

BAR & BENCH

INDIAN LEGAL NEWS

Varun Chirumamilla / March 8, 2018 / [News](#)

Union Cabinet clears **Arbitration and Conciliation (Amendment) Bill 2018**



The Union Cabinet has cleared the Arbitration and Conciliation (Amendment) Bill 2018. It will now have to be put before Parliament.

The Bill according to a Government [press release](#), is meant to encourage institutional arbitration and provide for a robust Alternative Dispute Resolution (ADR) mechanism in India.

An important feature of the Bill, is that it envisages the establishment of an independent body, called the **Arbitration Council of India** (ACI), which will accredit arbitrators and grade arbitral institutions.

If the bill is signed into law, the ACI will also be responsible for taking steps to encourage all forms of ADR, and formulate policy that will ensure professional standards are maintained. The body will also maintain an online depository of arbitral awards.

The Bill also proposes to do away with the necessity of approaching either the High Court or the Supreme Court, for the appointment of an arbitrator. It is envisaged that parties can directly approach arbitral institutions designated by the courts.

The Bill further proposes to exclude International Arbitration from having to be concluded within a set time-frame. In all other arbitrations, awards will have to be passed within a year from the completion of pleadings, as opposed to 12 months from the appointment of the arbitral body.

Vyapak Desai, who heads the International Litigation and Dispute Resolution Practice at **Nishith Desai and Associates**, welcomed the Bill. He said that the fact that the last amendment was made less than three years ago, showed that the Government was serious about addressing lacunae in existing legislation surrounding arbitration.

He, however, felt that the amendment that alters the time frame within which the arbitral award has to be passed could have been more objective.

“When you say 12 months from the completion of pleadings, as opposed to 12 months from the appointment of the arbitral body, subjectivity comes into play. When pleadings are completed is debatable. The Government could have chosen a more objective criterion to determine the point at which the time limit, comes into operation or just extend the time line from 12 months to 18 or 24 months to address the concerns”, he said.

The Bill has also proposed that the arbitrator be given immunity from being proceeded against legally, for any *bonafide* act or omission, committed during the course of an arbitral proceeding. The Bill also seeks to introduce a clause, whereby an arbitrator will be bound to keep all arbitral proceedings confidential.

The amendments will not have any retrospective effect, unless agreed upon by all parties involved.

The amendments proposed in the Bill are based on recommendations made by a High Level Committee (HLC), chaired by **Justice BH Srikrishna**, who is a retired Judge of the Supreme Court. The HLC, which was appointed to examine the state of arbitral institutions in India, and prepare a roadmap for the institutionalisation of arbitration in India. The HLC submitted a report to the Government on July, 30, 2017.