



Policy paper

Arbitration Bill: factsheet

Published 19 July 2024

Contents

What are we going to do?

How are we going to do it?

Background

Key facts



© Crown copyright 2024

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at <https://www.gov.uk/government/publications/arbitration-bill-overarching-documents/arbitration-bill-factsheet>

What are we going to do?

The Arbitration Bill will enable more efficient dispute resolution, attract international legal business, and promote UK economic growth. It does so by enacting recent Law Commission recommendations to reform arbitration law.

How are we going to do it?

The Arbitration Bill updates the current arbitral framework set out in the Arbitration Act 1996 by:

- Clarifying the law applicable to arbitration agreements. This will provide greater certainty, avoid unnecessary satellite litigation and ensure parties are supported by our arbitration laws where appropriate.
- Codifying a duty of disclosure for arbitrators. This will better protect the principle of impartiality and promote trust in arbitration.
- Strengthening arbitrator immunity against liability for resignations and applications for removal. This will support arbitrators in making robust and impartial decisions.
- Empowering arbitrators to make awards on a summary basis on issues that have no real prospect of success. This will improve efficiency and aligns with summary judgments available in court proceedings.
- Empowering emergency arbitrators to issue peremptory orders and make relevant applications for court orders. This will enhance the effectiveness of emergency arbitrators and give them better access to court enforcement (as currently enjoyed by non-emergency arbitrators).
- Revising the framework for challenges to an arbitral tribunal's jurisdiction under section 67 of the 1996 Act. This will allow new rules of court to provide that such applications should contain no new evidence or new arguments. That will avoid jurisdiction challenges becoming a full rehearing, thereby preventing further delay and costs.

Background

In England, Wales and Northern Ireland, arbitration is regulated by the Arbitration Act 1996. The Arbitration Act 1996 is now over 25 years old. There is a risk that other jurisdictions might be seen as offering a more modern arbitral framework, resulting in a loss of business for the UK.

In March 2021, the Ministry of Justice asked the Law Commission of England and Wales to conduct a review of the Arbitration Act 1996 to determine whether any amendments to the Act were needed to ensure that it remains fit for purpose and internationally attractive.

The Law Commission conducted two public consultations in 2022-23 before laying its report and draft Arbitration Bill before Parliament on 05 September 2023. The Arbitration Bill implements all the Law Commission's recommendations for reform of the Arbitration Act 1996.

How much will these measures cost?

The impact assessment published alongside this Bill indicates that the Bill entails no direct costs. There could be costs to businesses if points of law under the new arbitral regime are litigated, but these would be temporary.

What is the scope of these measures?

The provisions in this Bill apply to England, Wales and Northern Ireland, all of which are currently governed by the Arbitration Act 1996. Scotland has its own separate legislative framework under the Arbitration (Scotland) Act 2010.

Key facts

- The Arbitration Bill will support our arbitration sector and promote UK economic growth. According to the Law Commission there are at least 5,000 domestic and international arbitrations each year in England and Wales, worth £2.5 billion to the British economy in fees alone. This Bill will give businesses the confidence to know that any arbitration carried out in England, Wales and Northern Ireland will be handled effectively and consistently.
- The Arbitration Act 1996 must be modernised to continue attracting international legal business. The 1996 Act created a world-leading legislative framework which contributed to London becoming the preferred forum for commercial arbitration proceedings from across the world. However, the 1996 Act is now over 25 years old and other jurisdictions have updated their legislation more recently: Singapore in 2023, Hong Kong in 2022, and Sweden and Dubai in 2018. In 2021, Singapore ranked equal first to London as the globally preferred choice for international arbitration. Modernising the 1996 Act is therefore vital to ensure we remain competitive in the global market and a leading destination for arbitration.
- The Arbitration Bill will ensure more efficient dispute resolution. Arbitration allows people and businesses to resolve legal issues on their own terms, often with more flexibility and privacy than protracted court trials. Where an arbitration does require court involvement, this Bill provides for: (a) clarification of court powers in support of arbitral proceedings; (b) better support for emergency arbitrators; (c) appeals from an application to stay legal proceedings; (d) simplified preliminary applications to court on questions of jurisdiction and points of law; and (e) clarified time limits for challenging awards.
- The targeted reforms delivered by the Arbitration Bill are much sought after by the legal sector. The Law Commission ran two public consultations on the Arbitration Act 1996 in 2022-23, receiving responses from 118 and 60 consultees respectively. Respondents to both consultations provided positive feedback on the proposed reform now being delivered through this Bill.

