

Part I, Chapter II - Arbitration agreement

Draft a valid written clause, preserve incorporation/electronic evidence, and coordinate referral and urgent interim relief.

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India-first professional reference

Source status: Current architecture and amendment footnotes are mapped to the official India Code consolidation marked "As on 1 June 2026". This page is a detailed implementation publication, not a substitute for the signed Gazette, event-date law, applicable High Court rules or matter-specific advice. Open official Act PDF.

Dedicated Finin2min Summary - Chapter in 2 Minutes

- Draft a valid written clause, preserve incorporation/electronic evidence, and coordinate referral and urgent interim relief.
- Use the current India Code consolidation as on 1 June 2026 together with amendment footnotes and event-date law.
- Convert every section into an owner, deadline, evidence and remedy control.
- Separate seat, venue, governing law, court and institutional rules.
- Do not treat arbitration as a substitute for proof of contract, performance, authority, loss or limitation.

Section-by-section provision map

Provision / gate	Statutory focus	Finin2min decode	Implementation	Evidence / control
Section 7	Arbitration agreement.	Requires a written agreement to submit defined disputes from a legal relationship to arbitration; writing can arise through signed documents, electronic communications, incorporation or pleadings.	Draft broad but precise scope, seat, institution/ rules, tribunal, language, governing law and notice; preserve assent and incorporation evidence.	Executed contract, referenced terms, electronic trail and pleadings.
Section 8	Power to refer parties to arbitration where there is an arbitration agreement.	A judicial authority refers parties when a covered action is brought and a timely application is made, unless prima facie no valid agreement exists.	Apply before the first substantive statement; attach original/certified copy or seek production using the statutory route.	Pleadings chronology, agreement, certified copy, application and order.
Section 9	Interim measures, etc., by Court.	Court interim measures protect parties, evidence, assets or subject matter before/during arbitration and after award before enforcement; pre-arbitration relief triggers a commencement clock.	Show urgency, arbitration nexus, balance, enforceability and a plan to commence/constitute tribunal.	Affidavit, clause, section 21 notice, asset/evidence material and undertaking.

Finin2min clause-by-clause decode

Section 7 - Arbitration agreement.

Requires a written agreement to submit defined disputes from a legal relationship to arbitration; writing can arise through signed documents, electronic communications, incorporation or pleadings.

Implementation: Draft broad but precise scope, seat, institution/rules, tribunal, language, governing law and notice; preserve assent and incorporation evidence.

Evidence: Executed contract, referenced terms, electronic trail and pleadings.

Section 8 - Power to refer parties to arbitration where there is an arbitration agreement.

A judicial authority refers parties when a covered action is brought and a timely application is made, unless prima facie no valid agreement exists.

Implementation: Apply before the first substantive statement; attach original/certified copy or seek production using the statutory route.

Evidence: Pleadings chronology, agreement, certified copy, application and order.

Section 9 - Interim measures, etc., by Court.

Court interim measures protect parties, evidence, assets or subject matter before/during arbitration and after award before enforcement; pre-arbitration relief triggers a commencement clock.

Implementation: Show urgency, arbitration nexus, balance, enforceability and a plan to commence/constitute tribunal.

Evidence: Affidavit, clause, section 21 notice, asset/evidence material and undertaking.

Finin2min implementation explanation

Create one matter control sheet containing clause, seat, governing law, institution/rules, tribunal, court, claims, counterclaims, limitation, procedural calendar, budget, evidence, settlement authority and source version. Assign business, legal, finance and document owners.

Practical examples and calculations

- **Section 7:** Example control: for section 7, prepare a fact-to-provision matrix for arbitration agreement, identify evidence for every condition and separately calculate time, principal, interest, fee, cost or security from source records.
- **Section 8:** Example control: for section 8, prepare a fact-to-provision matrix for power to refer parties to arbitration where there is an arbitration agreement, identify evidence for every condition and separately calculate time, principal, interest, fee, cost or security from source records.
- **Section 9:** A supplier seeks preservation of specialised machinery before tribunal constitution. The file should show the arbitration clause, urgency, asset location, risk of disposal, proposed security and a plan to commence arbitration within the court-directed/statutory period.

Quantum framework: separate principal, admitted amount, disputed amount, set-off/counterclaim, contractual/statutory interest, tax, costs, security, payments and mitigation. Preserve a reproducible spreadsheet and source documents.

Practical transaction application

At contract stage, define scope, seat/venue, governing law, institution/rules, tribunal number/appointment, language, notices, interim relief, confidentiality, consolidation/joiner, emergency relief, costs and survival. Link performance, acceptance, price, tax and change-control records to the dispute clause.

Authority, consent and execution controls

Verify legal entity, board/partner/delegated authority, power of attorney, notice authority, arbitrator appointment authority, pleading affidavit, settlement limits and payment/security approval. Preserve changes in directors/partners and insolvency status.

Stamp duty and registration alerts

The arbitration agreement may be in a stamped instrument. Under current Supreme Court law, stamping defects require a curative statutory process and do not by themselves erase the arbitration agreement; however admissibility, impounding, State rates and the underlying transaction still require current jurisdiction-specific review. Awards and settlements may also attract stamp/registration consequences by subject matter and State law.

Evidence and document-retention checklist

Maintain legal hold, originals register, immutable exports, metadata, contract versions, notices/service, procedural orders, pleadings, document production, witness/expert files, transcripts, award, court records, security/payment and source-version hashes. Retention continues through challenge, enforcement and limitation.

- Executed contract and amendments
- Clause/rules version
- Authority and power of attorney
- Notices and service evidence
- Chronology and limitation sheet
- Invoices, delivery and GST records
- Pleadings and procedural orders
- Document production index
- Witness and expert files
- Hearing transcript/record
- Award/settlement and delivery
- Court, security and payment records

Performance, delivery and payment controls

Tie obligations to deliverables, acceptance criteria, change orders, certification, invoices, tax documents, payment milestones, retention, liquidated damages and cure notices. Quantify admitted, disputed, set-off and counterclaim amounts separately.

Breach, loss, mitigation and remedy framework

Stop avoidable loss, preserve evidence, serve contract/statutory notices, offer cure where required, mitigate, secure assets/evidence, quantify causation/remoteness, choose interim relief and maintain consistent civil/arbitration/insolvency strategy.

Limitation and forum controls

Use separate clocks for cause of action, contractual notice/cure, section 21 commencement, section 11 petition, pleadings, award, section 33, section 34, section 37, enforcement, foreign-award objections and insolvency. Confirm exclusion, acknowledgement and court holidays from current law.

Arbitration and mediation interface

Arbitration, conciliation and mediation are distinct. Define when negotiation/mediation pauses or does not pause limitation, how settlements are authenticated, and how court/tribunal proceedings are stayed, withdrawn or converted into an award/settlement order.

Company, partnership, GST and tax overlays

Companies/LLP/partnership law controls authority and liability; GST/income tax affects invoice evidence, damages, interest, withholding and settlements; FEMA governs cross-border payment/award remittance; IBC may impose moratorium and claim filing; accounting standards govern provisions, contingent liabilities and award recognition.

Chapter-specific decision flowchart

Part I, Chapter II - Arbitration agreement - decision flow



At each gate: verify current law, authority, limitation, evidence, quantum, remedy and cross-law overlays.

Finin2min Q&A

Is venue always the legal seat?

No. The clause, institutional rules and surrounding language must be analysed; the legal seat determines curial law and supervisory court.

Does filing a section 34 petition automatically stay enforcement?

No. A separate stay application/order is required under section 36, subject to the current statutory provisos.

Can an interested party unilaterally appoint the sole arbitrator?

Current Supreme Court neutrality jurisprudence makes such mechanisms high risk or invalid; use a neutral appointment process.

Does an unstamped contract make the arbitration clause non-existent?

Current Supreme Court law treats stamping as a curable issue and preserves separability; State stamp procedure and admissibility still require compliance.

Can a section 34 court re-hear the merits?

No. The court applies statutory grounds and current Supreme Court law; it is not a regular appeal.

Does negotiation automatically stop limitation?

No. Use a written standstill where lawful and calculate limitation under the Act, Limitation Act, acknowledgements and exclusions.

Can foreign awards be refused because the court disagrees with the facts?

Ordinarily no. Part II provides limited refusal grounds and excludes a merits review.

Should settlement authority be assumed from litigation authority?

No. Obtain specific board/partner/delegated authority and document tax, payment, release and default consequences.