



FILLING OF AN ARBITRATION AWARD IN TANZANIA

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An arbitral award is a determination on the merits by an arbitration tribunal during or after arbitration. It is termed as judgement in a court of law, it is non monetary in nature. An arbitration award is always involved in a dispute in which the contract in dispute had a clause about mode of dispute. Arbitration clauses exist in many types of agreements, from employment contracts to credit card agreements, consumer contracts such as cell phone term of service, and even contracts for medical care. An arbitration clause basically requires that, if a dispute arises related to the service or contract, it will be resolved through arbitration, rather than going to court.

Arbitration refers to an alternative method for resolution of dispute without a formal court procedure. In arbitration, the dispute is settled by a privately-retained neutral party without seeking redress in a court of law with a court trial. The person to whom the claims and defenses are presented is called the "arbitrator" or "arbiter." There are several methods of arbitration. These are collectively referred to as "alternative dispute resolution" (ADR). The arbitrators reach their decision after considering all the evidence presented, and listening to summary arguments in a dispute. Arbitration is one of the safest methods of conflict resolution. In an arbitration proceeding, an impartial third party known as the arbitrator, listens to the disputing parties and applies relevant laws to resolve the outstanding issues. Like a trial in a courtroom, the parties make opening and closing arguments, present witnesses, and provide testimony in presenting their cases. Unlike a trial in a courtroom, however, arbitration relaxes litigation formalities such as the many restrictive evidentiary rules and procedural requirements.

The process of arbitration is less expensive and less time consuming.

There are several types of arbitration awards;

Interim Award, this is a temporary award until the tribunal has given its final decision.

Partial Award, here some issues have been resolved and some remain unsolved.

Consent Award is when parties have reached settlement. consent award enables one party to take enforcement proceedings when another party fails to comply with the terms of the settlement. Consent awards usually expedite the conclusion of arbitration proceedings.

Performance Award - It is most common to see awards made in monetary terms, however, a party can be ordered to perform specific works, hand over goods or rights. For example, a contractor may be required to carry out remedial works in a building to ensure work is finished to the quality required.

Draft Award - This is not binding on the parties until it has been confirmed by the tribunal.

Final Award - This should usually be in writing and signed by all the arbitrators. The award must contain reasons and state where the arbitration took place. It must also be dated (this is important for calculating interest on payments). Once the final award is made this ends proceedings.

Additional Award - Usually once the final award it made, the tribunal has no further



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authority. However, the parties can request an additional award be made on an undecided issue still in dispute.

Arbitration as a whole means the use of an arbitrator to solve a dispute. It involves the use of a third party, arbitration is so advantageous since it is not expensive and does not consume so much time.

Winning an arbitration award may not be the end of the dispute. After the award being given out it has to be signed by an arbitrator as provided under section 12(2) of Arbitration Act Cap 15 (RE; 2002). After signing notice will be given to the parties upon payment of fees and charges of filling of an award, because it has to be filled in the court as provided under section 12(2) of the Arbitration Act.

Moreover Section 17 of the arbitration Act states that, an award after submission being filled to the court will be enforceable as if it were the decree of the court. To add up on that an arbitration award is always filled to the high court of Tanzania as provided under interpretation part in the arbitration Act and its enforcement is always the same as that of the court decree.

Challenging an Arbitration Award

While it is possible to challenge an award made by an arbitrator in court, the court will generally only overturn such a decision in rare cases. For the court to take such an action, it would be necessary to prove that:

- The arbitrator had a serious conflict of interest
- Fraud was committed by any party during the arbitration, and that it influenced the decision
- The award was not final, and therefore there was no conclusion to the matter
- The award was somehow outside the scope of the arbitration agreement by referring back to the agreement they had before

When a matter requesting the court to overturn an arbitration award, after the decision has been made then the judge often only considers the procedural details of the arbitration and not otherwise.

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