the property in suit is concerned, or declaring that he shall be debarred from claiming any right to or interest in the property in suit.

Order XXV of the Civil Procedure Code, 1908 was amended for Maharashtra by Bombay High Court vide Notification P 0102/77, dated 5th September, 1983

- (2) If such person declines to be made a plaintiff, the Court may implead him as a defendant and may order him, within a time to be fixed by it, to give security for the payment of all costs incurred and likely to be incurred by any other defendant. In the event of such security not being furnished within the time fixed, the Court may make an order declaring that he shall be debarred from claiming any right to or interest in the property in suit.
- (3) Any plaintiff or defendant against whom an order is made under this rule may apply to have it set aside and the provisions of sub-rules (2) and (3) of rule (2) shall apply mutatis mutandis to such application.]

CIVIL LAW ACT (CHAPTER 43)

CIVIL LAW (THIRD-PARTY FUNDING) REGULATIONS 2017

[MINISTRY OF LAW, SINGAPORE]

In exercise of the powers conferred by section 5B(8) of the Civil Law Act, the Minister for Law makes the following Regulations:

Citation and commencement

- 1.** These Regulations are the Civil Law (Third-Party Funding) Regulations 2017 and come into operation on 1 March 2017.

Definitions

- 2.** In these Regulations, unless the context otherwise requires — “arbitration agreement” has the same meaning as in section 2A of the International Arbitration Act (Cap. 143A);
“award” has the same meaning as in section 2 of the International Arbitration Act;
“foreign award” has the same meaning as in section 27 of the International Arbitration Act;
“international arbitration proceedings” means the proceedings of an arbitration which is international within the meaning of section 5 of the International Arbitration Act.

CIVIL LAW ACT (CHAPTER 43)

CIVIL LAW (THIRD-PARTY FUNDING) REGULATIONS 2017

Prescribed dispute resolution proceedings

- 3.** For the purposes of section 5B(1) of the Act, the following classes of proceedings are prescribed dispute resolution proceedings:
- (a) international arbitration proceedings;
 - (b) court proceedings arising from or out of or in any way connected with international arbitration proceedings;
 - (c) mediation proceedings arising out of or in any way connected with international arbitration proceedings;
 - (d) application for a stay of proceedings referred to in section 6 of the International Arbitration Act (Cap. 143A) and any other application for the enforcement of an arbitration agreement;
 - (e) proceedings for or in connection with the enforcement of an award or a foreign award under the International Arbitration Act.

CIVIL LAW ACT (CHAPTER 43)

CIVIL LAW (THIRD-PARTY FUNDING) REGULATIONS 2017

Qualifications for “qualifying Third-Party Funder”

4.—(1) For the purposes of the definition of “qualifying Third-Party Funder” in section 5B(10) of the Act, the qualifications and other requirements that a qualifying Third-Party Funder must satisfy and continue to satisfy are the following:

(a) the Third-Party Funder carries on the principal business, in Singapore or elsewhere, of the funding of the costs of dispute resolution proceedings to which the Third-Party Funder is not a party;

(b) the Third-Party Funder has a paid-up share capital of not less than \$5 million or the equivalent amount in foreign currency or not less than \$5 million or the equivalent amount in foreign currency in managed assets.