Proskauer

The Arbitration Act 2025 Finally Becomes Law

Minding Your Business on **February 27, 2025**

Practitioners and stakeholders in the arbitration community have welcomed the long-awaited Arbitration Act 2025, which has now received Royal Assent, marking the most significant update to English arbitration law in nearly three decades. This milestone concludes a years-long process initiated by the Law Commission's 2023 recommendations and underscores the UK government's commitment to maintaining London as an arbitration hub.

The Legislative Journey

The Conservative government originally introduced a version of the bill in late 2023. As we noted in 2024, the bill's passage was derailed by the snap general election in May of that year. The new Labour government, under Prime Minister Sir Keir Starmer, revived the reforms, with Lord Ponsonby sponsoring the bill in the House of Lords.

Following its passage through the Lords in November 2024 and the House of Commons earlier this month, the bill received Royal Assent, cementing it as law. **The Act applies to any English-seated arbitrations commenced from today onward.**

Key Reforms: Targeted and Pragmatic Changes

The Act introduces incremental refinements to the Arbitration Act 1996, among the most notable reforms are:

1. Governing Law of Arbitration Agreements

A new default rule states that arbitration agreements will be governed by the law of the seat, unless the parties expressly agree otherwise. This reform aims to resolve ambiguity stemming from *Enka v Chubb (2020)* (as previously explained in more detail) and aligns with global best practices.

In simple terms this change will resolve an issue which we have encountered in practice, where the governing law of the underlying contract is not of a pro-arbitration jurisdiction, no express choice of law governing the arbitration agreement has been made, but the seat of the arbitration is in England and Wales. Now, there is no chance of such an arrangement leading to problems invoking arbitration.

One of the few amendments made during the bill's parliamentary journey, which we commented on at the time, is a carve-out for investor-state arbitration agreements. That amendment has survived into the final legislation. Investment treaty arbitrations will not be subject to the default governing law rule.

2. Arbitrators' Duty of Disclosure

A second substantive change, reflecting the UK Supreme Court's decision in *Halliburton v Chubb*, arbitrators now have a statutory duty to disclose any circumstances that might reasonably give rise to justifiable doubts about their impartiality. This codification enhances transparency and builds confidence in the integrity of the arbitral process.

3. Expanded Arbitrator Immunity

The Act extends arbitrators' immunity to resignations, provided they are not unreasonable. This change aims to prevent tactical challenges and encourage arbitrators to act without fear of undue litigation risks.

4. Power to Summarily Dismiss Unmeritorious Claims

Arbitrators now have an explicit statutory power to summarily dismiss claims with no real prospect of success. Although tribunals had implicit authority to do so under the 1996 Act, enshrining it in law will encourage more frequent and effective use, improving efficiency.

5. Emergency Arbitration and Court Powers Over Third Parties

The Act clarifies that English courts have the power to make supportive orders in emergency arbitration proceedings and explicitly extends the scope of those orders to third parties, increasing the effectiveness of emergency relief mechanisms.

6. Streamlined Jurisdiction Challenges (Section 67 Reforms)

Parties challenging arbitral jurisdiction under Section 67 of the 1996 Act can no longer raise new grounds or submit fresh evidence unless necessary in the interests of justice. This change aims to prevent abusive litigation tactics and reduce court intervention in arbitration.

Proskauer's view

The UK arbitration community has overwhelmingly welcomed the Act, emphasizing its pragmatic refinements rather than a radical overhaul. However, not all voices are entirely satisfied. Some commentators noted that it is a shame that the Act remains silent on confidentiality, despite prior discussions by the Law Commission on introducing an explicit duty of confidentiality in arbitration.

In our view, the Arbitration Act 2025 represents a measured, well-targeted update to English arbitration law. It has fine tuned the existing framework rather than overhauling it and has clarified issues that we have encountered for clients.

We will blog soon with a comparison of the UK changes as against the French proposal to reform its 14-year old arbitration act, which is expected to be issued by decree before the Summer 2025.

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