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Research Briefing

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Arbitration Bill [HL] 2024-25

Summary

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Contents

Summary

The Arbitration Bill [HL] 2024-25 was introduced in the House of Lords on 18 July 2024. The bill completed its Lords stages on 6 November 2024 and was then sent to the House of Commons. It was read for a second time in the House of Commons on 29 January 2025. The bill was reported without amendment and passed third reading on 11 February 2025. It now awaits Royal Assent.

Explanatory notes and an overview of the bill's parliamentary progress are available on the UK Parliament website. Government documents relating to the bill, including a factsheet, an impact assessment, and human rights and delegated powers memoranda, are available on GOV.UK.

What would the bill do?

Arbitration involves the fair resolution of a dispute by an arbitrator or impartial tribunal, which then reaches a decision on that dispute.

The bill would amend the Arbitration Act 1996 in accordance with recommendations made by the Law Commission. The intent of the bill is to achieve the government's policy objective of promoting the UK as one of the world's premier seats of arbitration, against a backdrop of recent legislative updates in competing jurisdictions.

Reforming the Arbitration Act 1996

The Arbitration Act 1996 governs arbitration in England and Wales and Northern Ireland. London is recognised as a leading seat of arbitration: a significant number of commercial agreements internationally are governed by the law of England and Wales.

In March 2021 the Conservative government asked the Law Commission to review the 1996 act with a view to ensuring it remained fit for purpose.

The Commission consulted on reforms to the act in September 2022 and again in March 2023. It produced a final report on its recommendations (PDF) in September 2023, which included proposals on the law governing arbitration agreements, challenging arbitrator decisions, the power of the courts to support arbitration proceedings, and enabling arbitrators to dismiss claims lacking in legal merit.

In setting out its recommendations, the Law Commission noted it was "mindful of the consensus that the Act works well, and that root and branch reform is not needed or wanted".

The Conservative government accepted the Law Commission's recommendations and introduced the Arbitration Bill [HL] 2023-24 in the House of Lords on 21 November 2023. The bill reached, and was amended by, special public bill committee before falling when Parliament was prorogued on 24 May 2024 ahead of the General Election.

Progress of the bill

The Labour government committed in the King's Speech of 17 July 2024 to reintroduce the Arbitration Bill (PDF), which was read for the first time in the House of Lords the following day. The new bill reflected amendments made to the previous bill and incorporated a change relating to the law applicable to arbitration agreements in the context of investor-state agreements.

On 11 September 2024, the bill was amended by a committee of the whole House in relation to leave to appeal decisions on staying legal proceedings. A consequential amendment was also made to the bill's long title.

The bill was introduced in the House of Commons on 6 November 2024 and read for a second time on 29 January 2025.

It was committed to a committee of the whole House for scrutiny on 11 February 2025, to be followed by all remaining stages.

The bill was reported without amendment and read for a third time on 11 February 2025 and now awaits Royal Assent.

The bill would extend to England and Wales and Northern Ireland.

1 What is arbitration?

There is no statutory definition of arbitration. A practitioner's text notes that arbitration "involves an impartial arbitrator or tribunal considering both sides of a dispute and making a decision on the issues raised by the parties".[1] Parties may agree to refer a dispute to arbitration before it even arises, for example through an arbitration clause in a contract.

In its 2022 consultation paper on the Arbitration Act 1996,[2] the Law Commission estimated there are "at least 5000 domestic and international arbitrations in England and Wales every year, potentially worth at least £2.5 billion to the economy".[3]

1.1 The law of arbitration

The enactment of arbitration legislation in England and Wales dates back to the 1698 Act for Determining Differences by Arbitration.[4] This was followed by a number of consolidating statutes, including those which gave effect to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.[5]

In 1989, a Departmental Advisory Committee on arbitration law recommended reform of the statute governing the law in England and Wales, which it said was too fragmented.[6] A further report by the Committee in February 1996 put forward a draft bill designed to restate rather than consolidate the law.[7] This resulted in the enactment of the Arbitration Act 1996.

1 Susan Blake, Julie Browne, Stuart Sime, The Jackson ADR Handbook, 3rd edition, 2021, p314

2 For further discussion of the consultation, see section 2 of this briefing

3 Law Commission, Review of the Arbitration Act 1996. A consultation paper (PDF), 22 September 2022, para 1.2. Footnote to quoted text: "From the caseload figures provided to us, we have divided arbitration between domestic and international, and between those conducted in proceedings where arbitrator fees are capped and uncapped, to estimate likely arbitrator and legal fees"

4 See British History Online (Institute of Historical Research, University of London), William III, 1697-8: An Act for determining Differences by Arbitration

5 Arbitration Act 1975. Now given effect in Part III of the Arbitration Act 1996. The enforcement of foreign arbitral awards under the Geneva Convention 1923 is governed by Part II of the Arbitration Act 1950. See Arbitration Act 1996, s99

6 Law Commission, Review of the Arbitration Act 1996. A consultation paper (PDF), 22 September 2022, paras 1.28-1.30

7 As above, para 1.31

1.2 Arbitration Act 1996

The Arbitration Act 1996 governs arbitration in England and Wales and Northern Ireland.[8]

Section 1 of the 1996 act sets out three general principles for arbitrations governed by the law of these jurisdictions:

a) the object of arbitration is to obtain the fair resolution of disputes by an impartial tribunal without unnecessary delay or expense

b) the parties should be free to agree how their disputes are resolved, subject only to such safeguards as are necessary in the public interest

c) … the court should not intervene except as provided by [Part 1 of the Arbitration Act 1996].

1.3 London as a seat of arbitration

The seat of an arbitration is its "juridical seat",[9] meaning the legal jurisdiction in which the arbitration takes place. This may be determined by parties to an arbitration agreement, by an institution or person given such powers by the parties, or by an arbitral tribunal (if authorised by the parties).[10]

Arbitrations seated in England and Wales or Northern Ireland are conducted under the law as set out in the Arbitration Act 1996.

The London Court of International Arbitration (LCIA) in its Annual Casework Report 2023 stated that 86% of LCIA arbitrations were seated in London versus 88% in 2022.[11] LCIA data indicated that "most" fundholding arbitrations were seated in London, with these comprising insurance or transport and shipping cases.[12] All arbitrations conducted under UNCITRAL (United Nations Commission on International Trade Law) rules were seated in London.[13]

8 Arbitration in Scotland is governed by the Arbitration (Scotland) Act 2010
9 Arbitration Act 1996, s3
10 As above
11 London Court of International Arbitration, Annual Casework Report 2023, 31 May 2024, p14
12 As above
13 As above

1.4 Parties electing to use the law of England and Wales in international arbitrations

The Law Society of England and Wales published comparative data on the law governing arbitrations in its International Data Insights Report 2024, which demonstrated the extent to which parties chose the law of England and Wales across prominent international arbitral institutions. The data showed that in 2023:

- 83% of the 327 arbitrations administered by the LCIA under its rules were governed by English law.
- 20.7% of cases administered by the Singapore International Arbitration Centre (SIAC) were governed by UK law, making it the second most popular choice after Singapore law.
- English law was the second most common governing law in cases administered by the Hong Kong International Arbitration Centre (HKIAC) and in cases administered by the Arbitration Institute of the Stockholm Chamber of Commerce (SCC).
- English law was selected in 15% (131) of all new cases handled by the International Chamber of Commerce Court of Arbitration, making it the most commonly used law.[14]

[14] The Law Society of England and Wales, International Data Insights Report 2nd Edition 2024, 10 September 2024, p3

2 Reforming the Arbitration Act 1996

As part of the consultation on its 14th Programme of Law Reform in 2021, the Law Commission proposed a review of the Arbitration Act 1996, in light of previous stakeholder interest.[15]

In March 2021 the Conservative government asked the Law Commission to review the Arbitration Act 1996 and assess if the legislation required amendment to ensure it remained fit for purpose. The objective of the review was:

> ... to enhance the competitiveness of the UK as a global centre for dispute resolution and the attractiveness of English and Welsh law as the law of choice for international commerce.[16]

2.1 Law Commission 2022 consultation paper

The 2022 Review of the Arbitration Act 1996 by the Law Commission of England and Wales (PDF) focussed on a shortlist of eight main topics, supplemented by several smaller areas for review. The eight topic areas are summarised below.

Confidentiality

There is no express provision relating to confidentiality in the 1996 act, although the duty of upholding privacy and confidentiality in arbitral proceedings is implied in English law,[17] or it may be included as an express term in an arbitration agreement.

The Law Commission proposed provisionally that any redrafting of the 1996 act should not codify the law of confidentiality, on the basis that (amongst other things) confidentiality should not be the default presumption in all types

15 Law Commission, Ideas for law reform

16 Law Commission, Review of the Arbitration Act 1996. A consultation paper (PDF), 22 September 2022, Appendix 1: Terms of reference

17 *Department of Economics, Policy and Development of the City of Moscow v Bankers Trust Co* [2004] EWCA Civ 314 at [2]. See also *Halliburton Company v Chubb Bermuda Insurance Limited* [2020] UKSC 48 at [173]

of arbitration.[18] The development of the law, the Commission said, would be best left to the courts.[19]

Independence of arbitrators and disclosure

As with the issue of confidentiality, there is no express provision in the Arbitration Act 1996 that requires arbitrators to be independent of the arbitrating parties or the relevant dispute. Equally, the act does not impose any duty of disclosure on an arbitrator, although the Supreme Court held in *Halliburton v Chubb* that "there is a legal duty of disclosure in English law which is encompassed within the statutory duties of an arbitrator under section 33 of the 1996 Act…"[20]

The Law Commission concluded provisionally that the impartiality of the arbitrator was more important than independence,[21] and that any connections that might give rise to doubts about their impartiality should be disclosed to the parties.[22]

Discrimination

The Law Commission consultation also addressed whether the Arbitration Act 1996 should be amended to prohibit discrimination in the appointment of arbitrators where agreements appoint them in terms that might be considered discriminatory.[23]

The Supreme Court held in the case of *Jivraj v Hashwani* that arbitrators not appointed under a contract of employment were not 'employees' for the purposes of UK employment discrimination law; the term in the relevant arbitration agreement providing that the arbitrators must be members of the Ismaili community did not, therefore, constitute unlawful discrimination.[24]

The Law Commission proposed provisionally that appointments should not be susceptible to challenge based on an arbitrator's protected characteristic(s) (as defined in the Equality Act 2010) and that any agreement relating to an arbitrator's protected characteristic(s) should generally be unenforceable unless requiring the arbitrator to have a particular characteristic is a proportionate means of achieving a legitimate aim.[25]

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18 Law Commission, Review of the Arbitration Act 1996. A consultation paper (PDF), 22 September 2022, paras 239-246

19 As above, para 247

20 *Halliburton Company v Chubb Bermuda Insurance Limited* [2020] UKSC 48 at [81]. Section 33 of the Arbitration Act 1996 imposes a general duty on the tribunal to act fairly and impartially as between the parties in arbitral proceedings

21 Law Commission, Review of the Arbitration Act 1996. A consultation paper (PDF), 22 September 2022, para 3.44

22 As above, para 3.51

23 As above, para 4.2

24 [2011] UKSC 40

25 Law Commission, Review of the Arbitration Act 1996. A consultation paper (PDF), 22 September 2022, para 4.36

Immunity of arbitrators

In general, the Arbitration Act 1996 provides that an arbitrator is not liable for acts or omissions in the discharge (or purported discharge) of their functions unless there is bad faith.[26] However, section 25 of the 1996 act states that parties are free to agree with an arbitrator as to the liability incurred by that arbitrator by reason of their resignation.[27]

The Law Commission suggested this may be problematic where it is reasonable for an arbitrator to resign,[28] for example in the context of conflicts with an arbitrator's "overriding duty to adopt a fair and suitable procedure to avoid unnecessary delay and expense". [29] The Law Commission also suggested that, based on case law, arbitrators may be at risk of adverse costs orders in relation to applications for their removal – and from which they have no immunity under the Arbitration Act 1996.[30]

The Law Commission declined to make any proposals on the issue of resignation,[31] but rather asked consultees whether arbitrators should incur liability at all, or only if a resignation is proved to be unreasonable.[32] On the issue of adverse costs orders, it proposed provisionally that immunity of an arbitrator "should extend to the costs of court proceedings arising out of the arbitration, such as applications to remove an arbitrator".[33]

Summary disposal

The Arbitration Act 1996 permits an arbitral tribunal to adopt procedures suitable to the circumstances of a case as part of its duty to act fairly and impartially and avoid unnecessary delay or expense.[34] It also permits the tribunal to decide all procedural and evidential matters, subject to agreement by the parties.[35]

However, the Law Commission consultation highlighted the absence from the 1996 act of an available procedure to dispose of cases summarily (that is to

26 Arbitration Act 1996, s29(1)
27 As above, s25(1)(b)
28 An arbitrator may apply to court for relief from liability arising from their resignation and relief may be granted if the court considers it was reasonable for the arbitrator to resign. See Arbitration Act 1996, ss25(3)(a) and 25(4)
29 Law Commission, Review of the Arbitration Act 1996. A consultation paper (PDF), 22 September 2022, para 5.15
30 As above, paras 5.25 to 5.35. Adverse costs orders are orders in which the court instructs a party to the proceedings to pay all or part of the costs of another party
31 As above, para 5.21
32 As above, paras 5.23 and 5.24
33 As above, para 5.45
34 Arbitration Act 1996, s33
35 As above, s34

say, without trial), for example where the issue at hand is obviously without merit.[36]

Civil courts in England and Wales may dispose of a whole claim or issue by way of summary judgment.[37] The grounds for summary judgment are that the court considers the party has no real prospect of succeeding on the claim, defence or issue, and there is no other compelling reason why the case or issue should be disposed of at trial.[38]

The Law Commission proposed provisionally that the Arbitration Act 1996 should permit an arbitral tribunal to use (on application and subject to agreement of the parties) a summary procedure to decide a claim or issue.[39] This would, the Commission said, be a "world-leading development" in arbitration.[40]

Court powers to support arbitral proceedings

The court has the power to make several types of orders in support of arbitral proceedings under the provisions of section 44 of the Arbitration Act 1996.[41]

The Law Commission examined whether the court could make orders against those not party to arbitral proceedings (third parties), as well as the relationship between the provisions of section 44 and arbitral rules where such rules provide for an emergency (interim) arbitrator.[42]

The Commission reached the conclusion that the court had the ability to make orders against third parties under section 44, depending on the circumstances of the case and the arbitral rules at hand.[43] In addition, it proposed provisionally that third parties should be able to avail themselves of a full right of appeal against any orders made - compared with a restricted right of appeal applicable to arbitrating parties, which the Commission said would be more appropriate as a means of the parties returning to arbitration as soon as possible.[44]

Where an arbitral institution appoints an emergency arbitrator prior to the full constitution of a tribunal, the Law Commission concluded as a general

36 Law Commission, Review of the Arbitration Act 1996. A consultation paper (PDF), 22 September 2022, para 6.1

37 Civil Procedure Rules 1998, r24.1(a)

38 As above, rr24.3(a) and (b)

39 Law Commission, Review of the Arbitration Act 1996. A consultation paper (PDF), 22 September 2022, para 6.25

40 As above, para 6.10

41 See Arbitration Act 1996, s44(2)

42 Law Commission, Review of the Arbitration Act 1996. A consultation paper (PDF), 22 September 2022, ch 7

43 As above, para 7.3. See also para 7.36

44 As above, para 7.3. See also paras 7.37 to 7.39

proposition that the provisions of the Arbitration Act 1996 should not apply to emergency arbitrators.[45]

However, where arbitral parties adhered to arbitral rules that permitted emergency arbitrators to make interim orders, the Commission said the parties could still apply to court for interim orders, if sections 44(3),[46] 44(4),[47] or 44(5) were satisfied, as the case may be.[48]

The Law Commission noted that section 44(5) of the 1996 act provides the court is to act only if, or to the extent that, the arbitral tribunal has no power to do so or is unable to act effectively. In view of the what the Commission considered were sufficient safeguards against court overreach in sections 44(3) and 44(4) of the 1996 act, it sought views on whether section 44(5) ought to be repealed.[49]

Finally, in cases where an arbitrator made an interim order with which a party failed to comply, the Law Commission sought views as to whether the 1996 act should permit the court to order compliance with an arbitrator's order, or whether an emergency arbitrator should be permitted to authorise an application to court for an interim order under section 44(4).[50]

Challenging the jurisdiction of an arbitral tribunal

Where a party to arbitral proceedings objects that the tribunal lacks jurisdiction, it is faced with a number of choices. The tribunal may (unless otherwise agreed by the parties) rule on its own jurisdiction,[51] a party may ask the court to rule on jurisdiction,[52] or under section 67 of the Arbitration Act 1996 a party may apply to court to challenge an award made by the tribunal that ruled on its substantive jurisdiction, or for an order declaring an award made by the tribunal on the merits to be of no effect for want of jurisdiction.[53]

The Law Commission assessed whether such challenges should comprise an appeal (a review of the decision of the tribunal) or a rehearing, what the remedies should be, and how costs orders should be made.

45 Law Commission, Review of the Arbitration Act 1996. A consultation paper (PDF), 22 September 2022, paras 7.47 and 7.48

46 In urgent cases, the court may on application from an arbitral party (or proposed party) make orders for the purpose of preserving evidence or assets

47 In non-urgent cases, the court must act only on application by an arbitral party made with the permission of the tribunal or by written agreement with the other parties

48 Law Commission, Review of the Arbitration Act 1996: A consultation paper (PDF), 22 September 2022, paras 7.1 and 7.6

49 As above, paras 7.84 to 7.87

50 As above, paras 7.88 to 7.97

51 Arbitration Act 1996, s30(1)

52 As above, s32(1)

53 As above, s67(1). Establishing a tribunal's substantive jurisdiction is a question of whether there is a valid arbitration agreement, whether the tribunal is properly constituted, and what matters have been submitted to arbitration in accordance with the arbitration agreement. See Arbitration Act 1996, ss30(1)(a) to (c). See also Arbitration Act 1996, s82(1)

The Supreme Court noted in *Dallah v Pakistan* that it had been the "consistent practice" of English courts to "examine or re-examine for themselves the jurisdiction of arbitrators", including in cases of challenge to the tribunal's jurisdiction under section 67 of the 1996 act.[54] It said that case law indicating "the court, on a challenge under section 67, should not be in a worse position than the arbitrator for the purpose of determining the challenge",[55] was "plainly right".[56]

The Law Commission proposed provisionally that where a party to arbitral proceedings has objected to the jurisdiction of the tribunal and the tribunal has ruled on its own jurisdiction in an award, any challenge under section 67 of the Arbitration Act 1996 "should be by way of an appeal and not a rehearing".[57]

On the issue of remedies, the Commission proposed that as well as existing remedies, the court should be able to declare an arbitral award to be of no effect.[58]

On the matter of costs, the Commission proposed that a tribunal should be able to make a costs award "in consequence of an award ruling that it has no substantive jurisdiction".[59]

Appeals on a point of law

Under section 69 of the Arbitration Act 1996, a party to arbitral proceedings may (with the agreement of all parties or leave of the court) appeal to the court on a question of law arising out of an award made in arbitral proceedings.[60]

The Law Commission stated in its consultation paper that opinion on section 69 is divided, with some commentators saying it should be repealed (to ensure the finality of arbitral awards),[61] and others suggesting it should be expanded to widen the scope of appeals.[62]

The Law Commission concluded that section 69 struck a fair balance between the two sides of the argument, allowing both for appeals on a point of law

54 *Dallah Real Estate Holding Company v The Ministry of Religious Affairs, Government of Pakistan* [2010] UKSC 46 at [96]

55 *Azov Shipping Co v Baltic Shipping Co* [1998] EWHC 1211 (Comm) at [16]

56 *Dallah Real Estate Holding Company v The Ministry of Religious Affairs, Government of Pakistan* [2010] UKSC 46 at [96]

57 Law Commission, Review of the Arbitration Act 1996. A consultation paper (PDF), 22 September 2022, para 8.46

58 As above, para 8.64

59 As above, para 8.71

60 Arbitration Act 1996, ss69(1) and 69(2)

61 The Law Commission also noted that arbitral rules may explicitly exclude appeals on a point of law. See Law Commission, Review of the Arbitration Act 1996. A consultation paper (PDF), 22 September 2022, para 9.32

62 Law Commission, Review of the Arbitration Act 1996. A consultation paper (PDF), 22 September 2022, para 9.26

and finality of awards, either via an opt-out or allowing correction only of "blatant errors".[63] It did not propose any reforms.

2.2 Law Commission 2023 supplementary consultation

The Law Commission's second consultation paper on the Arbitration Act 1996 (PDF), published in March 2023, focussed on three areas (set out below) selected by the Commission based on responses to its first consultation exercise.

Proper law of an arbitration agreement

The proper (governing) law of an arbitration was not a subject of the Law Commission's initial consultation, but it sought views in the 2023 paper after the matter was raised by consultees. The Commission noted it was "not usual" for an arbitration agreement to expressly state its proper law, which then falls to be determined.

The approach to determining the proper law of an arbitration agreement was set out in the judgment of the Supreme Court in *Enka v Chubb*.[64] In sum, the court held that:

- If parties to an arbitration have not specified the law that applies to the arbitration agreement, but they have elected the law governing the contract that contains the arbitration agreement, then this will generally be applicable to the arbitration agreement.
- If the parties have not chosen the law applicable to the arbitration agreement or the contract containing it, it falls to the court to determine to which law the arbitration agreement is most closely connected. As a general proposition, this will be the law of the seat of the arbitration.

The Law Commission proposed provisionally that the 1996 act be amended to align the law of the arbitration agreement with the law of the seat, unless otherwise expressly agreed by the parties in the agreement.[65]

Jurisdictional challenges

The Law Commission decided to revise its original proposal on jurisdictional challenges under section 67 of the Arbitration Act 1996, which was that a challenge should comprise an appeal rather than a rehearing. Consultees

63 Law Commission, Review of the Arbitration Act 1996. A consultation paper (PDF), 22 September 2022, para 9.50

64 *Enka Insaat Ve Sanayi AS v OOO Insurance Company Chubb* [2020] UKSC 38

65 Law Commission, Review of the Arbitration Act 1996. Second consultation paper (PDF), 27 March 2023, para 2.76

said there was insufficient distinction between an appeal and a rehearing, as an appeal could comprise a rehearing.[66]

The Commission suggested instead to limit the scope of any challenge and that the process should be set out in rules of court, not legislation. In summary, it proposed provisionally that the court should not hear new grounds of objection or evidence unless they could not reasonably have been advanced or put before the arbitral tribunal, that evidence should not be reheard unless in the interests of justice, and that a challenge should be permissible only if the decision of the tribunal on jurisdiction was wrong.[67]

Discrimination in the context of arbitration

While the Law Commission retained its original proposal in relation to discrimination, it decided because of responses received to the first consultation to seek views on a requirement for an arbitrator to have a neutral nationality as compared with the arbitral parties. It also sought views on whether there should be a general prohibition on discrimination in arbitration and what the remedies for discrimination might be.[68]

Some consultees had suggested that a difference in nationality should be a requirement (as a means of ensuring impartiality),[69] and the Law Commission noted precedent for such a requirement in the UNCITRAL Model Law on International Arbitration and rules set out by arbitral institutions.[70]

2.3 Final Law Commission report

The Law Commission published its final report on the Arbitration Act 1996 and an accompanying draft bill (PDF) in September 2023. The Commission said its recommendations would maintain the 1996 act's "core principles while introducing improvement to help strengthen the UK's position as a foremost destination for arbitration".[71]

Having assessed the responses to its first and second consultation papers, the Commission proposed six "major initiatives" for reform of the 1996 act:

- **Codifying the law on arbitrators' duty to disclose conflicts of interest** and retaining current duties on impartiality to maintain the integrity of arbitration as a system of dispute resolution.

66 Law Commission, Review of the Arbitration Act 1996. Second consultation paper (PDF), 27 March 2023, para 3.22
67 As above, para 3.128
68 As above, para 4.3
69 As above, para 4.26
70 As above, para 4.27
71 Law Commission, Improvements recommended to Arbitration Act 1996 to ensure UK position as international arbitration leader, 6 September 2023

- **Strengthening arbitrators' immunity** to ensure arbitrator neutrality and robust decision-making.
- **Introducing provisions for arbitrators to summarily dismiss legal claims that lack merit** to allow for the efficient and fair resolution of disputes.
- **Clarifying the power of the courts** to support arbitration proceedings and emergency arbitrators.
- **Improving the framework for challenging arbitrators' decisions** on the basis that the arbitrators lacked jurisdiction.
- **Creating new rules for deciding which laws govern an arbitration agreement** to introduce simplicity and encourage the application of the law of England and Wales.[72]

The Law Commission also recommended the following minor corrections to existing legislation:

- introduction of appeals from an application to stay legal proceedings
- simplification of preliminary applications to court on points of law and jurisdiction
- clarification of time limits for challenges to arbitral awards
- repeal of unused provisions relating to arbitration agreements.[73]

In setting out its recommendations, the Law Commission noted it was "mindful of the consensus that the Act works well, and that root and branch reform is not needed or wanted".[74]

2.4 Reaction to the Law Commission proposals

The Chartered Institute of Arbitrators welcomed the proposed changes. It said the majority were in accordance with its recommendations, as informed by the Institute's membership.[75] Then Chief Executive Officer, Catherine Dixon, said it was a "sign of the Arbitration Act 1996's strength and value that only

72 Law Commission, Improvements recommended to Arbitration Act 1996 to ensure UK position as international arbitration leader, 6 September 2023. For a broad overview of these initiatives, and proposals that were not taken forward, see Law Commission, Review of the Arbitration Act 1996. Summary of final report (PDF), 6 September 2023

73 Law Commission: Review of the Arbitration Act 1996: Final Report (PDF), 6 September 2023, para 1.24

74 As above, para 1.22

75 Chartered Institute of Arbitrators, UK Law Commission publishes final report on Arbitration Act review, 13 September 2023

specific changes to ensure that act remains current have been recommended as opposed to an overhaul".

Nick Vineall KC, then Chair of the Bar Council, said the Bar Council supported the Law Commission's "characteristically careful and balanced review of the Arbitration Act".[76] He stated further that was "important to legislate to make the modest changes to the arbitration regime which the Law Commission has recommended" to maintain London's reputation as a centre for international arbitration.[77]

[76] The Bar Council, Reforming the Arbitration Act 1996 - Bar Council comment, 6 September 2023

[77] As above

3 Arbitration Bill [HL] 2023-24

3.1 Introduction of the bill

The Conservative government announced in the background briefing notes for the King's Speech of 7 November 2023 (PDF) that it would introduce an Arbitration Bill to modernise the law of arbitration, in line with recommendations made by the Law Commission.[78] Such modernisation was, the government said at the time, "vital" if the arbitration sectors of England and Wales and Northern Ireland were to respond to international competition and maintain their "competitive edge".[79]

Explanatory notes to the bill stated that the Conservative government accepted all the Law Commission's recommendations.[80]

The Arbitration Bill [HL] 2023-24 was introduced in the House of Lords by Lord Harlech (Conservative) on behalf of Lord Bellamy, then Parliamentary Under Secretary of State at the Ministry of Justice, on 21 November 2023.

3.2 Second reading committee

A second reading committee convened on 19 December 2023.

Lord Bellamy said the government's bill would include some technical changes to the Commission's draft legislation, namely that amendments would not apply to arbitrations already commenced,[81] and that the bill would extend to Northern Ireland.[82]

Lord Bellamy stated that it was designed to address several issues:

> The Bill is intended to increase the competitiveness of England, Wales and Northern Ireland, and primarily London, as a seat of international arbitration, to foster growth in both domestic and international arbitration, to introduce a fairer and more efficient process and to reduce reliance on resort to the court.[83]

78 Prime Minister's Office, The King's Speech 2023 (PDF), 7 November 2023, pp34–6
79 As above, p35
80 Explanatory Notes to the Arbitration Bill [HL] (PDF), 21 November 2023, para 3
81 As distinct from existing arbitration agreements: HL Deb 19 December 2023 c419GC
82 As above
83 HL Deb 19 December 2023 c422GC

The bill was broadly welcomed by all members of the committee, although points were raised in relation to (amongst other things) discrimination in the context of arbitrator appointments,[84] confidentiality in arbitrations involving fraud,[85] and provisions relating to the law governing an arbitration agreement.[86]

3.3 Special public bill committee

A special public bill committee chaired by practising arbitrator and former Lord Chief Justice, Lord Thomas of Cwmgiedd (Crossbench), heard oral evidence on the bill from several witnesses over three sessions in February 2024, including lawyers, professional bodies, and members of the judiciary.[87] It also received written evidence.[88]

The committee considered amendments to the bill on 27 March 2024.[89]

The committee agreed an amendment to clause 1 (the law applicable to an arbitration agreement) to omit the words "of itself" from new section 6A(2), in relation to provision for the law governing an agreement of which an arbitration agreement is part. Members of the committee considered the words might cause "undue confusion".[90]

The committee then considered an amendment by Lord Mendelsohn (Labour), which would have inserted into the bill a statutory principal that arbitral tribunals were to "confine themselves to resolving disputes that are proper subjects for arbitration" and not "make judgments or orders about other matters".[91]

Responding on behalf of the Conservative government, Lord Bellamy said it was "entirely clear that arbitration tribunals should confine themselves to their jurisdiction and to matters properly subject to that arbitration".[92] Lord Mendelsohn later withdrew his amendment.

The committee then considered five "relatively straightforward amendments" to clause 11 tabled by Lord Bellamy in relation to the procedure to be followed on challenging an arbitral award on the ground of jurisdiction under section 67 of the 1996 act. All five amendments were agreed.[93]

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84 HL Deb 19 December 2023 c426GC
85 As above, c431GC
86 As above, c433GC
87 Arbitration Bill [HL] Special Public Bill Committee, Reports, special reports and government responses
88 As above
89 HL Deb 27 March 2024 c1ff
90 As above, c2
91 As above, c5
92 As above, c6
93 As above, cc7-10

The bill was reported with amendments.

3.4 Effect of prorogation

The bill fell while awaiting report stage after the 2023-24 session of Parliament was prorogued on 24 May 2024 ahead of the General Election.

4 Arbitration Bill [HL] 2024-25

4.1 Introduction of the bill

The background briefing notes for the King's Speech of 17 July 2024 (PDF) stated that the Labour government would reintroduce the Arbitration Bill to give effect to the Law Commission's recommendations for reform of the Arbitration Act 1996.

The government said the bill would "support more efficient dispute resolution, attract international legal business, and promote UK economic growth".[94] It also stated that the act needed to be modernised, as international competitors had updated their own arbitration legislation in recent years (most notably Sweden and Dubai in 2018, Hong Kong in 2022 and Singapore in 2023).[95]

The bill was introduced in the House of Lords on 18 July 2024 by Lord Ponsonby of Shulbrede, Parliamentary Under Secretary of State at the Ministry of Justice.

The bill as introduced reflected amendments made to the previous bill at special public bill committee stage in the Lords.[96]

4.2 Clauses of the bill, as introduced

The effect of clause 1 would be to replace the common law position set out in *Enka v Chubb* with a statutory rule,[97] namely that the law governing the arbitration agreement would be the law chosen expressly by the parties.[98] In the case of no express choice, the governing law would be the law of the seat.[99] The law governing the main contract would not equate to an express choice of law governing an arbitration agreement.[100]

94 Prime Minister's Office, The King's Speech 2024 (PDF), 17 July 2024, p36
95 As above
96 Explanatory Notes to the Arbitration Bill [HL] (PDF), 18 July 2024, para 7
97 For discussion of *Enka v Chubb*, see section 2.2 of this briefing
98 Explanatory Notes to the Arbitration Bill [HL] (PDF), 18 July 2024, para 13
99 As above
100 As above

Clause 1 had been redrafted to make clear it would not apply to arbitration agreements between investors and states if such agreements arose from treaties or non-UK legislation.[101]

Clause 2 would codify the general duty of disclosure set out by the Supreme Court in *Halliburton v Chubb*,[102] whereby an arbitrator would have to disclose matters that might reasonably give rise to justifiable doubts about their impartiality. This would apply prior to appointment and remain a continuing duty.[103]

Clause 3 would provide that an arbitrator would not be liable for costs of a court application to effect their removal, unless the arbitrator had acted in bad faith. This would reverse case law that suggested arbitrators could be liable for adverse costs orders under such circumstances.[104]

Clause 4 would provide that a resignation would not give rise to liability for an arbitrator unless it was unreasonable (and subject to agreement between the parties as to the arbitrator's fees and expenses).

Clause 5 would amend section 32 of the Arbitration Act 1996 (determination of a preliminary point of jurisdiction) to ensure this section would only be used to determine the substantive jurisdiction of an arbitral tribunal instead of the tribunal ruling on its own jurisdiction.[105] Where a tribunal has already ruled, a challenge would have to be brought under section 67 of the 1996 act (challenging an award made by a tribunal on jurisdictional grounds).[106]

Clause 6 would provide that an arbitral tribunal would be able to award the costs of the proceedings up to the point at which it was determined that the tribunal had no jurisdiction to deal with the dispute.[107]

Clause 7 would permit an arbitral tribunal to make an award in relation to a claim (or issue arising out of it) on a summary basis if the tribunal considered the party had no real prospect of succeeding on the claim or issue or had no real prospect of succeeding in its defence. This power would be exercisable unless the parties agreed otherwise, and the tribunal would first have to give the parties reasonable opportunity to make representations.

Clause 8 would provide that emergency (interim) arbitrators may (unless the parties agree otherwise) issue peremptory orders requiring compliance within

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101 Explanatory Notes to the Arbitration Bill [HL] (PDF), 18 July 2024, para 18. The Arbitration (International Investment Disputes) Act 1966 governs investor-state arbitrations coming under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ICSID Convention).

102 For discussion of *Halliburton v Chubb*, see section 2.1 of this briefing

103 Explanatory Notes to the Arbitration Bill [HL] (PDF), 18 July 2024, para 20

104 As above, para 24

105 As above, para 28

106 As above

107 As above, para 29

a particular time where a party fails to comply with orders or directions without sufficient cause.

Clause 9 would amend section 44 of the Arbitration Act 1996 (court powers exercisable in support of arbitral proceedings) to ensure court orders in support of arbitral proceedings could be made in relation to those not party to the proceedings. Third parties would have an unrestricted right of appeal against orders made under this section,[108] while parties (or proposed parties) to arbitral proceedings would require leave to appeal.

Clause 10 would amend section 67 of the 1996 act (challenging an award made by a tribunal on jurisdictional grounds) to provide for remedies of remittance for reconsideration and declaring the award to be of no effect. Current remedies listed in section 67 are confirmation of the award, variation of the award, or setting aside the award in whole or in part.

Clause 11 would amend section 67 to provide that upon a party's application to challenge an arbitral award - where the application relates to an objection on which the tribunal has already ruled - there would generally be no rehearing by the court. This would be contrary to the Supreme Court's view in *Dallah v Pakistan* .[109] The procedure for applications under section 67 would be provided for in rules of court.

Clause 12 would amend section 70 of the Arbitration Act 1996 (supplemental provisions for challenges or appeals) to provide that the time limit of 28 days to challenge an award would begin to run from the date a party is notified of the outcome of any arbitral appeal or review; or from the date of a material correction to an award or additional award under section 57 of the 1996 act; or from the date of notification that an application under section 57 had been rejected. In any other case, the 28-day time limit would run from the date of an arbitral award.

Clause 13 would amend section 9 of the 1996 act (applications to court to stay legal proceedings relating to a matter that is to be referred to arbitration) to provide for a right of appeal from a court's decision to stay legal proceedings, in accordance with the judgment of the House of Lords in *Inco Europe v First Choice Distribution*.[110]

Clause 14 would amend section 32 of the Arbitration Act 1996 (determination of a preliminary point of jurisdiction) and section 45 (determination of a preliminary point of law) to provide that applications to court on these matters would require the agreement of the parties or permission of the arbitral tribunal.

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108 Explanatory Notes to the Arbitration Bill [HL] (PDF), 18 July 2024, para 34

109 *Dallah Real Estate Holding Company v The Ministry of Religious Affairs, Government of Pakistan* [2010] UKSC 46 at [96]. For discussion of *Dallah*, see section 2.1 of this briefing

110 [2000] UKHL 15

Clause 15 would repeal sections 85 to 88 (Part II) of the Arbitration Act 1996, which contain provisions relating to domestic arbitration agreements.

Clauses 16 to 18 would provide for the extent of the bill (that is, England and Wales and Northern Ireland), commencement and transitional provision, and the short title of the act once passed ('Arbitration Act 2024').

4.3 Lords second reading

Second reading took place on 30 July 2024. Speaking on behalf of the government, Lord Ponsonby summarised the key provisions of the bill, and pointed out revisions made during the passage of the previous draft legislation.

On clause 1, Lord Ponsonby explained a change from the equivalent provision in the previous 2023-24 bill, namely that the proposed rule on governing law would not apply to arbitration agreements arising from standing offers to arbitrate in treaties or non-UK legislation. He noted feedback from the arbitral sector suggested that these types of arbitration agreement should be governed by international and/or foreign domestic law.[111] Lord Ponsonby said the government agreed with this proposition and that it would be "inappropriate" to subject instruments of international law and foreign domestic legislation to English law rules of interpretation.[112]

On clause 11, Lord Ponsonby spoke to a number of provisions based on amendments made during the passage of the Arbitration Bill 2023-24, as follows:

- The inclusion of subsection (3D), which would provide that the general power of the Procedure Rules Committee to make rules is not limited by the provision relating to procedure to be followed on application to challenge an arbitral award under section 67 of the Arbitration Act 1996 (subsection (3B)).
- A change in subsection (3C), which makes clear court rules must provide that the general restriction on (amongst other things) rehearing in relation to challenge of an arbitral award under section 67 is subject to the court ruling otherwise in the interests of justice.
- A change to the drafting of subsection (3C)(b) (no consideration of evidence not put before the tribunal) to clarify that such evidence may be oral as well as written.[113]

111 HL Deb 30 July 2024 c950
112 As above
113 As above, c951

Former arbitrator Lord Hacking (Labour) addressed the House on the matter of corruption,[114] which he said had become important since a 2023 judgment by Robin Knowles J in a case involving the Federal Republic of Nigeria.[115] In this case, the judge set aside arbitral awards totalling some $11 billion (including interest) on the grounds that they were obtained by fraud and the way in which they were procured was contrary to public policy.[116]

Lord Hacking asked the minister to convene before committee stage a "special meeting" of the Law Commission, Members taking part in the special public bill committee, and other colleagues "to consider the issue of corruption and whether we should address that in Committee".[117]

Lord Beith (Liberal Democrat) also asked the minister to provide information as to whether arbitral institutions and organisations were aware of the problem, and if such institutions and organisations were investigating how to ensure that it was not a feature of arbitrations conducted under the auspices of the bill.[118]

Lord Bellamy KC (Conservative), former Parliamentary Under-Secretary of State at the Ministry of Justice, said in response to views expressed by Lord Hacking that the position of the Opposition was that the bill should reach the statute book and it would be hesitant to support further delay.[119] However, Lord Bellamy asked the minister if he had received a response to letters he (Lord Bellamy) had written to various arbitral organisations whilst in government and when the new government would come to a view on addressing the issue of corruption.

Lord Bellamy also asked the minister about whether "leave of the court" in clause 13 of the bill (right of appeal against court decisions on staying legal proceedings) would mean a court of first instance and/or include – or should refer to – leave from the Court of Appeal.[120] He also asked whether the House of Lords decision in *Inco Europe v First Choice Distribution* would be reflected fully in clause 13.

Responding on behalf of the government on the matter of corruption, Lord Ponsonby said he did not know the answer to Lord Bellamy's question about the correspondence and that he would be willing to meet with Lord Hacking, but the government did not want "anything that will hold up the current Bill".[121]

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114 HL Deb 30 July 2024 c952

115 *The Federal Republic of Nigeria v Process & Industrial Developments Limited* [2023] EWHC 2638 (Comm)

116 As above, at [574]. See also Arbitration Act 1996, s68(2)(g)

117 HL Deb 30 July 2024 c952

118 As above, c953

119 As above, c955

120 As above, c954

121 As above, c955

The minister also noted that he would have to write to Lord Bellamy on the matter of clause 13, as he was "not sighted of that issue".[122]

4.4 Lords committee stage

The bill was committed to a committee of the whole House.

Amendment 1

In the first session of the debate on 11 September 2024, Lord Hacking (Labour) moved amendment 1, which would have inserted a new clause after clause 4 to amend section 33 of the Arbitration Act 1996 (general duty of the tribunal).[123] This would have added the safeguarding of arbitration proceedings against fraud and corruption to the tribunal's general duties. Lord Hacking said the amendment would be a "very simple measure" to show the international community that corruption or fraud in arbitrations seated in England would be unacceptable.[124]

Lord Hoffmann, a practising arbitrator and former member of the Appellate Committee of the House of Lords, invited the committee to reject the amendment on the basis an arbitral tribunal should not have an investigatory role and the new duty would "create uncertainty and unnecessary difficulties in the way in which arbitrations are conducted".[125]

The Lords Hope, Thomas of Cwmgiedd, Sentamu, Mance and Wolfson of Tredegar concurred, despite supporting the principle underpinning the proposed amendment. Speaking on behalf of the government, Lord Ponsonby said it opposed legislative reform in this area as it was "unclear what additional benefit it [reform] would provide over the current regime".[126]

Lord Hacking withdrew his amendment.[127]

Amendment 2

In the second session of the committee debate, also on 11 September 2024, Lord Hacking moved amendment 2, which would have inserted a new clause before clause 10 to amend section 61 of the Arbitration Act 1996 (award of costs). Section 61 provides for a general rule (subject to exceptions) that costs should follow the event - that is, the unsuccessful party should pay the costs of the successful party. Lord Hacking's amendment would have provided for a "reasonable amount" of the successful party's costs being paid by other

122 HL Deb 30 July 2024 c956
123 HL Deb 11 September 2024 c1575
124 As above, c1576
125 As above, cc1577-1578
126 As above, c1584
127 As above, c1585

parties, with account to be taken of unnecessary or excessive costs which should not fall to be paid.[128]

Lord Hoffmann opposed the amendment, saying the 1996 act contained a "time-honoured formula which everybody knows" and which should not be substituted.[129] Lord Wolfson of Tredegar agreed, adding that arbitrators are already able to award issues-based costs that can be limited to costs reasonably incurred.[130]

Lord Hacking withdrew the amendment after a further objection by Lord Ponsonby that the wording of the amendment "could be interpreted as a new, untested principle".[131]

Amendments 3 and 4

The Lords agreed two government amendments relating to clause 13.

Lord Ponsonby tabled amendment 3 which replaced clause 13 of the bill as introduced.[132] The intention of clause 13 is to codify the House of Lords' decision in *Inco Europe v First Choice Distribution* in relation to leave to appeal decisions on staying legal proceedings under section 9 of the Arbitration Act 1996.[133]

The matter had been raised during second reading by Lord Bellamy.[134] Lord Ponsonby noted that clause 13 as introduced would have permitted leave to be sought only from the High Court, while case law had established that leave to appeal could also be sought from the Court of Appeal.[135] The issue had arisen, Lord Ponsonby said, because of a drafting error: "the 1996 Act made an incorrect consequential amendment to section 18(1) of the Senior Courts Act 1981 and section 35(2) of the Judicature (Northern Ireland) Act 1978".[136]

Amendment 3 replaced clause 13 with the necessary amendments to the 1981 and 1978 acts, so clarifying that appeals against High Court decisions made under Part I of the Arbitration Act 1996 (including section 9) could, subject to provision in Part I, be made to the Court of Appeal.[137]

Lord Ponsonby noted that the wider statutory amendments made by amendment 3 necessitated a change to the bill's long title.[138]

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128 HL Deb 11 September 2024 c1622
129 As above, c1624
130 As above
131 As above, c1625
132 As above, c1627
133 See section 4.1 of this briefing
134 See section 4.2 of this briefing
135 HL Deb 11 September 2024 c1627
136 As above
137 As above
138 As above, c1628

Amendment 4 changed the long title from 'A Bill to amend the Arbitration Act 1996' to 'A Bill to amend the Arbitration Act 1996 and for connected purposes'.[139]

The bill was reported with amendments.

4.5 Lords third reading

At third reading of the bill on 6 November 2024, Lord Hacking (Labour) said he "would have preferred new section 6A(2) [choice of law governing a main contract does not constitute an express choice of law to govern an arbitration agreement] not to have been included" as it was a complicating factor.[140]

Lord Hacking also suggested the bill left "unfinished business",[141] and that several other issues ought to have been considered. These included arbitral corruption, expedited hearings, the use of third party funding and the power to order parties to mediate.[142]

Lord Ponsonby said the government took the issue of corruption "very seriously", but that it believed the bill was not the appropriate vehicle to address such matters.[143] He stated the government would continue to support work by the arbitral sector to better identify and deal with corruption and "push for the adoption of best practices as they are developed".[144]

The bill was then passed and sent to the House of Commons.

4.6 Law Commission procedure

Under the Law Commission procedure as set out in House of Commons Standing Order No 59, public bills with the main purpose of giving effect to proposals in a report by the Law Commission generally stand referred to a second reading committee, unless the House orders otherwise or the bill is referred to the Scottish Grand Committee.[145] This second reading committee then recommends whether the bill ought, or ought not, to be read for a second time.[146]

139 HL Deb 11 September 2024 c1629
140 HL Deb 6 November 2024 c1500
141 As above
142 As above
143 As above, c1501
144 As above
145 House of Commons, Standing Orders – Public Business 2024 (PDF), 23 May 2024, HC 829 2023-24, SO No 59. For further information on Law Commission bill procedures, see Commons Library research briefing CBP-7156, The Law Commission and Law Commission bill procedures, 11 November 2024
146 As above

It was agreed in the House of Commons on 21 January 2025 that the Arbitration Bill [HL] 2024-25 would no longer stand referred to a second reading committee.[147]

The bill, as amended, was set down for second reading on 29 January 2025.

[147] HC Deb 21 January 2025 c896. See House of Commons, Standing Orders – Public Business 2024 (PDF), 23 May 2024, HC 829 2023-24, SO No 59(2)

5 House of Commons second reading

Speaking on behalf of the government at second reading of the bill, Parliamentary Under Secretary of State for Justice, Sir Nicholas Dakin, told the House that arbitration was an "important offering" in the UK's "international business package".[148] He said the UK had a global reputation for the "quality, independence and ethics" of the legal profession and that London was consequently in demand as a seat of international arbitration.[149]

Sir Nicholas stated that work on the bill "has been watched carefully by our competitor jurisdictions abroad". He noted a court in Singapore had cited the work of the Law Commission on the Arbitration Act 1996, while France had more recently announced a review of its arbitration laws.[150] This, the minister said, showed the UK leading the way in this field and that the bill would ensure "we stay first in global class".[151]

Responding on behalf of the Official Opposition, shadow justice minister Dr Kieran Mullan expressed support for the bill.[152] He said the UK must safeguard its "competitive lead" and that the bill would reinforce the UK's position at the forefront of arbitration.[153] He noted in particular that the bill would address uncertainty relating to the governing law of an arbitration agreement, as well as the codification of the duty of impartiality and disclosure, and procedural efficiency.[154]

Dr Mullan said the Conservatives remained committed to scrutinising the provisions of the bill "to ensure they achieve their intended goals without unintended consequences".[155]

The Liberal Democrat spokesman, Olly Glover, welcomed the reintroduction of the Arbitration Bill. He said the Liberal Democrats were reassured, following proceedings in the House of Lords, that confidential arbitration would not be abused "to hide corruption from public scrutiny" and that amendments to clause 13 dealt with uncertainty relating to leave to appeal.[156]

148 HC Deb 29 January 2025 c332
149 As above
150 As above, c333. The French Ministry of Justice on 12 November 2024 convened a working group to review possible reforms to French arbitration law. The group is expected to present its findings in March 2025
151 As above
152 As above, c336
153 As above, c337
154 As above
155 As above, c338
156 As above

Dr Mullan suggested to the minister that the government would need to continue to work on "some issues",[157] namely "the interplay between arbitration and corruption; the need for expedited hearings; the role of third party funding; and the authority to mandate mediation between parties".[158]

Sir Nicholas Dakin addressed the matter of corruption. He stated the government had concluded corruption in arbitration was not rooted in faults in the UK's domestic legislative framework.[159] He pointed to (amongst other things) available remedies in both the Arbitration Act 1996 and at common law, and the power of the courts to set aside arbitral awards in cases of serious irregularity.[160]

Sir Nicholas said the government would support and monitor initiatives to "weed out" corrupt practices in arbitration and would continue to engage with the sector to ensure the adoption of best practice.[161]

Closing the debate, he told Members that the House must ensure measures in the bill "proceed at pace".[162] The bill would, he said, promote economic growth and showcase the UK "as a one-stop shop for business".[163]

Sir Nicholas commended the bill to the House, and it was read a second time.

The bill was committed to a committee of the whole House for scrutiny on 11 February 2025, to be followed by all remaining stages.[164]

157 HC Deb 29 January 2025 c339
158 As above
159 As above, c340
160 As above
161 As above
162 As above, c342
163 As above
164 As above, c343

6 House of Commons committee and remaining stages

6.1 Committee of the whole House

At committee stage on 11 February 2025, Parliamentary Under Secretary of State for Justice, Sir Nicholas Dakin, spoke to each clause,[165] and noted after a question from Chris Vince (Labour (Co-op)) that here had been "massive engagement" with the legal sector and other stakeholders as part of the work done on the bill.[166]

Dr Kieran Mullan, shadow justice minister, reiterated the Official Opposition's support for modernisation of the existing legislation, but expressed a desire to acknowledge the possible abuse of arbitration for corrupt purposes.[167] Dr Mullan said the government should not rule out taking timely action in this area if it were to become necessary.[168]

He highlighted numerous other matters to which he said it was "essential" that government attention was given:

> They include the need for expedited hearings to prevent undue delays in arbitration proceedings, the role of third-party funding, and ensuring transparency and accountability in funding arrangements, as well as the authority to mandate mediation between parties, where appropriate, to encourage resolution outside of arbitration.[169]

Josh Babarinde said the Liberal Democrats supported the bill's passage and urged the House to do the same, as the bill would improve clarity, ensure fairness, and refine procedure.[170]

Sir Nicholas Dakin, addressing points raised by Dr Mullan, referred to his previous remarks on corruption at second reading - repeating his stance that arbitral corruption was not an issue driven by the domestic legislative framework.[171] The government, he said, would "push for the adoption of best practices as they are developed".[172]

165 HC Deb 25 February 2025 cc208-211
166 As above, c210
167 As above, c212
168 As above
169 As above
170 As above, c213
171 As above
172 As above

In relation to third-party litigation funding and other funding issues, Sir Nicholas stated that the government had "carefully considered" the Supreme Court judgment in *PACCAR* and would decide whether to legislate only after the conclusion of the Civil Justice Council review of the third-party litigation funding sector.[173]

In terms of mandated mediation, Sir Nicholas said the government supported methods such as mediation to enable the speedy resolution of legal disputes.[174] He pointed to the compulsory mediation programme introduced for small claims and told the House that the government would "continue to work to drive the uptake of dispute resolution throughout the justice system".[175]

All clauses were ordered to stand part of the bill, which was reported without amendment.[176]

6.2 Third reading

The House then proceeded to third reading, at which the minister, the shadow minister, and the Liberal Democrat spokesman thanked and paid tribute to all those who had worked on the Arbitration bill.[177]

They also highlighted the contribution of the arbitration sector to the growth of the domestic economy and the UK's position as a leading global player in the field.[178]

The bill was read for a third time and now awaits Royal Assent.[179]

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173 HC Deb 11 February 2025 cc213-214. In *R (on the application of PACCAR Inc and others) v Competition Appeal Tribunal and others* ('*PACCAR*'), the Supreme Court considered the enforceability of litigation funding agreements under which funders were paid based on a percentage of any damages recovered. The court held that the litigation funding agreements in question provided "claims management services" in the form of financial services or assistance and were, in fact, damages-based agreements. It was common ground in *PACCAR* that the relevant litigation funding agreements did not comply with the statutory regime governing damages-based agreements and were, therefore, unenforceable. The Sunak government commissioned a review by the Civil Justice Council of the third-party litigation funding sector in March 2024. The Civil Justice Council published an interim (background) report on the sector in October 2024 - alongside a consultation on issues such as potential regulation of third party litigation funding, the relationship between costs and third party funding, and a possible cap on funders' returns. A final report is expected in summer 2025.

174 HC Deb 11 February 2025 c214

175 As above

176 As above

177 As above, cc214-216

178 As above

179 As above, c216

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