



HL Bill 1 of 2024–25

Arbitration Bill [HL]

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Arbitration is a form of dispute resolution that enables people and businesses to resolve disagreements on their own terms through a third-party arbitrator, or a panel of arbitrators acting as an arbitral tribunal, instead of going to court. The Law Commission has estimated that the arbitration industry could be worth at least £2.5bn to the UK economy each year, although its true value may be much higher. London has, over time, become a leading centre for the settlement of international disputes in particular.

The [Arbitration Bill \[HL\]](#) would modernise the legal framework for arbitrations provided for by the Arbitration Act 1996, the principal legislation governing arbitrations in England and Wales and in Northern Ireland. The changes set out in the bill would implement recommendations from the Law Commission following extensive consultation with the sector. Alongside a number of other changes, the bill's [explanatory notes](#) say the bill would:

- clarify the law applicable to arbitration agreements that do not arise from investor-state agreements
- codify a duty on arbitrators to disclose potential conflicts of interest
- strengthen arbitrator immunity against liability for resignations and applications for removal, to support arbitrators in making robust and impartial decisions
- introduce the capacity for arbitrators to make awards on a summary basis on issues that have no real prospect of success
- clarify court powers in support of arbitral proceedings, and in support of emergency arbitrators
- revise the framework for challenges to an arbitral tribunal's jurisdiction

A very similar bill was introduced in the 2023–24 session. This previous version was considered in the House of Lords using special procedures for Law Commission measures, including being committed to a special public bill committee. The committee amended the bill after taking evidence from practitioners before the bill later fell at dissolution. The new Labour government has reintroduced the amended bill with one additional change.





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I. What is arbitration and how is it governed?

Arbitration is a form of dispute resolution that enables two or more parties to resolve a disagreement privately through a third-party arbitrator, or a panel of arbitrators acting as an arbitral tribunal, instead of going to court.¹ It can be used in a wide range of domestic and international settings, from family law and rent reviews through to international commercial disputes and investor claims against states. Many contracts include arbitration clauses as a means to resolve disputes that may arise between the contracting parties.²

The Law Commission of England and Wales (hereafter the Law Commission) has noted that arbitration is a major area of activity in the UK, with an estimated 5,000 arbitrations annually in England and Wales.³ It has estimated that the industry, centred around London, could be worth at least £2.5bn to the UK economy each year in arbitrator and legal fees alone, although the industry's true value may be much higher when considering its impact on other areas of economic activity such as other legal services, banking, insurance and trade.

The Arbitration Act 1996 provides the legal framework for arbitrations in England and Wales and in Northern Ireland.⁴ For example, it upholds arbitration agreements seated, or based, in these jurisdictions.⁵ Separate legislation passed by the Scottish Parliament regulates arbitrations in Scotland.⁶

In 2021 the Ministry of Justice asked the Law Commission to review the 1996 act to ensure London remained competitive as a preferred seat for international arbitration.⁷ The current bill has its origins in a draft bill published following this review. See [section 3 of this briefing](#) for further on the commission's review and subsequent developments.

¹ Law Commission, '[Review of the Arbitration Act 1996: A consultation paper](#)', 22 September 2022, p 1.

² Prime Minister's Office, '[The King's Speech 2024: Background briefing notes](#)', 17 July 2024, p 36.

³ The Law Commission calculated this estimate using published caseload figures and unpublished caseload estimates (Law Commission, '[Review of the Arbitration Act 1996: A consultation paper](#)', 22 September 2022, p 1. See also: House of Lords Arbitration Bill [HL] Special Public Bill Committee, '[Arbitration Bill: First oral evidence session](#)', 9 February 2024, pp 1–2).

⁴ [Explanatory notes](#), p 3. The first legislation governing arbitration was enacted in 1698 (Law Commission, '[Review of the Arbitration Act 1996: A consultation paper](#)', 22 September 2022, pp 2–6).

⁵ Law Commission, '[Review of the Arbitration Act 1996: A consultation paper](#)', 22 September 2022, p 3.

⁶ Chartered Institute of Arbitrators, '[Arbitration in Scotland](#)', accessed 23 July 2024.

⁷ [Explanatory notes](#), p 3. A survey by Queen Mary University of London and White & Case LLP conducted the same year ranked London equal first with Singapore as the preferred seat for international arbitration (Queen Mary University of London School of International Arbitration and White & Case LLP, '[2021 International Arbitration Survey: Adapting arbitration to a changing world](#)', 2021).



2. What would the bill do?

The bill's 18 clauses would give effect to the Law Commission's recommendations to update the Arbitration Act 1996 as it applies in England and Wales. It would also apply these changes to Northern Ireland subject to devolved consent. The text takes account of amendments made to an earlier version of the bill scrutinised by a special public bill committee in the House of Lords in the 2023–24 parliamentary session.⁸ It also includes a change to clarify clause 1 following an issue raised during earlier proceedings.

Clause 1 would replace the common law position in *Enka v Chubb* (2020) with a statutory rule on the law applicable to arbitration agreements.⁹ This would mean the law governing an arbitration agreement would by default be the law of the seat of the arbitration, except in cases where an arbitration agreement arose from a treaty, unless the parties expressly agreed otherwise. This would occur regardless of where the arbitration was seated. For example, where an arbitration was seated in England and Wales, the agreement to arbitrate would usually be governed by the law of England and Wales. An exception would be made if the parties expressly agreed a different law to govern the arbitration agreement. At present, following the case cited above, it is common for an arbitration to be seated in England and Wales but for the arbitration agreement to be governed by a foreign law.

The government's single change to the bill as amended by the special public bill committee ahead of its introduction in the new session was a clarification that investor-state arbitration agreements will not be covered by this default rule if they are derived from treaties or non-UK legislation.¹⁰ The issue had been raised during special public bill committee proceedings by Lord Thomas of Cwmgiedd (Crossbench), chair of the committee and a former Lord Chief Justice of England and Wales. Lord Bellamy (Conservative), then a parliamentary under secretary of state at the Ministry of Justice, had said the then government was "reflecting carefully" on the point raised. The committee also agreed to remove wording in this clause that had otherwise been deemed "likely to cause undue confusion".¹¹

⁸ House of Lords Arbitration Bill [HL] Special Public Bill Committee, '[Arbitration Bill \[HL\]: Committee](#)', 27 March 2024, cols 1–12.

⁹ [Explanatory notes](#), pp 6–7. See also: [Enka v Chubb \[2020\] UKSC 38](#).

¹⁰ As above, pp 4 and 7.

¹¹ House of Lords Arbitration Bill [HL] Special Public Bill Committee, '[Arbitration Bill \[HL\]: Committee](#)', 27 March 2024, cols 1–5. See also: '[Marshaled list of amendments](#)', 25 March 2024, p 1.



Clauses 2 to 4 concern arbitrators and arbitrator tribunals. Clause 2 would codify the general duty of disclosure on arbitrators as articulated by the Supreme Court in its decision in *Halliburton v Chubb* (2020).¹² This would apply prior to the arbitrator’s appointment and would be a continuing duty which also applied after their appointment. Parties would not be able to dispense with this duty. Clause 3 would provide that an arbitrator would not be liable for the costs of an application to court for their removal unless the arbitrator had acted in bad faith. This would reverse current case law which has held that an arbitrator can be liable for such costs. Clause 4 would provide that an arbitrator would no longer be liable for resignation unless the resignation was shown by a complainant to be unreasonable. The Law Commission did not propose a list of when a resignation might be unreasonable. Instead it said this would vary according to the circumstances, and was a “matter best left open, to be decided (if necessary) by the courts, case by case”.¹³

Clauses 5 and 6 concern the jurisdiction of tribunals.¹⁴ At present, under the 1996 act, an arbitral tribunal has jurisdiction if there is a valid arbitration agreement, if the tribunal is properly constituted, and in respect of matters which have been submitted to arbitration in accordance with the arbitration agreement. However, a participating party may object that the arbitral tribunal lacks jurisdiction. The explanatory notes explain:

The tribunal itself is usually empowered to decide, in the first instance, whether it has jurisdiction (by section 30 [of the 1996 act]). The court can be asked to rule on whether the tribunal has jurisdiction, including as follows. One way is to wait until the tribunal has issued a ruling, and then challenge that ruling under section 67, which allows a challenge to an arbitral award on the basis that the tribunal lacked jurisdiction. Another way is by invoking section 32, which allows the court to decide whether the tribunal has jurisdiction as a preliminary point. Sections 32 and 67 have different requirements.¹⁵

Clause 5 would amend the 1996 act to make it clear that the mechanism to allow a court to decide whether a tribunal has jurisdiction as a preliminary point (section 32) could only be invoked instead of a tribunal ruling on its jurisdiction. If a tribunal had already ruled, then any challenge would have to be brought through section 67. Meanwhile clause 6 would provide that if a court ruled that a tribunal had no jurisdiction, an arbitral tribunal could award the costs of arbitration proceedings up until the point at which proceedings came to an end.

¹² [Explanatory notes](#), p 7. See also: [Halliburton v Chubb \[2020\] UKSC 48](#).

¹³ Law Commission, ‘[Review of the Arbitration Act 1996: Final report and bill](#)’, 6 September 2023, HC 1787 of session 2022–23, p 47.

¹⁴ [Explanatory notes](#), p 8.

¹⁵ As above.



Clauses 7 to 9 concern arbitral proceedings and powers of the court.¹⁶ Clause 7 would confer an express power on arbitrators to make an award on a summary basis to dispose of an issue where an arbitrating party had no real prospect of success. Clause 8 would align the powers of emergency arbitrators with those of normal arbitrators when an arbitrating party failed to comply with an order. Clause 9 would align the position in arbitration proceedings with the position in court proceedings so that certain court orders were available against third parties, as well as giving third parties full rights of appeal.

Clauses 10 to 12 concern powers of the court in relation to awards.¹⁷ Clause 10 would align the remedies available when a court ruled that a tribunal did not have jurisdiction with those available when awards are successfully challenged for serious irregularity or appealed on a point of law. Clause 11 would provide that, where an application is made under section 67 of the 1996 act by a party who took part in the arbitration proceedings that relates to an objection on which the tribunal has already ruled, then there would generally be no full rehearing before the court. The Ministry of Justice has said rehearings can cause delay, increase costs, and lead to unfairness.¹⁸ Specifically, the clause means rules of court will be able to provide that, unless necessary in the interests of justice, there should be no new grounds of objection, and no new evidence before the court, unless it was not reasonably possible to put these before the tribunal; and evidence should not be reheard by the court.¹⁹ Meanwhile clause 12 would clarify when the current time limit of 28 days for court applications to challenge arbitral awards would run. This would be after any arbitral appeal or any application to correct the award or issue an additional award. In any other case, the time limit begins to run from the date of the award.

Clauses 13 to 15 concern miscellaneous minor amendments.²⁰ Clause 13 would amend the 1996 act to expressly state that a right of appeal is available against court decisions on staying, or halting, legal proceedings. Clause 14 would amend two sections of the 1996 act regarding requirements to be met for the court to consider applications. Specifically, sections governing applications to the court for rulings on jurisdiction and preliminary points of law arising in the arbitration, respectively, would be amended so that an application would require either the agreement of the parties or the permission of the tribunal. Clause 15 would repeal unused provisions in the 1996 act relating to domestic arbitration.

¹⁶ [Explanatory notes](#), pp 8–9.

¹⁷ As above, pp 9–10.

¹⁸ [Delegated powers memorandum](#), p 2.

¹⁹ Clause 11 was the subject of five clarificatory and/or consequential amendments made by the special public bill committee (House of Lords Arbitration Bill [HL] Special Public Bill Committee, '[Arbitration Bill \[HL\]: Committee](#)', 27 March 2024, cols 7–10).

²⁰ [Explanatory notes](#), pp 10–11.



Clauses 16 to 18 concern the bill's extent, commencement and short title respectively.²¹ These clauses would come into force on the bill receiving royal assent. Clauses 1 to 15 would be brought into force by regulations. Only one of these, to bring clause 11 into force, would be subject to parliamentary procedure.²² In this case the regulations would be subject to the negative procedure, meaning they would come into effect when ministers signed them into law and would only cease to have effect if either House objected within a set time period.²³ The remaining powers would enable ministers to commence the act and make transitional or saving provision in connection with the coming into force of any provision of the act, as required. As is standard, these regulations would not be subject to parliamentary procedure.

3. Why has the government introduced the bill?

The bill would update the Arbitration Act 1996 following recommendations from the Law Commission.²⁴ In 2021 the previous Conservative government sought a review of the 1996 act to mark 25 years having elapsed since the measure received royal assent. Following two rounds of consultation with arbitration sector organisations and practitioners, the Law Commission published a draft bill to implement its recommendations alongside a final report. The previous government accepted the draft bill as a basis on which to update the 1996 act.

An Arbitration Bill was included in the November 2023 King's Speech and was later introduced as a Law Commission bill in the House of Lords.²⁵ The bill received cross-party support in a second reading committee and at committee stage in a special public bill committee but was then lost at the dissolution of the 2019–24 parliament. The new Labour government included the bill in the July 2024 King's Speech and reintroduced the version of the bill as amended by the special public bill committee before dissolution, with the addition of the one change to clause 1 raised as an issue during earlier scrutiny.²⁶ The bill is not expected to be committed to a second reading committee nor a special public bill committee in the current session, having already been subject to such proceedings. The subsections below provide further background information on the bill.

²¹ [Explanatory notes](#), p 11.

²² [Delegated powers memorandum](#), pp 1–2.

²³ UK Parliament, '[Statutory instruments: Made negative](#)', accessed 23 July 2024.

²⁴ See the subsections below for a narrative account, together with references to source material.

²⁵ Prime Minister's Office, '[King's Speech 2023: Background briefing notes](#)', 7 November 2023, pp 34–6; Ministry of Justice, '[Arbitration Bill 2023–24](#)', 22 November 2023; and UK Parliament, '[Arbitration Bill \[HL\]: 2023–24](#)', accessed 23 July 2024.

²⁶ Prime Minister's Office, '[The King's Speech 2024: Background briefing notes](#)', 17 July 2024, pp 35–6; and [HL Hansard, 18 July 2024, col 30](#).



3.1 Law Commission law reform programme consultation

The Law Commission is a statutory independent body with a remit to keep the law of England and Wales under review and make systemic recommendations for consideration by Parliament.²⁷ It may also recommend changes to codify the law, eliminate anomalies, repeal obsolete and unnecessary enactments and/or reduce the number of separate statutes.

In March 2021, following a request from the Ministry of Justice, the Law Commission proposed to review the Arbitration Act 1996 in the light of 25 years having elapsed since that legislation was passed by Parliament.²⁸ The proposal formed part of a consultation on the commission's 14th programme of law reform, which was open until the end of July 2021. The commission said the aim of any review would be to "maintain the attractiveness" of England and Wales as a destination for dispute resolution and the "pre-eminence of English law as a choice of law" for arbitration proceedings.

In November 2021 the commission announced that it would review the 1996 act following the earlier law reform programme consultation.²⁹ Commenting at the time, Professor Sarah Green, commercial and common law commissioner at the Law Commission, said:

The quality of the Arbitration Act 1996 has helped London become a leading seat for international arbitrations, however, there are some aspects of the act which could be improved in light of modern arbitration practices.

The Law Commission's work will enhance the experience for those who choose to arbitrate in England and Wales and maintain English law as the gold standard in international arbitrations.

The commission said it would launch its review during the first quarter of 2022 and aim to publish a consultation paper in late 2022. There were subsequently two rounds of consultation before the commission published its final report.

²⁷ Law Commission, '[About us](#)', accessed 23 July 2024.

²⁸ Ministry of Justice, '[Law Commission: 14th programme of law reform](#)', 24 March 2021. See also: Law Commission, '[Generating ideas for the Law Commission's 14th programme of law reform](#)', 24 March 2021; and '[Ideas for law reform](#)', 24 March 2021.

²⁹ Law Commission, '[Law Commission to review the Arbitration Act 1996](#)', 30 November 2021.



3.2 First Law Commission consultation: September 2022

In September 2022, in line with the schedule announced almost a year earlier, the commission published an initial consultation paper on the 1996 act.³⁰ The paper said the commission had spoken with a wide range of stakeholders and conducted its own research into the provisions of the 1996 act. It also said the commission had concluded the act “still works very well and there is no need for extensive reform”. However, it added that in support of modernising the act the commission had provisionally proposed amendments in certain specific areas.

To this end the consultation document included a number of proposals aimed at improving the act to make it as “effective and responsive as possible”. This was particularly the case in the light of recent reforms by competing jurisdictions, for example in Sweden and Dubai.³¹ The proposals included measures to “improve the efficiency of cases, give further protections to arbitrators, grant extra provisions to the courts to support cases, and refine the process for challenging an arbitrator and their decisions”. In other areas, including provisions on confidentiality and impartiality, the commission proposed no changes on the grounds that the law was already effective and proportionate.

Speaking at the time, Professor Green said the commission’s proposals had been “designed to ensure that arbitration law is efficient, effective and responsive to modern developments”. She said that by “making further improvements, we can help the UK to consolidate its status as a global centre for international dispute resolution”.

The commission published a compilation of the responses received in December 2022.³²

3.3 Second Law Commission consultation: March 2023

The commission published a second consultation paper in March 2023.³³ This noted that

³⁰ Law Commission, [‘Review of the Arbitration Act 1996: A consultation paper’](#), 22 September 2022. See also: Law Commission, [‘Review of the Arbitration Act 1996: Summary of consultation paper’](#), 22 September 2022.

³¹ Law Commission, [‘New reforms to ensure UK retains position as a leader in international arbitration’](#), 22 September 2022.

³² Law Commission, [‘Review of the Arbitration Act 1996: Responses to first consultation paper’](#), 15 December 2022.

³³ Law Commission, [‘Review of the Arbitration Act 1996: Second consultation paper’](#), 27 March 2023. See also: Law Commission, [‘Review of the Arbitration Act 1996: Second consultation paper summary’](#), 27 March 2023.



around 118 consultees had responded to the first consultation. Those responding included individual practitioners, academics, specialist bodies, and major domestic and international firms and institutions, some representing thousands of people.³⁴

The second consultation revisited two issues considered in the first consultation exercise, around challenges to awards on the basis that a tribunal lacked jurisdiction and discrimination in arbitral appointments. It also sought views on proposals concerning the “proper law of the arbitration agreement”, or which law should govern an arbitration agreement where parties make no explicit choice within the arbitration agreement itself. These had been developed following suggestions received in the earlier consultation exercise and would mean a change from the current common law position.³⁵

The commission published a compilation of the responses received in May 2023.³⁶

3.4 Final report and draft bill: September 2023

The commission published its final report in September 2023.³⁷ Drawing on responses to both consultations the commission made 19 proposals for changes to the 1996 act, together with the text of a draft bill to give effect to its recommendations.

The commission reiterated its earlier conclusion that the central tenets of the 1996 act continued to function well, remained valid and that the consensus among consultation respondents was that “root and branch reform is not needed or wanted”.³⁸ However, the commission argued that its proposals, limited to a “few major initiatives, and a very small number of minor corrections”, would help ensure the 1996 act remained fit for purpose and “bring greater clarity and certainty to the law”.

³⁴ Law Commission, ‘[Review of the Arbitration Act 1996: Second consultation paper](#)’, 27 March 2023, p 1.

³⁵ As above, pp 1–2.

³⁶ Law Commission, ‘[Review of the Arbitration Act 1996: Responses to second consultation paper](#)’, 22 May 2023.

³⁷ Law Commission, ‘[Review of the Arbitration Act 1996: Final report and bill](#)’, 6 September 2023, HC 1787 of session 2022–23. See also: Law Commission, ‘[Review of the Arbitration Act 1996: Summary of final report](#)’, 6 September 2023; and ‘[Improvements recommended to Arbitration Act 1996 to ensure UK position as international arbitration leader](#)’, 6 September 2023.

³⁸ Law Commission, ‘[Review of the Arbitration Act 1996: Final report and bill](#)’, 6 September 2023, HC 1787 of session 2022–23, p 5.



The “major initiatives” proposed included:

- **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
- **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 Wales³⁹

The commission also recommended minor corrections related to:

- making appeals available from an application to stay, or halt, legal proceedings
- simplifying preliminary applications to court on jurisdiction and points of law
- clarifying time limits for challenging awards
- repealing unused provisions on domestic arbitration agreements

3.5 Reaction to the proposals

The General Council of the Bar of England and Wales, commonly known as the Bar Council, expressed support for the proposals having earlier made consultation submissions. Chair of the Bar Council Nick Vineall KC said:

We welcome the Law Commission’s characteristically careful and balanced review

³⁹ Law Commission, ‘[Improvements recommended to Arbitration Act 1996 to ensure UK position as international arbitration leader](#)’, 6 September 2023.



of the Arbitration Act [1996], and we support the proposals for reform which it makes. It is extremely important that the government finds parliamentary time for the short bill which the Law Commission proposes.

London has a well-deserved reputation as the foremost centre for international arbitration. It is important to legislate to make the modest changes to the arbitration regime which the Law Commission has recommended in order to maintain and enhance that reputation.⁴⁰

The Chartered Institute of Arbitrators also welcomed the proposed changes, the majority of which it said were in line with recommendations it had made following input from its membership.⁴¹ Chief Executive Officer Catherine Dixon said it was a “sign of the Arbitration Act 1996’s strength and value that only specific changes to ensure that act remains current have been recommended as opposed to an overhaul”.

Speaking on behalf of the government at the time of the final report’s publication, Lord Bellamy, then parliamentary under secretary of state at the Ministry of Justice, said:

Arbitration is a vital measure to help people and businesses resolve disputes swiftly and effectively, without the expense of going through court proceedings. This process must be underpinned by effective laws, and we will respond to the Law Commission’s report shortly so we can maintain the UK’s reputation as a world leader in resolving legal disputes.⁴²

3.6 Government bill in the 2023–24 session

In the November 2023 King’s Speech, the previous Conservative government undertook to introduce an Arbitration Bill in the new parliamentary session.⁴³ It indicated the bill would modernise the law on arbitration as recommended by the Law Commission. It added the bill would apply in England and Wales, and in Northern Ireland subject to the agreement of the Northern Ireland Department of Justice.

⁴⁰ Bar Council, [‘Reforming the Arbitration Act 1996: Bar Council comment’](#), 6 September 2023.

⁴¹ Chartered Institute of Arbitrators, [‘UK Law Commission publishes final report on Arbitration Act review’](#), 13 September 2023.

⁴² Law Commission, [‘Improvements recommended to Arbitration Act 1996 to ensure UK position as international arbitration leader’](#), 6 September 2023.

⁴³ Prime Minister’s Office, [‘The King’s Speech 2023: Background briefing notes’](#), 7 November 2023, pp 34–6.



In briefing notes published to accompany the King’s Speech, the government argued it was “vital to modernise our arbitration framework to respond to competition from abroad and maintain our competitive edge”. It added that competing jurisdictions had “updated their legislation more recently: Singapore in 2023, Hong Kong in 2022, and Sweden and Dubai in 2018”. It also noted that in 2021, Singapore ranked equal first to London as preferred choice of seat for arbitration for the first time according to research from Queen Mary University of London.⁴⁴

The government introduced a bill in the House of Lords on 21 November 2023.⁴⁵ It published explanatory notes and a delegated powers memorandum to accompany the bill. It later published an impact assessment, a human rights memorandum and a factsheet setting out more detail on the bill’s aims and expected impact.⁴⁶

The bill’s explanatory notes stated that the government accepted all of the commission’s recommendations.⁴⁷ They further confirmed the bill implemented the “major initiatives” and “minor corrections” detailed above. The text of the government bill differed only slightly from the Law Commission’s draft bill as a result of technical changes, including updates to provide for changes not to apply to arbitrations that had already commenced, as opposed to existing agreements, and to extend the bill to Northern Ireland.⁴⁸

3.7 Scrutiny in the House of Lords

Law Commission bills may be subject to special procedures in the House of Lords, including being committed to a second reading committee and to a special public bill committee for further scrutiny.⁴⁹

3.7.1 Second reading

On 4 December 2023 the House agreed to commit the bill to a second reading committee.⁵⁰

⁴⁴ Queen Mary University of London School of International Arbitration and White & Case LLP, [‘2021 International Arbitration Survey: Adapting arbitration to a changing world’](#), 2021.

⁴⁵ [HL Hansard, 21 November 2023, col 671](#).

⁴⁶ Ministry of Justice, [‘Arbitration Bill 2023–24’](#), 22 November 2023.

⁴⁷ [Explanatory notes 2023–24](#), p 3.

⁴⁸ [HL Hansard, 19 December 2023, cols 419–22](#).

⁴⁹ House of Lords, [‘Companion to the standing orders and guide to the proceedings of the House of Lords’](#), 26 February 2024, [para 8.49](#) and [paras 8.119–25](#).

⁵⁰ [HL Hansard, 4 December 2023, col 1284](#).



The committee, in which all members eligible to sit could participate, met on 19 December 2023.⁵¹ Opening the debate on behalf of the government, Lord Bellamy said:

The 1996 act contains a thorough code of the principles and practice of arbitration in this country. This bill is intended to bring that structure and framework up to date and ensure that we remain abreast of international developments and that London and these jurisdictions remain competitive on the international scene.

Following an overview of the bill's provisions, he concluded:

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.

The bill was welcomed by a range of members with practitioner experience. In addition, Lord Beith and Lord Ponsonby of Shulbrede expressed support for the bill on behalf of the Liberal Democrats and the Labour Party respectively.

Following the debate, the bill was formally approved at second reading on 17 January 2024 alongside a motion committing the bill to a special public bill committee.⁵²

3.7.2 Committee stage

The House approved the special public bill committee's membership on 24 January 2024.⁵³ Lord Thomas of Cwmgiedd (Crossbench), a former Lord Chief Justice of England and Wales who practices as an arbitrator, was appointed chair.⁵⁴ The committee heard from six sets of witnesses during evidence sessions held across three dates in February 2024.⁵⁵ It also took a

⁵¹ [HL Hansard, 19 December 2023, cols 419–40GC.](#)

⁵² [HL Hansard, 17 January 2024, col 433.](#)

⁵³ [HL Hansard, 24 January 2024, col 756.](#)

⁵⁴ Arbitration Bill [HL] Special Public Bill Committee, '[Interests declared by members of the Special Public Bill Committee on the Arbitration Bill \[HL\]](#)', 9 February 2024.

⁵⁵ Arbitration Bill [HL] Special Public Bill Committee, '[Reports, special reports and government responses](#)', accessed 23 July 2024.



range of written evidence before considering amendments to the bill on 27 March 2024.⁵⁶

The committee agreed an amendment to clause 1 to omit two words which it thought may otherwise cause “undue confusion”, following a point raised by Lord Hope of Craighead (Crossbench) and other members at second reading.

It then considered an amendment by Lord Mendelsohn (Labour), who sought an assurance from the government on the proper jurisdiction of arbitral tribunals, for example that they should “confine themselves to resolving disputes that are proper subjects for arbitration and must not purport to make judgments or orders about other matters”. Speaking for the then government, Lord Bellamy responded that the government was “entirely clear that arbitration tribunals should confine themselves to their jurisdiction and to matters properly subject to that arbitration”. Lord Mendelsohn later withdrew his amendment.

The committee then proceeded to consider five amendments to clause 11 that Lord Bellamy described as enabling certain procedural reforms under section 67 of the 1996 act, following points raised during the committee’s deliberations on the bill. All of these changes were agreed.

The debate concluded with Lord Thomas calling for further consideration of the “problems of fraud, corruption and other related issues in arbitration”. He acknowledged that the Law Commission had not examined this issue in the context of the 1996 act and it was therefore outside the scope of the current bill, but called for the government to appoint a departmental committee to consider the issue further. Responding to his points, Lord Bellamy said:

I have written to the principal arbitral institutions seeking their assistance in this matter: the Chartered Institute of Arbitrators, the International Chamber of Commerce, the London Court of International Arbitration, the London Maritime Arbitrators Association and the Grain and Feed Trade Association, as well as the Law Society and the Bar Council, many of whose members will be arbitrators or acting as counsel in arbitration. I have asked in particular what measures they have in place to mitigate the risk of corruption in arbitration, whether more should be done in the sector to mitigate corruption in arbitration, the best way to proceed and how the Ministry of Justice and the government could support the sector’s efforts. Once we have received the responses, the government will come to a view

⁵⁶ House of Lords Arbitration Bill [HL] Special Public Bill Committee, ‘[Arbitration Bill \[HL\]: Committee](#)’, 27 March 2024, cols 1–12.



on what further action, if any, is needed.

Lord Thomas had also called for certain changes to special public bill committee procedure, although Lord Bellamy said this was a “matter for the House authorities rather than the government”.

The bill later fell at the dissolution of the 2019–24 parliament.

3.8 Developments in the 2024–25 session

Having welcomed the bill in opposition, the new Labour government included the bill in its first King’s Speech following the general election.⁵⁷ The government introduced the version of the bill as amended in the special public bill committee, together with the one additional change explained above, on 18 July 2024.⁵⁸ The government also published updated [explanatory notes](#), a [delegated powers memorandum](#), a [human rights memorandum](#), an [impact assessment](#) and a [bill factsheet](#) the following day.⁵⁹ The bill is sponsored by Lord Ponsonby, who replaced Lord Bellamy as a parliamentary under secretary of state at the Ministry of Justice following the general election.

Reacting to the bill having been included in the government’s programme for the 2024–25 parliamentary session, Professor Sarah Green, commercial and common law commissioner at the Law Commission, said:

We are delighted that the government has reintroduced the Arbitration Bill, implementing the Law Commission’s recommendations. Our proposed changes to the Arbitration Act 1996, which we have put together in close consultation with stakeholders, will ensure that the legislation continues to promote this jurisdiction as a leading destination for commercial arbitration.⁶⁰

In addition, Chair of the Bar Council Sam Townend KC said:

[...] we are pleased to see the government intends to bring back the Arbitration

⁵⁷ Prime Minister’s Office, [‘The King’s Speech 2024: Background briefing notes’](#), 17 July 2024.

⁵⁸ [HL Hansard, 18 July 2024, col 30.](#)

⁵⁹ Ministry of Justice, [‘Arbitration Bill: Overarching documents’](#), 19 July 2024.

⁶⁰ Law Commission, [‘Arbitration Bill reintroduced to Parliament’](#), 18 July 2024.



Bill. This important reform will help to ensure London maintains its deserved reputation as the foremost centre for international arbitration, supporting our legal profession, and is an important contribution to the country's income from exports. The hard currency and soft power value to the country of the legal services sector, the most liberal and open in the world, and already constituting 10% of the global legal economy, should not be understated.⁶¹

The Chartered Institute of Arbitrators said it was “encouraged to see the reintroduction of the Arbitration Bill as a priority” and that it looked forward to seeing the bill “being enacted as soon as practicable”.⁶²

The House of Lords is expected to consider the bill at second reading on 30 July 2024.

4. Read more

- Ministry of Justice, '[Arbitration Bill: Overarching documents](#)', 19 July 2024
- Law Commission, '[Review of the Arbitration Act 1996](#)', accessed 22 November 2023; '[Review of the Arbitration Act 1996: Final report and bill](#)', 6 September 2023, HC 1787 of session 2022–23; '[Review of the Arbitration Act 1996: Summary of final report](#)', 6 September 2023; and '[Improvements recommended to Arbitration Act 1996 to ensure UK position as international arbitration leader](#)', 6 September 2023
- Linklaters, '[Amendments to the Arbitration Bill proposed by the UK House of Lords Special Public Bill Committee](#)', 10 April 2024; and '[Arbitration Bill doesn't make the wash-up](#)', 28 May 2024
- Maria Ward-Brennan, '[King's Speech: Arbitration Bill seeks to attract legal firms to London. But what is it?](#)', City AM, 17 July 2024
- Michael Cross, '["Oven-ready" Arbitration Bill introduced to Parliament](#)', Law Society Gazette, 19 July 2024
- Pinsent Masons, '[King's Speech: Arbitration Bill back on UK legislative agenda](#)', 22 July 2024

⁶¹ Bar Council, '[Bar Council reaction to the King's Speech](#)', 17 July 2024.

⁶² Chartered Institute of Arbitrators, '[UK Arbitration Bill highlighted in King's Speech](#)', 19 July 2024.

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