Arbitration Act 1996

1996 CHAPTER 23

An Act to restate and improve the law relating to arbitration pursuant to an arbitration agreement; to make other provision relating to arbitration and arbitration awards; and for connected purposes. [17th June 1996]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Extent Information

E1 This Act extends to England, Wales and Northern Ireland; for exceptions see s.108

Modifications etc. (not altering text)

C1 Act modified (11.11.1999) by 1999 c. 31, **s. 8(1)(2)** (with application as mentioned in s. 10(2)(3))

C2 Act excluded (31.1.1997) by 1966 c. 41, **s. 3** (as substituted by 1996 c. 23, s. 107(1), **Sch. 3 para. 24** (with s. 81(2)); S.I. 1996/3146, art. 3 (with transitional provisions in art. 4, **Sch. 2**)
Act excluded (1.8.1998) by 1992 c. 52, **s. 212A(6)** (as inserted (1.8.1998) by 1998 c. 8, **s. 7**; S.I. 1998/1658, art. 2(1), **Sch. 1**
Act excluded (N.I.) (1.3.1999) by S.I. 1998/3162 (N.I. 21), **art. 89(6)**; S.R. 1999/81, **art. 3**
Act excluded (31.3.2002) by The Dairy Produce Quotas Regulations 2002 (S.I. 2002/457), regs. 2, 9(b), 10(1)(b)(4)(b), 11(2), 33(5)(b)(iii), **Sch. 1 para. 34**
Act excluded (31.3.2002) by The Dairy Produce Quotas (Wales) Regulations 2002 (S.I. 2002/897), regs. 2, 9(b), 10(1)(b)(4)(b), 11(2), 33(5)(b)(iii), **Sch. 1 para. 34**

C3 Power to apply conferred (11.9.1996 for certain purposes and otherwise 1.5.1998) by 1996 c. 53, **s. 108(6)**; S.I. 1996/2352, **art. 2(2)**; S. I. 1998/650, **art. 2**

C4 Act applied (E.) (4.7.2002) by Vehicular Access Across Common and Other Land (England) Regulations 2002 (S.I. 2002/1711), regs. 1, **12(3)(b)**

C5 Act applied (W.) (9.2.2004) by The Vehicular Access Across Common and Other Land (Wales) Regulations 2004 (S.I. 2004/248), regs. 1, **12(3)(b)**

C6 Act excluded (31.3.2005) by The Dairy Produce Quotas Regulations 2005 (S.I. 2005/465), regs. 10(2), 11, 12(3), 39(4), **Sch. 1 para. 34**

C7 Act excluded (W.) (31.3.2005) by The Dairy Produce Quotas (Wales) Regulations 2005 (S.I. 2005/537), regs. 10(2), 11, 12(3), 39(4), **Sch. 1 para. 34**

C8 Act applied (W.) (13.1.2006) by The Tir Cynnal (Wales) Regulations 2006 (S.I. 2006/41), **reg. 13(3)**

C9 Act applied (E.W.) (10.11.2008) by The Land Registration Rules 2003 (S.I. 2003/1417), rule 194A(4)(b) (as inserted by The Land Registration (Amendment) Rules 2008 (S.I. 2008/1919), rule 4(1), **Sch. 1 para. 61**)

C10 Act applied (E.W.) (10.11.2008) by The Land Registration Rules 2003 (S.I. 2003/1417), rule 194C(3)(b) (as inserted by The Land Registration (Amendment) Rules 2008 (S.I. 2008/1919), rule 4(1), **Sch. 1 para. 61**)

C11 Act: functions transferred (N.I.) (12.4.2010) by virtue of The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 15(1), **Sch. 17 para. 13** (with arts. 28-31)

PART I

ARBITRATION PURSUANT TO AN ARBITRATION AGREEMENT

Modifications etc. (not altering text)

C12 Pt. 1 excluded (E.W.) (1.11.1996) by 1996 c. 56, s. 336(4), 476(4), 582(4), **Sch. 40**, para. 4 (with s. 1(4))
Pt. 1 excluded (31.1.1997) by 1988 c. 8, **s. 6** (as substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 49**; S.I. 1996/3146, art. 3 (with art. 4, **Sch. 2**))
Pt. 1 excluded (N.I.) (1.3.1999) by S.I. 1998/3162 (N.I. 21), **art. 89(6)**; S.R. 1999/81, **art. 3**

C13 Pt. 1 (ss. 1-84) excluded (E.W.) by 1998 c. 14, **s. 16(9)** (which is in force: at 4.3.1999 for specified purposes by S.I. 1999/528, art. 2(a), **Sch.**; at 5.7.1999 for specified purposes by S.I. 1999/1958, art. 2(1)(b), Sch. 1 (with transitional provisions in **Sch. 12**, and as amended by S.I. 1999/3178, art. 3(20), **Sch. 20**); at 6.9.1999 for specified purposes by S.I. 1999/2422, art. 2(c), Sch. 1 (subject to transitional provisions in **Sch. 14**, and as amended by S.I. 1999/3178, art. 3(20), **Sch. 20**); at 5.10.1999 for specified purposes by S.I. 1999/2739, art. 2, Sch. 1 (subject to transitional provisions in **Sch. 2**); at 18.10.1999 for specified purposes by S.I. 1999/2860, art. 2(c), Sch. 1 (subject to transitional provisions in **Schs. 16-18**, and as amended by S.I. 1999/3178, art. 3(20), **Sch. 20**); 29.11.1999 for specified purposes by S.I. 1999/3178, art. 2(1), Sch. 1 (subject to transitional provisions in s. 5 and **Schs. 21-23**)

C14 Pt. 1 (ss. 1-84) excluded by S.I. 1998/1506 (N.I. 10), **art. 16(9)** (which is in force: at 10.3.1999 for specified purposes by S.R. 1999/102, art. 2(a), **Sch. Pt. 1**; at 5.7.1999 for specified purposes by S.R. 1999/310, art. 2(1)(b), **Sch. 1**; at 6.9.1999 for specified purposes by S.R. 1999/371, art. 2(b), **Sch. 1**; at 5.10.1999 for specified purposes by S.R. 1999/407, art. 2(b), **Sch.**; at 18.10.1999 for specified purposes by S.R. 1999/428, art. 2(b), **Sch. 1**; at 29.11.1999 for specified purposes by S.R. 1999/472, art. 2(1), **Sch. 1**)

C15 Pt. 1 excluded (E.W.) (1.9.2000) by 1999 c. 14, **s. 9(4)**; S.I. 2000/2337, **art. 2(1)(e)**
Pt. 1 excluded (prosp.) by 1999 c. 14, **ss. 9(4)**, 14(2)
Pt. 1 excluded (N.I.) (22.11.2000 for specified purposes and otherwise 2.7.2001) by 2000 c. 4, ss. 59, 68, **Sch. 7 para. 10** (with s. 66(6)); S.R. 2000/358, art. 2, **Sch. Pt. 2**; S.R. 2001/141, art 2(1)(c), **Sch.**
Pt. 1 excluded (E.W.) (2.7.2001) by 2000 c. 19, s. 68, **Sch. 7 para. 10(8)** (with s. 83(6)); S.I. 2001/1252, **art. 2(2)(a)(i)**

C16 Pt. 1: specified provisions applied (with modifications) (N.I.) (28.4.2002) by Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2002 (S.R. 2002/120), **art. 3**, Sch.

C17 Pt. 1 excluded (22.2.2005 for specified purposes and otherwise 6.4.2005) by Pensions Appeal Tribunals Act 1943 (c. 39), **s. 6D(8)** (as inserted by Armed Forces (Pensions and Compensation) Act 2004 (c. 32), ss. 5, 8, **Sch. 1 para. 4**); S.I. 2005/356, art. 2, {Sch. 1, 2}

C18 Pt. 1 excluded (N.I.) (1.3.2005 for specified purposes and otherwise 1.4.2005) by Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)), **art. 44(4)**; S.R. 2005/44, **arts. 2**, **3**, Schs. 1, 2 (subject to arts. 4-13)

C19 Pt. 1 excluded (N.I.) (1.9.2005) by The Special Educational Needs and Disability (Northern Ireland) Order 2005 (S.I. 2005/1117 (N.I. 6)), **art. 23(5)** (with arts. 46, 47); S.R. 2005/336, **art. 2**, Sch.

C20 Pt. 1 excluded (N.I.) (1.9.2005) by The Education (Northern Ireland) Order 1996 (S.I. 1996/274 (N.I. 1)), art. 23(4) (as substituted by The Special Educational Needs and Disability (Northern Ireland) Order 2005 (S.I. 2005/1117 (N.I. 6)), **Sch. 5 para. 7(4)**; S.R. 2005/336, **art. 2**, Sch.)

C21 Pt. 1: power to exclude or restrict conferred (19.9.2007) by virtue of Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 22, 148, **Sch. 5 para. 14**; S.I. 2007/2709, **art. 2(i)**

C22 Pt. 1 excluded (3.11.2008) by The Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008 (S.I. 2008/2685), **rule 3(2)**

C23 Pt. 1 excluded (3.11.2008) by The Tribunal Procedure (First-tier Tribunal) (War Pensions and Armed Forces Compensation Chamber) Rules 2008 (S.I. 2008/2686), **rule 3(2)**

C24 Pt. 1 excluded (3.11.2008) by The Tribunal Procedure (Upper Tribunal) Rules 2008 (S.I. 2008/2698), **rule 3(2)**

C25 Pt. 1 excluded (3.11.2008) by The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008 (S.I. 2008/2699), **rule 3(2)**

C26 Pt. 1 excluded (1.4.2009) by The Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 (S.I. 2009/273), **rule 3(2)**

C27 Pt. 1 excluded (1.9.2009) by The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (S.I. 2009/1976), **rule 3(2)**

C28 Pt. 1 excluded (4.8.2010 for specified purposes and otherwise 1.10.2010) by Equality Act 2010 (c. 15), ss. 116(3), 216(3), **Sch. 17 para. 6(6)**; S.I. 2010/1736, art. 2, **Sch.**; S.I. 2010/1966, **art. 2**; S.I. 2010/2317, **art. 2(9)(k)(i)** (with art. 15)

C29 Pt. 1 excluded (1.7.2013) by The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (S.I. 2013/1169), art. 1(1) **rule 4(2)** (with art. 2)

Introductory

1 General principles.

The provisions of this Part are founded on the following principles, and shall be construed accordingly—

(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) in matters governed by this Part the court should not intervene except as provided by this Part.

2 Scope of application of provisions.

(1) The provisions of this Part apply where the seat of the arbitration is in England and Wales or Northern Ireland.

(2) The following sections apply even if the seat of the arbitration is outside England and Wales or Northern Ireland or no seat has been designated or determined—

(a) sections 9 to 11 (stay of legal proceedings, &c.), and

(b) section 66 (enforcement of arbitral awards).

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Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

(3) The powers conferred by the following sections apply even if the seat of the arbitration is outside England and Wales or Northern Ireland or no seat has been designated or determined—

(a) section 43 (securing the attendance of witnesses), and

(b) section 44 (court powers exercisable in support of arbitral proceedings);

but the court may refuse to exercise any such power if, in the opinion of the court, the fact that the seat of the arbitration is outside England and Wales or Northern Ireland, or that when designated or determined the seat is likely to be outside England and Wales or Northern Ireland, makes it inappropriate to do so.

(4) The court may exercise a power conferred by any provision of this Part not mentioned in subsection (2) or (3) for the purpose of supporting the arbitral process where—

(a) no seat of the arbitration has been designated or determined, and

(b) by reason of a connection with England and Wales or Northern Ireland the court is satisfied that it is appropriate to do so.

(5) Section 7 (separability of arbitration agreement) and section 8 (death of a party) apply where the law applicable to the arbitration agreement is the law of England and Wales or Northern Ireland even if the seat of the arbitration is outside England and Wales or Northern Ireland or has not been designated or determined.

3 The seat of the arbitration.

In this Part "the seat of the arbitration" means the juridical seat of the arbitration designated—

(a) by the parties to the arbitration agreement, or

(b) by any arbitral or other institution or person vested by the parties with powers in that regard, or

(c) by the arbitral tribunal if so authorised by the parties,

or determined, in the absence of any such designation, having regard to the parties' agreement and all the relevant circumstances.

4 Mandatory and non-mandatory provisions.

(1) The mandatory provisions of this Part are listed in Schedule 1 and have effect notwithstanding any agreement to the contrary.

(2) The other provisions of this Part (the "non-mandatory provisions") allow the parties to make their own arrangements by agreement but provide rules which apply in the absence of such agreement.

(3) The parties may make such arrangements by agreeing to the application of institutional rules or providing any other means by which a matter may be decided.

(4) It is immaterial whether or not the law applicable to the parties' agreement is the law of England and Wales or, as the case may be, Northern Ireland.

(5) The choice of a law other than the law of England and Wales or Northern Ireland as the applicable law in respect of a matter provided for by a non-mandatory provision of this Part is equivalent to an agreement making provision about that matter.

For this purpose an applicable law determined in accordance with the parties' agreement, or which is objectively determined in the absence of any express or implied choice, shall be treated as chosen by the parties.

5 Agreements to be in writing.

(1) The provisions of this Part apply only where the arbitration agreement is in writing, and any other agreement between the parties as to any matter is effective for the purposes of this Part only if in writing.

The expressions "agreement", "agree" and "agreed" shall be construed accordingly.

(2) There is an agreement in writing—
- (a) if the agreement is made in writing (whether or not it is signed by the parties),
- (b) if the agreement is made by exchange of communications in writing, or
- (c) if the agreement is evidenced in writing.

(3) Where parties agree otherwise than in writing by reference to terms which are in writing, they make an agreement in writing.

(4) An agreement is evidenced in writing if an agreement made otherwise than in writing is recorded by one of the parties, or by a third party, with the authority of the parties to the agreement.

(5) An exchange of written submissions in arbitral or legal proceedings in which the existence of an agreement otherwise than in writing is alleged by one party against another party and not denied by the other party in his response constitutes as between those parties an agreement in writing to the effect alleged.

(6) References in this Part to anything being written or in writing include its being recorded by any means.

The arbitration agreement

6 Definition of arbitration agreement.

(1) In this Part an "arbitration agreement" means an agreement to submit to arbitration present or future disputes (whether they are contractual or not).

(2) The reference in an agreement to a written form of arbitration clause or to a document containing an arbitration clause constitutes an arbitration agreement if the reference is such as to make that clause part of the agreement.

7 Separability of arbitration agreement.

Unless otherwise agreed by the parties, an arbitration agreement which forms or was intended to form part of another agreement (whether or not in writing) shall not be regarded as invalid, non-existent or ineffective because that other agreement is invalid, or did not come into existence or has become ineffective, and it shall for that purpose be treated as a distinct agreement.

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8 Whether agreement discharged by death of a party.

(1) Unless otherwise agreed by the parties, an arbitration agreement is not discharged by the death of a party and may be enforced by or against the personal representatives of that party.

(2) Subsection (1) does not affect the operation of any enactment or rule of law by virtue of which a substantive right or obligation is extinguished by death.

Stay of legal proceedings

9 Stay of legal proceedings.

(1) A party to an arbitration agreement against whom legal proceedings are brought (whether by way of claim or counterclaim) in respect of a matter which under the agreement is to be referred to arbitration may (upon notice to the other parties to the proceedings) apply to the court in which the proceedings have been brought to stay the proceedings so far as they concern that matter.

(2) An application may be made notwithstanding that the matter is to be referred to arbitration only after the exhaustion of other dispute resolution procedures.

(3) An application may not be made by a person before taking the appropriate procedural step (if any) to acknowledge the legal proceedings against him or after he has taken any step in those proceedings to answer the substantive claim.

(4) On an application under this section the court shall grant a stay unless satisfied that the arbitration agreement is null and void, inoperative, or incapable of being performed.

(5) If the court refuses to stay the legal proceedings, any provision that an award is a condition precedent to the bringing of legal proceedings in respect of any matter is of no effect in relation to those proceedings.

10 Reference of interpleader issue to arbitration.

(1) Where in legal proceedings relief by way of interpleader is granted and any issue between the claimants is one in respect of which there is an arbitration agreement between them, the court granting the relief shall direct that the issue be determined in accordance with the agreement unless the circumstances are such that proceedings brought by a claimant in respect of the matter would not be stayed.

(2) Where subsection (1) applies but the court does not direct that the issue be determined in accordance with the arbitration agreement, any provision that an award is a condition precedent to the bringing of legal proceedings in respect of any matter shall not affect the determination of that issue by the court.

11 Retention of security where Admiralty proceedings stayed.

(1) Where Admiralty proceedings are stayed on the ground that the dispute in question should be submitted to arbitration, the court granting the stay may, if in those proceedings property has been arrested or bail or other security has been given to prevent or obtain release from arrest—

(a) order that the property arrested be retained as security for the satisfaction of any award given in the arbitration in respect of that dispute, or

(b) order that the stay of those proceedings be conditional on the provision of equivalent security for the satisfaction of any such award.

(2) Subject to any provision made by rules of court and to any necessary modifications, the same law and practice shall apply in relation to property retained in pursuance of an order as would apply if it were held for the purposes of proceedings in the court making the order.

Commencement of arbitral proceedings

12 Power of court to extend time for beginning arbitral proceedings, &c.

(1) Where an arbitration agreement to refer future disputes to arbitration provides that a claim shall be barred, or the claimant's right extinguished, unless the claimant takes within a time fixed by the agreement some step—

(a) to begin arbitral proceedings, or

(b) to begin other dispute resolution procedures which must be exhausted before arbitral proceedings can be begun,

the court may by order extend the time for taking that step.

(2) Any party to the arbitration agreement may apply for such an order (upon notice to the other parties), but only after a claim has arisen and after exhausting any available arbitral process for obtaining an extension of time.

(3) The court shall make an order only if satisfied—

(a) that the circumstances are such as were outside the reasonable contemplation of the parties when they agreed the provision in question, and that it would be just to extend the time, or

(b) that the conduct of one party makes it unjust to hold the other party to the strict terms of the provision in question.

(4) The court may extend the time for such period and on such terms as it thinks fit, and may do so whether or not the time previously fixed (by agreement or by a previous order) has expired.

(5) An order under this section does not affect the operation of the Limitation Acts (see section 13).

(6) The leave of the court is required for any appeal from a decision of the court under this section.

13 Application of Limitation Acts.

(1) The Limitation Acts apply to arbitral proceedings as they apply to legal proceedings.

(2) The court may order that in computing the time prescribed by the Limitation Acts for the commencement of proceedings (including arbitral proceedings) in respect of a dispute which was the subject matter—

(a) of an award which the court orders to be set aside or declares to be of no effect, or

(b) of the affected part of an award which the court orders to be set aside in part, or declares to be in part of no effect,

the period between the commencement of the arbitration and the date of the order referred to in paragraph (a) or (b) shall be excluded.

(3) In determining for the purposes of the Limitation Acts when a cause of action accrued, any provision that an award is a condition precedent to the bringing of legal proceedings in respect of a matter to which an arbitration agreement applies shall be disregarded.

(4) In this Part "the Limitation Acts" means—

(a) in England and Wales, the [M1]Limitation Act 1980, the [M2]Foreign Limitation Periods Act 1984 and any other enactment (whenever passed) relating to the limitation of actions;

(b) in Northern Ireland, the [M3]Limitation (Northern Ireland) Order 1989, the [M4]Foreign Limitation Periods (Northern Ireland) Order 1985 and any other enactment (whenever passed) relating to the limitation of actions.

Marginal Citations

M1 1980 c. 58.
M2 1984 c. 16.
M3 S.I. 1989/1339 (N.I. 11).
M4 S.I. 1985/754 (N.I. 5).

14 Commencement of arbitral proceedings.

(1) The parties are free to agree when arbitral proceedings are to be regarded as commenced for the purposes of this Part and for the purposes of the Limitation Acts.

(2) If there is no such agreement the following provisions apply.

(3) Where the arbitrator is named or designated in the arbitration agreement, arbitral proceedings are commenced in respect of a matter when one party serves on the other party or parties a notice in writing requiring him or them to submit that matter to the person so named or designated.

(4) Where the arbitrator or arbitrators are to be appointed by the parties, arbitral proceedings are commenced in respect of a matter when one party serves on the other party or parties notice in writing requiring him or them to appoint an arbitrator or to agree to the appointment of an arbitrator in respect of that matter.

(5) Where the arbitrator or arbitrators are to be appointed by a person other than a party to the proceedings, arbitral proceedings are commenced in respect of a matter when one party gives notice in writing to that person requesting him to make the appointment in respect of that matter.

Modifications etc. (not altering text)

C30 S. 14 applied (31.1.1997) by 1894 c. 60, **s. 496(5)** (as inserted by 1996 c. 23, s. 107(1), **Sch. 3 para. 1**) (with s. 81(2)); S.I. 1996/3146, **art. 3** (with art. 4, Sch. 2)

The arbitral tribunal

15 The arbitral tribunal.

(1) The parties are free to agree on the number of arbitrators to form the tribunal and whether there is to be a chairman or umpire.

(2) Unless otherwise agreed by the parties, an agreement that the number of arbitrators shall be two or any other even number shall be understood as requiring the appointment of an additional arbitrator as chairman of the tribunal.

(3) If there is no agreement as to the number of arbitrators, the tribunal shall consist of a sole arbitrator.

16 Procedure for appointment of arbitrators.

(1) The parties are free to agree on the procedure for appointing the arbitrator or arbitrators, including the procedure for appointing any chairman or umpire.

(2) If or to the extent that there is no such agreement, the following provisions apply.

(3) If the tribunal is to consist of a sole arbitrator, the parties shall jointly appoint the arbitrator not later than 28 days after service of a request in writing by either party to do so.

(4) If the tribunal is to consist of two arbitrators, each party shall appoint one arbitrator not later than 14 days after service of a request in writing by either party to do so.

(5) If the tribunal is to consist of three arbitrators—
   (a) each party shall appoint one arbitrator not later than 14 days after service of a request in writing by either party to do so, and
   (b) the two so appointed shall forthwith appoint a third arbitrator as the chairman of the tribunal.

(6) If the tribunal is to consist of two arbitrators and an umpire—
   (a) each party shall appoint one arbitrator not later than 14 days after service of a request in writing by either party to do so, and
   (b) the two so appointed may appoint an umpire at any time after they themselves are appointed and shall do so before any substantive hearing or forthwith if they cannot agree on a matter relating to the arbitration.

(7) In any other case (in particular, if there are more than two parties) section 18 applies as in the case of a failure of the agreed appointment procedure.

17 Power in case of default to appoint sole arbitrator.

(1) Unless the parties otherwise agree, where each of two parties to an arbitration agreement is to appoint an arbitrator and one party ("the party in default") refuses to do so, or fails to do so within the time specified, the other party, having duly appointed his arbitrator, may give notice in writing to the party in default that he proposes to appoint his arbitrator to act as sole arbitrator.

(2) If the party in default does not within 7 clear days of that notice being given—
   (a) make the required appointment, and

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(b) notify the other party that he has done so,

the other party may appoint his arbitrator as sole arbitrator whose award shall be binding on both parties as if he had been so appointed by agreement.

(3) Where a sole arbitrator has been appointed under subsection (2), the party in default may (upon notice to the appointing party) apply to the court which may set aside the appointment.

(4) The leave of the court is required for any appeal from a decision of the court under this section.

18 Failure of appointment procedure.

(1) The parties are free to agree what is to happen in the event of a failure of the procedure for the appointment of the arbitral tribunal.

There is no failure if an appointment is duly made under section 17 (power in case of default to appoint sole arbitrator), unless that appointment is set aside.

(2) If or to the extent that there is no such agreement any party to the arbitration agreement may (upon notice to the other parties) apply to the court to exercise its powers under this section.

(3) Those powers are—

(a) to give directions as to the making of any necessary appointments;

(b) to direct that the tribunal shall be constituted by such appointments (or any one or more of them) as have been made;

(c) to revoke any appointments already made;

(d) to make any necessary appointments itself.

(4) An appointment made by the court under this section has effect as if made with the agreement of the parties.

(5) The leave of the court is required for any appeal from a decision of the court under this section.

19 Court to have regard to agreed qualifications.

In deciding whether to exercise, and in considering how to exercise, any of its powers under section 16 (procedure for appointment of arbitrators) or section 18 (failure of appointment procedure), the court shall have due regard to any agreement of the parties as to the qualifications required of the arbitrators.

20 Chairman.

(1) Where the parties have agreed that there is to be a chairman, they are free to agree what the functions of the chairman are to be in relation to the making of decisions, orders and awards.

(2) If or to the extent that there is no such agreement, the following provisions apply.

(3) Decisions, orders and awards shall be made by all or a majority of the arbitrators (including the chairman).

(4) The view of the chairman shall prevail in relation to a decision, order or award in respect of which there is neither unanimity nor a majority under subsection (3).

21 Umpire.

(1) Where the parties have agreed that there is to be an umpire, they are free to agree what the functions of the umpire are to be, and in particular—
   (a) whether he is to attend the proceedings, and
   (b) when he is to replace the other arbitrators as the tribunal with power to make decisions, orders and awards.

(2) If or to the extent that there is no such agreement, the following provisions apply.

(3) The umpire shall attend the proceedings and be supplied with the same documents and other materials as are supplied to the other arbitrators.

(4) Decisions, orders and awards shall be made by the other arbitrators unless and until they cannot agree on a matter relating to the arbitration.

   In that event they shall forthwith give notice in writing to the parties and the umpire, whereupon the umpire shall replace them as the tribunal with power to make decisions, orders and awards as if he were sole arbitrator.

(5) If the arbitrators cannot agree but fail to give notice of that fact, or if any of them fails to join in the giving of notice, any party to the arbitral proceedings may (upon notice to the other parties and to the tribunal) apply to the court which may order that the umpire shall replace the other arbitrators as the tribunal with power to make decisions, orders and awards as if he were sole arbitrator.

(6) The leave of the court is required for any appeal from a decision of the court under this section.

22 Decision-making where no chairman or umpire.

(1) Where the parties agree that there shall be two or more arbitrators with no chairman or umpire, the parties are free to agree how the tribunal is to make decisions, orders and awards.

(2) If there is no such agreement, decisions, orders and awards shall be made by all or a majority of the arbitrators.

23 Revocation of arbitrator's authority.

(1) The parties are free to agree in what circumstances the authority of an arbitrator may be revoked.

(2) If or to the extent that there is no such agreement the following provisions apply.

(3) The authority of an arbitrator may not be revoked except—
   (a) by the parties acting jointly, or
   (b) by an arbitral or other institution or person vested by the parties with powers in that regard.

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(4) Revocation of the authority of an arbitrator by the parties acting jointly must be agreed in writing unless the parties also agree (whether or not in writing) to terminate the arbitration agreement.

(5) Nothing in this section affects the power of the court—

(a) to revoke an appointment under section 18 (powers exercisable in case of failure of appointment procedure), or

(b) to remove an arbitrator on the grounds specified in section 24.

24 Power of court to remove arbitrator.

(1) A party to arbitral proceedings may (upon notice to the other parties, to the arbitrator concerned and to any other arbitrator) apply to the court to remove an arbitrator on any of the following grounds—

(a) that circumstances exist that give rise to justifiable doubts as to his impartiality;

(b) that he does not possess the qualifications required by the arbitration agreement;

(c) that he is physically or mentally incapable of conducting the proceedings or there are justifiable doubts as to his capacity to do so;

(d) that he has refused or failed—

(i) properly to conduct the proceedings, or

(ii) to use all reasonable despatch in conducting the proceedings or making an award,

and that substantial injustice has been or will be caused to the applicant.

(2) If there is an arbitral or other institution or person vested by the parties with power to remove an arbitrator, the court shall not exercise its power of removal unless satisfied that the applicant has first exhausted any available recourse to that institution or person.

(3) The arbitral tribunal may continue the arbitral proceedings and make an award while an application to the court under this section is pending.

(4) Where the court removes an arbitrator, it may make such order as it thinks fit with respect to his entitlement (if any) to fees or expenses, or the repayment of any fees or expenses already paid.

(5) The arbitrator concerned is entitled to appear and be heard by the court before it makes any order under this section.

(6) The leave of the court is required for any appeal from a decision of the court under this section.

Modifications etc. (not altering text)

C31 S. 24(1)(a)(c)(2)(3)(5)(6) applied (with modifications) (E.W.) (21.5.2001) by S.I. 2001/1185, arts. 2, 3, **Sch. para. 43(1)** (which amending S.I. was revoked (6.4.2004) by S.I. 2004/753, **art. 3** (subject to art. 8))

C32 S. 24(1)(a)(c)(2)(3)(5)(6) applied (with modifications) (E.W.) (6.4.2003) by The ACAS (Flexible Working) Arbitration Scheme (England and Wales) Order 2003 (S.I. 2003/694), art. 2, **Sch. para. 43** (which amending S.I. was revoked (1.10.2004) by S.I. 2004/2333, art. 3 (subject to art. 6))

C33 S. 24(1)(a)(c)(2)(3)(5)(6) applied (with modifications) (E.W.) (6.4.2004) by The ACAS Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/753), art. 1, **Sch. para. 52EW**

C34 S. 24(1)(a)(c)(2)(3)(5)(6) applied (with modifications) (E.W.) (1.10.2004) by The ACAS (Flexible Working) Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/2333), art. 4, **Sch. para. 52EW** (with art. 6)

C35 S. 24(1)(a)(c)(2)(3)(5)(6) applied (with modifications) (N.I.) (21.5.2006) by The Labour Relations Agency (Flexible Working) Arbitration Scheme Order (Northern Ireland) 2006 (S.R. 2006/206), arts. 2, 3, **Sch. para. 43**

C36 S. 24(1)(a) applied (with modifications) (N.I.) (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), art. 1, **Sch. para. 40**

C37 S. 24(1)(c) applied (with modifications) (N.I.) (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), art. 1, **Sch. para. 40**

C38 S. 24(2) applied (with modifications) (N.I.) (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), art. 1, **Sch. para. 40**

C39 S. 24(3) applied (with modifications) (N.I.) (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), art. 1, **Sch. para. 40**

C40 S. 24(5) applied (with modifications) (N.I.) (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), art. 1, **Sch. para. 40**

C41 S. 24(6) applied (with modifications) (N.I.) (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), art. 1, **Sch. para. 40**

25 Resignation of arbitrator.

(1) The parties are free to agree with an arbitrator as to the consequences of his resignation as regards—
  (a) his entitlement (if any) to fees or expenses, and
  (b) any liability thereby incurred by him.

(2) If or to the extent that there is no such agreement the following provisions apply.

(3) An arbitrator who resigns his appointment may (upon notice to the parties) apply to the court—
  (a) to grant him relief from any liability thereby incurred by him, and
  (b) to make such order as it thinks fit with respect to his entitlement (if any) to fees or expenses or the repayment of any fees or expenses already paid.

(4) If the court is satisfied that in all the circumstances it was reasonable for the arbitrator to resign, it may grant such relief as is mentioned in subsection (3)(a) on such terms as it thinks fit.

(5) The leave of the court is required for any appeal from a decision of the court under this section.

26 Death of arbitrator or person appointing him.

(1) The authority of an arbitrator is personal and ceases on his death.

(2) Unless otherwise agreed by the parties, the death of the person by whom an arbitrator was appointed does not revoke the arbitrator's authority.

27 Filling of vacancy, &c.

(1) Where an arbitrator ceases to hold office, the parties are free to agree—

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(a) whether and if so how the vacancy is to be filled,

(b) whether and if so to what extent the previous proceedings should stand, and

(c) what effect (if any) his ceasing to hold office has on any appointment made by him (alone or jointly).

(2) If or to the extent that there is no such agreement, the following provisions apply.

(3) The provisions of sections 16 (procedure for appointment of arbitrators) and 18 (failure of appointment procedure) apply in relation to the filling of the vacancy as in relation to an original appointment.

(4) The tribunal (when reconstituted) shall determine whether and if so to what extent the previous proceedings should stand.

This does not affect any right of a party to challenge those proceedings on any ground which had arisen before the arbitrator ceased to hold office.

(5) His ceasing to hold office does not affect any appointment by him (alone or jointly) of another arbitrator, in particular any appointment of a chairman or umpire.

28 Joint and several liability of parties to arbitrators for fees and expenses.

(1) The parties are jointly and severally liable to pay to the arbitrators such reasonable fees and expenses (if any) as are appropriate in the circumstances.

(2) Any party may apply to the court (upon notice to the other parties and to the arbitrators) which may order that the amount of the arbitrators' fees and expenses shall be considered and adjusted by such means and upon such terms as it may direct.

(3) If the application is made after any amount has been paid to the arbitrators by way of fees or expenses, the court may order the repayment of such amount (if any) as is shown to be excessive, but shall not do so unless it is shown that it is reasonable in the circumstances to order repayment.

(4) The above provisions have effect subject to any order of the court under section 24(4) or 25(3)(b) (order as to entitlement to fees or expenses in case of removal or resignation of arbitrator).

(5) Nothing in this section affects any liability of a party to any other party to pay all or any of the costs of the arbitration (see sections 59 to 65) or any contractual right of an arbitrator to payment of his fees and expenses.

(6) In this section references to arbitrators include an arbitrator who has ceased to act and an umpire who has not replaced the other arbitrators.

29 Immunity of arbitrator.

(1) An arbitrator is not liable for anything done or omitted in the discharge or purported discharge of his functions as arbitrator unless the act or omission is shown to have been in bad faith.

(2) Subsection (1) applies to an employee or agent of an arbitrator as it applies to the arbitrator himself.

(3) This section does not affect any liability incurred by an arbitrator by reason of his resigning (but see section 25).

Jurisdiction of the arbitral tribunal

30 Competence of tribunal to rule on its own jurisdiction.

(1) Unless otherwise agreed by the parties, the arbitral tribunal may rule on its own substantive jurisdiction, that is, as to—
  (a) whether there is a valid arbitration agreement,
  (b) whether the tribunal is properly constituted, and
  (c) what matters have been submitted to arbitration in accordance with the arbitration agreement.

(2) Any such ruling may be challenged by any available arbitral process of appeal or review or in accordance with the provisions of this Part.

31 Objection to substantive jurisdiction of tribunal.

(1) An objection that the arbitral tribunal lacks substantive jurisdiction at the outset of the proceedings must be raised by a party not later than the time he takes the first step in the proceedings to contest the merits of any matter in relation to which he challenges the tribunal's jurisdiction.

A party is not precluded from raising such an objection by the fact that he has appointed or participated in the appointment of an arbitrator.

(2) Any objection during the course of the arbitral proceedings that the arbitral tribunal is exceeding its substantive jurisdiction must be made as soon as possible after the matter alleged to be beyond its jurisdiction is raised.

(3) The arbitral tribunal may admit an objection later than the time specified in subsection (1) or (2) if it considers the delay justified.

(4) Where an objection is duly taken to the tribunal's substantive jurisdiction and the tribunal has power to rule on its own jurisdiction, it may—
  (a) rule on the matter in an award as to jurisdiction, or
  (b) deal with the objection in its award on the merits.

If the parties agree which of these courses the tribunal should take, the tribunal shall proceed accordingly.

(5) The tribunal may in any case, and shall if the parties so agree, stay proceedings whilst an application is made to the court under section 32 (determination of preliminary point of jurisdiction).

32 Determination of preliminary point of jurisdiction.

(1) The court may, on the application of a party to arbitral proceedings (upon notice to the other parties), determine any question as to the substantive jurisdiction of the tribunal.

A party may lose the right to object (see section 73).

(2) An application under this section shall not be considered unless—
  (a) it is made with the agreement in writing of all the other parties to the proceedings, or
  (b) it is made with the permission of the tribunal and the court is satisfied—

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(i) that the determination of the question is likely to produce substantial savings in costs,

(ii) that the application was made without delay, and

(iii) that there is good reason why the matter should be decided by the court.

(3) An application under this section, unless made with the agreement of all the other parties to the proceedings, shall state the grounds on which it is said that the matter should be decided by the court.

(4) Unless otherwise agreed by the parties, the arbitral tribunal may continue the arbitral proceedings and make an award while an application to the court under this section is pending.

(5) Unless the court gives leave, no appeal lies from a decision of the court whether the conditions specified in subsection (2) are met.

(6) The decision of the court on the question of jurisdiction shall be treated as a judgment of the court for the purposes of an appeal.

But no appeal lies without the leave of the court which shall not be given unless the court considers that the question involves a point of law which is one of general importance or is one which for some other special reason should be considered by the Court of Appeal.

The arbitral proceedings

33 General duty of the tribunal.

(1) The tribunal shall—

(a) act fairly and impartially as between the parties, giving each party a reasonable opportunity of putting his case and dealing with that of his opponent, and

(b) adopt procedures suitable to the circumstances of the particular case, avoiding unnecessary delay or expense, so as to provide a fair means for the resolution of the matters falling to be determined.

(2) The tribunal shall comply with that general duty in conducting the arbitral proceedings, in its decisions on matters of procedure and evidence and in the exercise of all other powers conferred on it.

34 Procedural and evidential matters.

(1) It shall be for the tribunal to decide all procedural and evidential matters, subject to the right of the parties to agree any matter.

(2) Procedural and evidential matters include—

(a) when and where any part of the proceedings is to be held;

(b) the language or languages to be used in the proceedings and whether translations of any relevant documents are to be supplied;

(c) whether any and if so what form of written statements of claim and defence are to be used, when these should be supplied and the extent to which such statements can be later amended;

(d) whether any and if so which documents or classes of documents should be disclosed between and produced by the parties and at what stage;

(e) whether any and if so what questions should be put to and answered by the respective parties and when and in what form this should be done;

(f) whether to apply strict rules of evidence (or any other rules) as to the admissibility, relevance or weight of any material (oral, written or other) sought to be tendered on any matters of fact or opinion, and the time, manner and form in which such material should be exchanged and presented;

(g) whether and to what extent the tribunal should itself take the initiative in ascertaining the facts and the law;

(h) whether and to what extent there should be oral or written evidence or submissions.

(3) The tribunal may fix the time within which any directions given by it are to be complied with, and may if it thinks fit extend the time so fixed (whether or not it has expired).

35 Consolidation of proceedings and concurrent hearings.

(1) The parties are free to agree—

(a) that the arbitral proceedings shall be consolidated with other arbitral proceedings, or

(b) that concurrent hearings shall be held,

on such terms as may be agreed.

(2) Unless the parties agree to confer such power on the tribunal, the tribunal has no power to order consolidation of proceedings or concurrent hearings.

36 Legal or other representation.

Unless otherwise agreed by the parties, a party to arbitral proceedings may be represented in the proceedings by a lawyer or other person chosen by him.

Modifications etc. (not altering text)

C42 Power to apply conferred (31.1.1997) by 1966 c. 41, **s. 3** (as substituted by 1996 c. 23, s. 107(1), **Sch. 3 para. 24**) (with s. 81(2)); S.I. 1996/3146, **art. 3**

C43 Power to apply conferred (31.1.1997) by 1988 c. 8, **s. 6(1)**(as substituted by 1996 c. 23, s. 107(1), **Sch. 3 para. 49**) (with s. 81(2)); S.I. 1996/3146, **art. 3** (with art. 4, Sch. 2)

37 Power to appoint experts, legal advisers or assessors.

(1) Unless otherwise agreed by the parties—

(a) the tribunal may—

(i) appoint experts or legal advisers to report to it and the parties, or

(ii) appoint assessors to assist it on technical matters,

and may allow any such expert, legal adviser or assessor to attend the proceedings; and

(b) the parties shall be given a reasonable opportunity to comment on any information, opinion or advice offered by any such person.

(2) The fees and expenses of an expert, legal adviser or assessor appointed by the tribunal for which the arbitrators are liable are expenses of the arbitrators for the purposes of this Part.

38 General powers exercisable by the tribunal.

(1) The parties are free to agree on the powers exercisable by the arbitral tribunal for the purposes of and in relation to the proceedings.

(2) Unless otherwise agreed by the parties the tribunal has the following powers.

(3) The tribunal may order a claimant to provide security for the costs of the arbitration.

This power shall not be exercised on the ground that the claimant is—

(a) an individual ordinarily resident outside the United Kingdom, or

(b) a corporation or association incorporated or formed under the law of a country outside the United Kingdom, or whose central management and control is exercised outside the United Kingdom.

(4) The tribunal may give directions in relation to any property which is the subject of the proceedings or as to which any question arises in the proceedings, and which is owned by or is in the possession of a party to the proceedings—

(a) for the inspection, photographing, preservation, custody or detention of the property by the tribunal, an expert or a party, or

(b) ordering that samples be taken from, or any observation be made of or experiment conducted upon, the property.

(5) The tribunal may direct that a party or witness shall be examined on oath or affirmation, and may for that purpose administer any necessary oath or take any necessary affirmation.

(6) The tribunal may give directions to a party for the preservation for the purposes of the proceedings of any evidence in his custody or control.

Modifications etc. (not altering text)

C44 Power to apply conferred (31.1.1997) by 1966 c. 41, **s. 3** (as substituted by 1996 c. 23, s. 107(1), **Sch. 3 para. 24**) (with s. 81(2)); S.I. 1996/3146, **art. 3** (with art. 4, Sch. 2)

C45 Power to apply conferred (31.1.1997) by 1988 c. 8, **s. 6(1)** (as substituted by 1996 c. 23, s. 107(1), **Sch. 3 para. 49** (with S. 81(2)); S.I. 1996/3146, art. 3 (with art. 4, **Sch. 2**)

39 Power to make provisional awards.

(1) The parties are free to agree that the tribunal shall have power to order on a provisional basis any relief which it would have power to grant in a final award.

(2) This includes, for instance, making—

(a) a provisional order for the payment of money or the disposition of property as between the parties, or

(b) an order to make an interim payment on account of the costs of the arbitration.

(3) Any such order shall be subject to the tribunal's final adjudication; and the tribunal's final award, on the merits or as to costs, shall take account of any such order.

(4) Unless the parties agree to confer such power on the tribunal, the tribunal has no such power.

This does not affect its powers under section 47 (awards on different issues, &c.).

Modifications etc. (not altering text)

C46 Power to apply conferred (31.1.1997) by 1966 c. 41, **s. 3** (as substituted by 1996 c. 23, s. 107(1), **Sch. 3 para. 24**) (with s. 81(2)); S.I. 1996/3146, **art. 3** (with art. 4, Sch. 2)

C47 Power to apply conferred (31.1.1997) by 1988 c. 8, **s. 6(1)** (as substituted by 1996 c. 23, s. 107(1), **Sch. 3 para. 49** (with s. 81(2)); S.I. 1996/3146, art. 3 (with art. 4, **Sch. 2**)

40 General duty of parties.

(1) The parties shall do all things necessary for the proper and expeditious conduct of the arbitral proceedings.

(2) This includes—

(a) complying without delay with any determination of the tribunal as to procedural or evidential matters, or with any order or directions of the tribunal, and

(b) where appropriate, taking without delay any necessary steps to obtain a decision of the court on a preliminary question of jurisdiction or law (see sections 32 and 45).

Modifications etc. (not altering text)

C48 Power to apply conferred (31.1.1997) by 1966 c. 41, **s. 3** (as substituted by 1996 c. 23, s. 107(1), **Sch. 3**, para. 24) (with s. 81(2)); S. I. 1996/3146, **art. 3** (with art. 4, Sch. 2)

C49 Power to apply conferred (31.1.1997) by 1988 c. 8, **s. 6(1)** (as substituted by 1996 c. 23, s. 107(1), **Sch. 3 para. 49**) (with s. 81(2)); S.I. 1996/3146, **art. 3** (with art. 4, Sch. 2)

41 Powers of tribunal in case of party's default.

(1) The parties are free to agree on the powers of the tribunal in case of a party's failure to do something necessary for the proper and expeditious conduct of the arbitration.

(2) Unless otherwise agreed by the parties, the following provisions apply.

(3) If the tribunal is satisfied that there has been inordinate and inexcusable delay on the part of the claimant in pursuing his claim and that the delay—

(a) gives rise, or is likely to give rise, to a substantial risk that it is not possible to have a fair resolution of the issues in that claim, or

(b) has caused, or is likely to cause, serious prejudice to the respondent,

the tribunal may make an award dismissing the claim.

(4) If without showing sufficient cause a party—

(a) fails to attend or be represented at an oral hearing of which due notice was given, or

(b) where matters are to be dealt with in writing, fails after due notice to submit written evidence or make written submissions,

the tribunal may continue the proceedings in the absence of that party or, as the case may be, without any written evidence or submissions on his behalf, and may make an award on the basis of the evidence before it.

(5) If without showing sufficient cause a party fails to comply with any order or directions of the tribunal, the tribunal may make a peremptory order to the same effect, prescribing such time for compliance with it as the tribunal considers appropriate.

(6) If a claimant fails to comply with a peremptory order of the tribunal to provide security for costs, the tribunal may make an award dismissing his claim.

(7) If a party fails to comply with any other kind of peremptory order, then, without prejudice to section 42 (enforcement by court of tribunal's peremptory orders), the tribunal may do any of the following—

(a) direct that the party in default shall not be entitled to rely upon any allegation or material which was the subject matter of the order;

(b) draw such adverse inferences from the act of non-compliance as the circumstances justify;

(c) proceed to an award on the basis of such materials as have been properly provided to it;

(d) make such order as it thinks fit as to the payment of costs of the arbitration incurred in consequence of the non-compliance.

Modifications etc. (not altering text)

C50 Power to apply conferred (31.1.1997) by 1966 c. 41, **s. 3** (as substituted by 1996 c. 23, s. 107(1), **Sch. 3**, para. 24) (with s. 81(2)); S. I. 1996/3146, **art. 3** (with art. 4, Sch. 2)

C51 Power to apply conferred (31.1.1997) by 1988 c. 8, **s. 6(1)** (as substituted by 1996 c. 23, s. 107(1), **Sch. 3 para. 49** (with s. 81(2)); S.I. 1996/3146, art. 3 (with art. 4, **Sch. 2**)

Powers of court in relation to arbitral proceedings

42 Enforcement of peremptory orders of tribunal.

(1) Unless otherwise agreed by the parties, the court may make an order requiring a party to comply with a peremptory order made by the tribunal.

(2) An application for an order under this section may be made—

(a) by the tribunal (upon notice to the parties),

(b) by a party to the arbitral proceedings with the permission of the tribunal (and upon notice to the other parties), or

(c) where the parties have agreed that the powers of the court under this section shall be available.

(3) The court shall not act unless it is satisfied that the applicant has exhausted any available arbitral process in respect of failure to comply with the tribunal's order.

(4) No order shall be made under this section unless the court is satisfied that the person to whom the tribunal's order was directed has failed to comply with it within the time prescribed in the order or, if no time was prescribed, within a reasonable time.

(5) The leave of the court is required for any appeal from a decision of the court under this section.

Modifications etc. (not altering text)

C52 Power to apply conferred (31.1.1997) by 1966 c. 41, **s. 3** (as substituted by 1996 c. 23, s. 107(1), **Sch. 3 para. 24**) (with s. 81(2)); S.I. 1996/3146, **art. 3** (with art. 4, Sch. 2)

C53 S. 42 applied (with modifications)(E.W.)(1.5.1998) by S.I. 1998/649, art. 2, **Sch. Pt. 1 para.24**

C54 Power to apply conferred (31.1.1997) by 1988 c. 8, **s. 6(1)**(as substituted by 1996 c. 23, s. 107(1), **Sch. 3 para. 49**) (with s. 81(2)); S.I. 1996/3146, **art. 3** (with art. 4, Sch. 2)

43 Securing the attendance of witnesses.

(1) A party to arbitral proceedings may use the same court procedures as are available in relation to legal proceedings to secure the attendance before the tribunal of a witness in order to give oral testimony or to produce documents or other material evidence.

(2) This may only be done with the permission of the tribunal or the agreement of the other parties.

(3) The court procedures may only be used if—

(a) the witness is in the United Kingdom, and

(b) the arbitral proceedings are being conducted in England and Wales or, as the case may be, Northern Ireland.

(4) A person shall not be compelled by virtue of this section to produce any document or other material evidence which he could not be compelled to produce in legal proceedings.

Modifications etc. (not altering text)

C55 Power to apply conferred (31.1.1997) by 1966 c. 41, **s. 3** (as substituted by 1996 c. 23, s. 107(1), **Sch. 3**, para. 24) (with s. 81(2)); S.I. 1996/3146 art. 3 (with art. 4, Sch. 2)

C56 Power to apply conferred (31.1.1997) by 1988 c. 8, **s. 6(1)** (as substituted by 1996 c. 23, s. 107(1), **Sch. 3 para. 49**) (with s. 81(2)); S.I. 1996/3146, **art. 3** (with art. 4, Sch. 2)

44 Court powers exercisable in support of arbitral proceedings.

(1) Unless otherwise agreed by the parties, the court has for the purposes of and in relation to arbitral proceedings the same power of making orders about the matters listed below as it has for the purposes of and in relation to legal proceedings.

(2) Those matters are—

(a) the taking of the evidence of witnesses;

(b) the preservation of evidence;

(c) making orders relating to property which is the subject of the proceedings or as to which any question arises in the proceedings—

(i) for the inspection, photographing, preservation, custody or detention of the property, or

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(ii) ordering that samples be taken from, or any observation be made of or experiment conducted upon, the property;

and for that purpose authorising any person to enter any premises in the possession or control of a party to the arbitration;

(d) the sale of any goods the subject of the proceedings;

(e) the granting of an interim injunction or the appointment of a receiver.

(3) If the case is one of urgency, the court may, on the application of a party or proposed party to the arbitral proceedings, make such orders as it thinks necessary for the purpose of preserving evidence or assets.

(4) If the case is not one of urgency, the court shall act only on the application of a party to the arbitral proceedings (upon notice to the other parties and to the tribunal) made with the permission of the tribunal or the agreement in writing of the other parties.

(5) In any case the court shall act only if or to the extent that the arbitral tribunal, and any arbitral or other institution or person vested by the parties with power in that regard, has no power or is unable for the time being to act effectively.

(6) If the court so orders, an order made by it under this section shall cease to have effect in whole or in part on the order of the tribunal or of any such arbitral or other institution or person having power to act in relation to the subject-matter of the order.

(7) The leave of the court is required for any appeal from a decision of the court under this section.

Modifications etc. (not altering text)

C57 Power to apply conferred (31.1.1997) by 1966 c. 41, **s. 3** (as substituted by 1996 c. 23, s. 107(1), **Sch. 3 para. 24**) (with s. 81(2)); S.I. 1996/3146, **art. 3** (with art. 4, Sch. 2)

C58 Power to apply conferred (31.1.1997) by 1988 c. 8, **s. 6(1)** (as substituted by 1996 c. 23, **Sch. 3 para. 49**) (with s. 81(2)); S.I. 1996/3146, **art. 3**

45 Determination of preliminary point of law.

(1) Unless otherwise agreed by the parties, the court may on the application of a party to arbitral proceedings (upon notice to the other parties) determine any question of law arising in the course of the proceedings which the court is satisfied substantially affects the rights of one or more of the parties.

An agreement to dispense with reasons for the tribunal's award shall be considered an agreement to exclude the court's jurisdiction under this section.

(2) An application under this section shall not be considered unless—

(a) it is made with the agreement of all the other parties to the proceedings, or

(b) it is made with the permission of the tribunal and the court is satisfied—

(i) that the determination of the question is likely to produce substantial savings in costs, and

(ii) that the application was made without delay.

(3) The application shall identify the question of law to be determined and, unless made with the agreement of all the other parties to the proceedings, shall state the grounds on which it is said that the question should be decided by the court.

(4) Unless otherwise agreed by the parties, the arbitral tribunal may continue the arbitral proceedings and make an award while an application to the court under this section is pending.

(5) Unless the court gives leave, no appeal lies from a decision of the court whether the conditions specified in subsection (2) are met.

(6) The decision of the court on the question of law shall be treated as a judgment of the court for the purposes of an appeal.

But no appeal lies without the leave of the court which shall not be given unless the court considers that the question is one of general importance, or is one which for some other special reason should be considered by the Court of Appeal.

Modifications etc. (not altering text)

C59 S. 45 applied (with modifications) (E.W.) (21.5.2001) by S.I. 2001/1185, arts. 2, 3, **Sch. para. 94(1)** (which amending S.I. was revoked (6.4.2004) by S.I. 2004/753, **art. 3** (subject to art. 8))

C60 S. 45 applied (with modifications) (E.W.) (6.4.2003) by The ACAS (Flexible Working) Arbitration Scheme (England and Wales) Order 2003 (S.I. 2003/694), art. 2, **Sch. para. 93** (which amending S.I. was revoked (1.10.2004) by S.I. 2004/2333, art. 3 (subject to art. 6))

C61 S. 45 applied (with modifications) (E.W.) (6.4.2004) by The ACAS Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/753), art. 1, **Sch. para. 110EW**

C62 S. 45 applied (with modifications) (E.W.) (1.10.2004) by The ACAS (Flexible Working) Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/2333), art. 4, **Sch. para. 108EW** (with art. 6)

C63 S. 45 applied (with modifications) (N.I.) (21.5.2006) by The Labour Relations Agency (Flexible Working) Arbitration Scheme Order (Northern Ireland) 2006 (S.R. 2006/206), arts. 2, 3, **Sch. para. 93**

C64 S. 45 applied (with modifications) (N.I.) (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), art. 1, **Sch. para. 89**

The award

46 Rules applicable to substance of dispute.

(1) The arbitral tribunal shall decide the dispute—

(a) in accordance with the law chosen by the parties as applicable to the substance of the dispute, or

(b) if the parties so agree, in accordance with such other considerations as are agreed by them or determined by the tribunal.

(2) For this purpose the choice of the laws of a country shall be understood to refer to the substantive laws of that country and not its conflict of laws rules.

(3) If or to the extent that there is no such choice or agreement, the tribunal shall apply the law determined by the conflict of laws rules which it considers applicable.

Modifications etc. (not altering text)

C65 S. 46(1)(b) applied (with modifications) (E.W.) (21.5.2001) by S.I. 2001/1185, **art. 4(1)** (which amending S.I. was revoked (6.4.2004) by S.I. 2004/753, **art. 3** (subject to art. 8))
S. 46(1)(b) applied (with modifications) (N.I.) (28.4.2002) by Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2002 (S.R. 2002/120), **art. 4**

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

C66 S. 46(1)(b) applied (with modifications) (E.W.) (6.4.2003) by The ACAS (Flexible Working) Arbitration Scheme (England and Wales) Order 2003 (S.I. 2003/694), **art. 4** (which amending S.I. was revoked (1.10.2004) by S.I. 2004/2333, art. 3 (subject to art. 6))

C67 S. 46(1)(b) applied (with modifications) (E.W.) (6.4.2004) by The ACAS Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/753), **art. 5(1)**

C68 S. 46(1)(b) applied (with modifications) (E.W.) (1.10.2004) by The ACAS (Flexible Working) Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/2333), **art. 5** (with art. 6)

C69 S. 46(1)(b) applied (with modifications) (N.I.) (21.5.2006) by The Labour Relations Agency (Flexible Working) Arbitration Scheme Order (Northern Ireland) 2006 (S.R. 2006/206), **art. 4**

C70 S. 46(1)(b) applied (with modifications) (N.I.) (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), arts. 1, **6**

47 Awards on different issues, &c.

(1) Unless otherwise agreed by the parties, the tribunal may make more than one award at different times on different aspects of the matters to be determined.

(2) The tribunal may, in particular, make an award relating—
- (a) to an issue affecting the whole claim, or
- (b) to a part only of the claims or cross-claims submitted to it for decision.

(3) If the tribunal does so, it shall specify in its award the issue, or the claim or part of a claim, which is the subject matter of the award.

48 Remedies.

(1) The parties are free to agree on the powers exercisable by the arbitral tribunal as regards remedies.

(2) Unless otherwise agreed by the parties, the tribunal has the following powers.

(3) The tribunal may make a declaration as to any matter to be determined in the proceedings.

(4) The tribunal may order the payment of a sum of money, in any currency.

(5) The tribunal has the same powers as the court—
- (a) to order a party to do or refrain from doing anything;
- (b) to order specific performance of a contract (other than a contract relating to land);
- (c) to order the rectification, setting aside or cancellation of a deed or other document.

49 Interest.

(1) The parties are free to agree on the powers of the tribunal as regards the award of interest.

(2) Unless otherwise agreed by the parties the following provisions apply.

(3) The tribunal may award simple or compound interest from such dates, at such rates and with such rests as it considers meets the justice of the case—

(a) on the whole or part of any amount awarded by the tribunal, in respect of any period up to the date of the award;

(b) on the whole or part of any amount claimed in the arbitration and outstanding at the commencement of the arbitral proceedings but paid before the award was made, in respect of any period up to the date of payment.

(4) The tribunal may award simple or compound interest from the date of the award (or any later date) until payment, at such rates and with such rests as it considers meets the justice of the case, on the outstanding amount of any award (including any award of interest under subsection (3) and any award as to costs).

(5) References in this section to an amount awarded by the tribunal include an amount payable in consequence of a declaratory award by the tribunal.

(6) The above provisions do not affect any other power of the tribunal to award interest.

50 Extension of time for making award.

(1) Where the time for making an award is limited by or in pursuance of the arbitration agreement, then, unless otherwise agreed by the parties, the court may in accordance with the following provisions by order extend that time.

(2) An application for an order under this section may be made—

(a) by the tribunal (upon notice to the parties), or

(b) by any party to the proceedings (upon notice to the tribunal and the other parties),

but only after exhausting any available arbitral process for obtaining an extension of time.

(3) The court shall only make an order if satisfied that a substantial injustice would otherwise be done.

(4) The court may extend the time for such period and on such terms as it thinks fit, and may do so whether or not the time previously fixed (by or under the agreement or by a previous order) has expired.

(5) The leave of the court is required for any appeal from a decision of the court under this section.

51 Settlement.

(1) If during arbitral proceedings the parties settle the dispute, the following provisions apply unless otherwise agreed by the parties.

(2) The tribunal shall terminate the substantive proceedings and, if so requested by the parties and not objected to by the tribunal, shall record the settlement in the form of an agreed award.

(3) An agreed award shall state that it is an award of the tribunal and shall have the same status and effect as any other award on the merits of the case.

(4) The following provisions of this Part relating to awards (sections 52 to 58) apply to an agreed award.

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

(5) Unless the parties have also settled the matter of the payment of the costs of the arbitration, the provisions of this Part relating to costs (sections 59 to 65) continue to apply.

52 Form of award.

(1) The parties are free to agree on the form of an award.

(2) If or to the extent that there is no such agreement, the following provisions apply.

(3) The award shall be in writing signed by all the arbitrators or all those assenting to the award.

(4) The award shall contain the reasons for the award unless it is an agreed award or the parties have agreed to dispense with reasons.

(5) The award shall state the seat of the arbitration and the date when the award is made.

53 Place where award treated as made.

Unless otherwise agreed by the parties, where the seat of the arbitration is in England and Wales or Northern Ireland, any award in the proceedings shall be treated as made there, regardless of where it was signed, despatched or delivered to any of the parties.

54 Date of award.

(1) Unless otherwise agreed by the parties, the tribunal may decide what is to be taken to be the date on which the award was made.

(2) In the absence of any such decision, the date of the award shall be taken to be the date on which it is signed by the arbitrator or, where more than one arbitrator signs the award, by the last of them.

55 Notification of award.

(1) The parties are free to agree on the requirements as to notification of the award to the parties.

(2) If there is no such agreement, the award shall be notified to the parties by service on them of copies of the award, which shall be done without delay after the award is made.

(3) Nothing in this section affects section 56 (power to withhold award in case of non-payment).

56 Power to withhold award in case of non-payment.

(1) The tribunal may refuse to deliver an award to the parties except upon full payment of the fees and expenses of the arbitrators.

(2) If the tribunal refuses on that ground to deliver an award, a party to the arbitral proceedings may (upon notice to the other parties and the tribunal) apply to the court, which may order that—

(a) the tribunal shall deliver the award on the payment into court by the applicant of the fees and expenses demanded, or such lesser amount as the court may specify,

(b) the amount of the fees and expenses properly payable shall be determined by such means and upon such terms as the court may direct, and

(c) out of the money paid into court there shall be paid out such fees and expenses as may be found to be properly payable and the balance of the money (if any) shall be paid out to the applicant.

(3) For this purpose the amount of fees and expenses properly payable is the amount the applicant is liable to pay under section 28 or any agreement relating to the payment of the arbitrators.

(4) No application to the court may be made where there is any available arbitral process for appeal or review of the amount of the fees or expenses demanded.

(5) References in this section to arbitrators include an arbitrator who has ceased to act and an umpire who has not replaced the other arbitrators.

(6) The above provisions of this section also apply in relation to any arbitral or other institution or person vested by the parties with powers in relation to the delivery of the tribunal's award.

As they so apply, the references to the fees and expenses of the arbitrators shall be construed as including the fees and expenses of that institution or person.

(7) The leave of the court is required for any appeal from a decision of the court under this section.

(8) Nothing in this section shall be construed as excluding an application under section 28 where payment has been made to the arbitrators in order to obtain the award.

57 Correction of award or additional award.

(1) The parties are free to agree on the powers of the tribunal to correct an award or make an additional award.

(2) If or to the extent there is no such agreement, the following provisions apply.

(3) The tribunal may on its own initiative or on the application of a party—

(a) correct an award so as to remove any clerical mistake or error arising from an accidental slip or omission or clarify or remove any ambiguity in the award, or

(b) make an additional award in respect of any claim (including a claim for interest or costs) which was presented to the tribunal but was not dealt with in the award.

These powers shall not be exercised without first affording the other parties a reasonable opportunity to make representations to the tribunal.

(4) Any application for the exercise of those powers must be made within 28 days of the date of the award or such longer period as the parties may agree.

(5) Any correction of an award shall be made within 28 days of the date the application was received by the tribunal or, where the correction is made by the tribunal on its own initiative, within 28 days of the date of the award or, in either case, such longer period as the parties may agree.

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

(6) Any additional award shall be made within 56 days of the date of the original award or such longer period as the parties may agree.

(7) Any correction of an award shall form part of the award.

58 Effect of award.

(1) Unless otherwise agreed by the parties, an award made by the tribunal pursuant to an arbitration agreement is final and binding both on the parties and on any persons claiming through or under them.

(2) This does not affect the right of a person to challenge the award by any available arbitral process of appeal or review or in accordance with the provisions of this Part.

Costs of the arbitration

59 Costs of the arbitration.

(1) References in this Part to the costs of the arbitration are to—
- (a) the arbitrators' fees and expenses,
- (b) the fees and expenses of any arbitral institution concerned, and
- (c) the legal or other costs of the parties.

(2) Any such reference includes the costs of or incidental to any proceedings to determine the amount of the recoverable costs of the arbitration (see section 63).

60 Agreement to pay costs in any event.

An agreement which has the effect that a party is to pay the whole or part of the costs of the arbitration in any event is only valid if made after the dispute in question has arisen.

61 Award of costs.

(1) The tribunal may make an award allocating the costs of the arbitration as between the parties, subject to any agreement of the parties.

(2) Unless the parties otherwise agree, the tribunal shall award costs on the general principle that costs should follow the event except where it appears to the tribunal that in the circumstances this is not appropriate in relation to the whole or part of the costs.

62 Effect of agreement or award about costs.

Unless the parties otherwise agree, any obligation under an agreement between them as to how the costs of the arbitration are to be borne, or under an award allocating the costs of the arbitration, extends only to such costs as are recoverable.

63 The recoverable costs of the arbitration.

(1) The parties are free to agree what costs of the arbitration are recoverable.

(2) If or to the extent there is no such agreement, the following provisions apply.

(3) The tribunal may determine by award the recoverable costs of the arbitration on such basis as it thinks fit.

If it does so, it shall specify—

(a) the basis on which it has acted, and

(b) the items of recoverable costs and the amount referable to each.

(4) If the tribunal does not determine the recoverable costs of the arbitration, any party to the arbitral proceedings may apply to the court (upon notice to the other parties) which may—

(a) determine the recoverable costs of the arbitration on such basis as it thinks fit, or

(b) order that they shall be determined by such means and upon such terms as it may specify.

(5) Unless the tribunal or the court determines otherwise—

(a) the recoverable costs of the arbitration shall be determined on the basis that there shall be allowed a reasonable amount in respect of all costs reasonably incurred, and

(b) any doubt as to whether costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the paying party.

(6) The above provisions have effect subject to section 64 (recoverable fees and expenses of arbitrators).

(7) Nothing in this section affects any right of the arbitrators, any expert, legal adviser or assessor appointed by the tribunal, or any arbitral institution, to payment of their fees and expenses.

64 Recoverable fees and expenses of arbitrators.

(1) Unless otherwise agreed by the parties, the recoverable costs of the arbitration shall include in respect of the fees and expenses of the arbitrators only such reasonable fees and expenses as are appropriate in the circumstances.

(2) If there is any question as to what reasonable fees and expenses are appropriate in the circumstances, and the matter is not already before the court on an application under section 63(4), the court may on the application of any party (upon notice to the other parties)—

(a) determine the matter, or

(b) order that it be determined by such means and upon such terms as the court may specify.

(3) Subsection (1) has effect subject to any order of the court under section 24(4) or 25(3)(b) (order as to entitlement to fees or expenses in case of removal or resignation of arbitrator).

(4) Nothing in this section affects any right of the arbitrator to payment of his fees and expenses.

65 Power to limit recoverable costs.

(1) Unless otherwise agreed by the parties, the tribunal may direct that the recoverable costs of the arbitration, or of any part of the arbitral proceedings, shall be limited to a specified amount.

(2) Any direction may be made or varied at any stage, but this must be done sufficiently in advance of the incurring of costs to which it relates, or the taking of any steps in the proceedings which may be affected by it, for the limit to be taken into account.

Powers of the court in relation to award

66 Enforcement of the award.

(1) An award made by the tribunal pursuant to an arbitration agreement may, by leave of the court, be enforced in the same manner as a judgment or order of the court to the same effect.

(2) Where leave is so given, judgment may be entered in terms of the award.

(3) Leave to enforce an award shall not be given where, or to the extent that, the person against whom it is sought to be enforced shows that the tribunal lacked substantive jurisdiction to make the award.

The right to raise such an objection may have been lost (see section 73).

(4) Nothing in this section affects the recognition or enforcement of an award under any other enactment or rule of law, in particular under Part II of the [M5]Arbitration Act 1950 (enforcement of awards under Geneva Convention) or the provisions of Part III of this Act relating to the recognition and enforcement of awards under the New York Convention or by an action on the award.

Modifications etc. (not altering text)

C71 S. 66 applied (with modifications) (E.W.) (21.5.2001) by S.I. 2001/1185, **arts. 2**, 3 Sch. para. 159(1) (which amending S.I. was revoked (6.4.2004) by S.I. 2004/753, **art. 3** (subject to art. 8))

C72 S. 66 applied (with modifications) (E.W.) (6.4.2003) by The ACAS (Flexible Working) Arbitration Scheme (England and Wales) Order 2003 (S.I. 2003/694), art. 2, **Sch. para. 111** (which amending S.I. was revoked (1.10.2004) by S.I. 2004/2333, art. 3 (subject to art. 6))

C73 S. 66 applied (with modifications) (E.W.) (6.4.2004) by The ACAS Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/753), art. 1, **Sch. para. 183EW**

C74 S. 66 applied (with modifications) (E.W.) (1.10.2004) by The ACAS (Flexible Working) Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/2333), art. 4, **Sch. para. 135EW** (with art. 6)

C75 S. 66 applied (with modifications) (N.I.) (21.5.2006) by The Labour Relations Agency (Flexible Working) Arbitration Scheme Order (Northern Ireland) 2006 (S.R. 2006/206), arts. 2, 3, **Sch. para. 111**

C76 S. 66 applied (with modifications) (N.I.) (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), art. 1, **Sch. para. 108**

Marginal Citations

M5 1950 c. 27.

67 Challenging the award: substantive jurisdiction.

(1) A party to arbitral proceedings may (upon notice to the other parties and to the tribunal) apply to the court—

(a) challenging any award of the arbitral tribunal as to its substantive jurisdiction; or

(b) for an order declaring an award made by the tribunal on the merits to be of no effect, in whole or in part, because the tribunal did not have substantive jurisdiction.

A party may lose the right to object (see section 73) and the right to apply is subject to the restrictions in section 70(2) and (3).

(2) The arbitral tribunal may continue the arbitral proceedings and make a further award while an application to the court under this section is pending in relation to an award as to jurisdiction.

(3) On an application under this section challenging an award of the arbitral tribunal as to its substantive jurisdiction, the court may by order—

(a) confirm the award,

(b) vary the award, or

(c) set aside the award in whole or in part.

(4) The leave of the court is required for any appeal from a decision of the court under this section.

Modifications etc. (not altering text)

C77 S. 67 applied (with modifications) (E.W.) (21.5.2001) by S.I. 2001/1185, arts. 2, 3, **Sch. para. 162(1)** (which amending S.I. was revoked (6.4.2004) by S.I. 2004/753, **art. 3** (subject to art. 8))

C78 S. 67 applied (with modifications) (E.W.) (6.4.2003) by The ACAS (Flexible Working) Arbitration Scheme (England and Wales) Order 2003 (S.I. 2003/694), art. 2, **Sch. para. 113** (which amending S.I. was revoked (1.10.2004) by S.I. 2004/2333, art. 3 (subject to art. 6))

C79 S. 67 applied (with modifictaions) (E.W.) (6.4.2004) by The ACAS Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/753), art. 1, **Sch. para. 187EW**

C80 S. 67 applied (with modifications) (E.W.) (1.10.2004) by The ACAS (Flexible Working) Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/2333), art. 4, **Sch. para. 138EW** (with art. 6)

C81 S. 67 applied (with modifications) (N.I.) (21.5.2006) by The Labour Relations Agency (Flexible Working) Arbitration Scheme Order (Northern Ireland) 2006 (S.R. 2006/206), arts. 2, 3, **Sch. para. 113**

C82 S. 67 applied (with modifications) (N.I.) (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), art. 1, **Sch. para. 110**

68 Challenging the award: serious irregularity.

(1) A party to arbitral proceedings may (upon notice to the other parties and to the tribunal) apply to the court challenging an award in the proceedings on the ground of serious irregularity affecting the tribunal, the proceedings or the award.

A party may lose the right to object (see section 73) and the right to apply is subject to the restrictions in section 70(2) and (3).

(2) Serious irregularity means an irregularity of one or more of the following kinds which the court considers has caused or will cause substantial injustice to the applicant—

(a) failure by the tribunal to comply with section 33 (general duty of tribunal);

(b) the tribunal exceeding its powers (otherwise than by exceeding its substantive jurisdiction: see section 67);

(c) failure by the tribunal to conduct the proceedings in accordance with the procedure agreed by the parties;

(d) failure by the tribunal to deal with all the issues that were put to it;

(e) any arbitral or other institution or person vested by the parties with powers in relation to the proceedings or the award exceeding its powers;

(f) uncertainty or ambiguity as to the effect of the award;

(g) the award being obtained by fraud or the award or the way in which it was procured being contrary to public policy;

(h) failure to comply with the requirements as to the form of the award; or

(i) any irregularity in the conduct of the proceedings or in the award which is admitted by the tribunal or by any arbitral or other institution or person vested by the parties with powers in relation to the proceedings or the award.

(3) If there is shown to be serious irregularity affecting the tribunal, the proceedings or the award, the court may—

(a) remit the award to the tribunal, in whole or in part, for reconsideration,

(b) set the award aside in whole or in part, or

(c) declare the award to be of no effect, in whole or in part.

The court shall not exercise its power to set aside or to declare an award to be of no effect, in whole or in part, unless it is satisfied that it would be inappropriate to remit the matters in question to the tribunal for reconsideration.

(4) The leave of the court is required for any appeal from a decision of the court under this section.

Modifications etc. (not altering text)

C83 S. 68 applied (with modifications) (E.W.) (21.5.2001) by S.I. 2001/1185, arts. 2, 3, **Sch. para. 163(1)** (which amending S.I. was revoked (6.4.2004) by S.I. 2004/753, **art. 3** (subject to art. 8))

C84 S. 68 applied (with modifications) (E.W.) (6.4.2003) by The ACAS (Flexible Working) Arbitration Scheme (England and Wales) Order 2003 (S.I. 2003/694), art. 2, **Sch. para. 114** (which amending S.I. was revoked (1.10.2004) by S.I. 2004/2333, art. 3 (subject to art. 6))

C85 S. 68 applied (with modifictaions) (E.W.) (6.4.2004) by The ACAS Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/753), art. 1, **Sch. para. 194EW**

C86 S. 68 applied (with modifications) (E.W.) (1.10.2004) by The ACAS (Flexible Working) Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/2333), art. 4, **Sch. para. 145EW** (with art. 6)

C87 S. 68 applied (with modifications) (N.I.) (21.5.2006) by The Labour Relations Agency (Flexible Working) Arbitration Scheme Order (Northern Ireland) 2006 (S.R. 2006/206), arts. 2, 3, **Sch. para. 114**

C88 S. 68 applied (with modifications) (N.I.) (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), art. 1, **Sch. para. 111**

69 Appeal on point of law.

(1) Unless otherwise agreed by the parties, a party to arbitral proceedings may (upon notice to the other parties and to the tribunal) appeal to the court on a question of law arising out of an award made in the proceedings.

An agreement to dispense with reasons for the tribunal's award shall be considered an agreement to exclude the court's jurisdiction under this section.

(2) An appeal shall not be brought under this section except—
- (a) with the agreement of all the other parties to the proceedings, or
- (b) with the leave of the court.

The right to appeal is also subject to the restrictions in section 70(2) and (3).

(3) Leave to appeal shall be given only if the court is satisfied—
- (a) that the determination of the question will substantially affect the rights of one or more of the parties,
- (b) that the question is one which the tribunal was asked to determine,
- (c) that, on the basis of the findings of fact in the award—
  - (i) the decision of the tribunal on the question is obviously wrong, or
  - (ii) the question is one of general public importance and the decision of the tribunal is at least open to serious doubt, and
- (d) that, despite the agreement of the parties to resolve the matter by arbitration, it is just and proper in all the circumstances for the court to determine the question.

(4) An application for leave to appeal under this section shall identify the question of law to be determined and state the grounds on which it is alleged that leave to appeal should be granted.

(5) The court shall determine an application for leave to appeal under this section without a hearing unless it appears to the court that a hearing is required.

(6) The leave of the court is required for any appeal from a decision of the court under this section to grant or refuse leave to appeal.

(7) On an appeal under this section the court may by order—
- (a) confirm the award,
- (b) vary the award,
- (c) remit the award to the tribunal, in whole or in part, for reconsideration in the light of the court's determination, or
- (d) set aside the award in whole or in part.

The court shall not exercise its power to set aside an award, in whole or in part, unless it is satisfied that it would be inappropriate to remit the matters in question to the tribunal for reconsideration.

(8) The decision of the court on an appeal under this section shall be treated as a judgment of the court for the purposes of a further appeal.

But no such appeal lies without the leave of the court which shall not be given unless the court considers that the question is one of general importance or is one which for some other special reason should be considered by the Court of Appeal.

Modifications etc. (not altering text)

C89 S. 69 applied (with modifications) (E.W.) (21.5.2001) by S.I. 2001/1185, arts. 2, 3, **Sch. para. 164(1)** (which amending S.I. was revoked (6.4.2004) by S.I. 2004/753, **art. 3** (subject to art. 8))

C90 S. 69 applied (with modifications) (E.W.) (6.4.2003) by The ACAS (Flexible Working) Arbitration Scheme (England and Wales) Order 2003 (S.I. 2003/694), art. 2, **Sch. para. 115** (which amending S.I. was revoked (1.10.2004) by S.I. 2004/2333, art. 3 (subject to art. 6))

C91 S. 69 applied (with modifictaions) (E.W.) (6.4.2004) by The ACAS Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/753), art. 1, **Sch. para. 200EW**

C92 S. 69 applied (with modifications) (E.W.) (1.10.2004) by The ACAS (Flexible Working) Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/2333), art. 4, **Sch. para. 151EW** (with art. 6)

C93 S. 69 applied (with modifications) (N.I.) (21.5.2006) by The Labour Relations Agency (Flexible Working) Arbitration Scheme Order (Northern Ireland) 2006 (S.R. 2006/206), arts. 2, 3, **Sch. para. 115**

C94 S. 69 applied (with modifications) (N.I.) (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), art. 1, **Sch. para. 112**

70 Challenge or appeal: supplementary provisions.

(1) The following provisions apply to an application or appeal under section 67, 68 or 69.

(2) An application or appeal may not be brought if the applicant or appellant has not first exhausted—

(a) any available arbitral process of appeal or review, and

(b) any available recourse under section 57 (correction of award or additional award).

(3) Any application or appeal must be brought within 28 days of the date of the award or, if there has been any arbitral process of appeal or review, of the date when the applicant or appellant was notified of the result of that process.

(4) If on an application or appeal it appears to the court that the award—

(a) does not contain the tribunal's reasons, or

(b) does not set out the tribunal's reasons in sufficient detail to enable the court properly to consider the application or appeal,

the court may order the tribunal to state the reasons for its award in sufficient detail for that purpose.

(5) Where the court makes an order under subsection (4), it may make such further order as it thinks fit with respect to any additional costs of the arbitration resulting from its order.

(6) The court may order the applicant or appellant to provide security for the costs of the application or appeal, and may direct that the application or appeal be dismissed if the order is not complied with.

The power to order security for costs shall not be exercised on the ground that the applicant or appellant is—

(a) an individual ordinarily resident outside the United Kingdom, or

(b) a corporation or association incorporated or formed under the law of a country outside the United Kingdom, or whose central management and control is exercised outside the United Kingdom.

(7) The court may order that any money payable under the award shall be brought into court or otherwise secured pending the determination of the application or appeal, and may direct that the application or appeal be dismissed if the order is not complied with.

(8) The court may grant leave to appeal subject to conditions to the same or similar effect as an order under subsection (6) or (7).

This does not affect the general discretion of the court to grant leave subject to conditions.

Modifications etc. (not altering text)

C95 S. 70 applied (with modifications) (E.W.) (21.5.2001) by S.I. 2001/1185, arts. 2, 3, **Sch. para. 165(1)** (which amending S.I. was revoked (6.4.2004) by S.I. 2004/753, **art. 3** (subject to art. 8))

C96 S. 70 applied (with modifications) (E.W.) (6.4.2003) by The ACAS (Flexible Working) Arbitration Scheme (England and Wales) Order 2003 (S.I. 2003/694), art. 2, **Sch. para. 116** (which amending S.I. was revoked (1.10.2004) by S.I. 2004/2333, art. 3 (subject to art. 6))

C97 S. 70 applied (with modifictaions) (E.W.) (6.4.2004) by The ACAS Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/753), art. 1, **Sch. para. 205EW**

C98 S. 70 applied (with modifications) (E.W.) (1.10.2004) by The ACAS (Flexible Working) Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/2333), art. 4, **Sch. para. 156EW** (with art. 6)

C99 S. 70 applied (with modifications) (N.I.) (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), art. 1, **Sch. para. 113**

C100 s. 70(3) modified (E.W.) (25.3.2002) by S.I. 2001/4015, Rule 29, **Sch. Rule 62**.9

71 Challenge or appeal: effect of order of court.

(1) The following provisions have effect where the court makes an order under section 67, 68 or 69 with respect to an award.

(2) Where the award is varied, the variation has effect as part of the tribunal's award.

(3) Where the award is remitted to the tribunal, in whole or in part, for reconsideration, the tribunal shall make a fresh award in respect of the matters remitted within three months of the date of the order for remission or such longer or shorter period as the court may direct.

(4) Where the award is set aside or declared to be of no effect, in whole or in part, the court may also order that any provision that an award is a condition precedent to the bringing of legal proceedings in respect of a matter to which the arbitration agreement applies, is of no effect as regards the subject matter of the award or, as the case may be, the relevant part of the award.

Modifications etc. (not altering text)

C101 S. 71 applied (with modifications) (E.W.) (21.5.2001) by S.I. 2001/1185, arts. 2, 3, **Sch. para. 167(1)** (which amending S.I. was revoked (6.4.2004) by S.I. 2004/753, **art. 3** (subject to art. 8))

C102 S. 71 applied (with modifications) (E.W.) (6.4.2003) by The ACAS (Flexible Working) Arbitration Scheme (England and Wales) Order 2003 (S.I. 2003/694), art. 2, **Sch. para. 118** (which amending S.I. was revoked (1.10.2004) by S.I. 2004/2333, art. 3 (subject to art. 6))

C103 S. 71 applied (with modifictaions) (E.W.) (6.4.2004) by The ACAS Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/753), art. 1, **Sch. para. 212EW**

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C104 S. 71 applied (with modifications) (E.W.) (1.10.2004) by The ACAS (Flexible Working) Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/2333), art. 4, **Sch. para. 163EW** (with art. 6)

C105 S. 71 applied (with modifications) (N.I.) (21.5.2006) by The Labour Relations Agency (Flexible Working) Arbitration Scheme Order (Northern Ireland) 2006 (S.R. 2006/206), arts. 2, 3, **Sch. para. 118**

C106 S. 71 applied (with modifications) (N.I.) (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), art. 1, **Sch. para. 115**

Miscellaneous

72 Saving for rights of person who takes no part in proceedings.

(1) A person alleged to be a party to arbitral proceedings but who takes no part in the proceedings may question—

(a) whether there is a valid arbitration agreement,

(b) whether the tribunal is properly constituted, or

(c) what matters have been submitted to arbitration in accordance with the arbitration agreement,

by proceedings in the court for a declaration or injunction or other appropriate relief.

(2) He also has the same right as a party to the arbitral proceedings to challenge an award—

(a) by an application under section 67 on the ground of lack of substantive jurisdiction in relation to him, or

(b) by an application under section 68 on the ground of serious irregularity (within the meaning of that section) affecting him;

and section 70(2) (duty to exhaust arbitral procedures) does not apply in his case.

73 Loss of right to object.

(1) If a party to arbitral proceedings takes part, or continues to take part, in the proceedings without making, either forthwith or within such time as is allowed by the arbitration agreement or the tribunal or by any provision of this Part, any objection—

(a) that the tribunal lacks substantive jurisdiction,

(b) that the proceedings have been improperly conducted,

(c) that there has been a failure to comply with the arbitration agreement or with any provision of this Part, or

(d) that there has been any other irregularity affecting the tribunal or the proceedings,

he may not raise that objection later, before the tribunal or the court, unless he shows that, at the time he took part or continued to take part in the proceedings, he did not know and could not with reasonable diligence have discovered the grounds for the objection.

(2) Where the arbitral tribunal rules that it has substantive jurisdiction and a party to arbitral proceedings who could have questioned that ruling—

(a) by any available arbitral process of appeal or review, or

(b) by challenging the award,

does not do so, or does not do so within the time allowed by the arbitration agreement or any provision of this Part, he may not object later to the tribunal's substantive jurisdiction on any ground which was the subject of that ruling.

74 Immunity of arbitral institutions, &c.

(1) An arbitral or other institution or person designated or requested by the parties to appoint or nominate an arbitrator is not liable for anything done or omitted in the discharge or purported discharge of that function unless the act or omission is shown to have been in bad faith.

(2) An arbitral or other institution or person by whom an arbitrator is appointed or nominated is not liable, by reason of having appointed or nominated him, for anything done or omitted by the arbitrator (or his employees or agents) in the discharge or purported discharge of his functions as arbitrator.

(3) The above provisions apply to an employee or agent of an arbitral or other institution or person as they apply to the institution or person himself.

75 Charge to secure payment of solicitors' costs.

The powers of the court to make declarations and orders under section 73 of the [M6]Solicitors Act 1974 or Article 71H of the [M7]Solicitors (Northern Ireland) Order 1976 (power to charge property recovered in the proceedings with the payment of solicitors' costs) may be exercised in relation to arbitral proceedings as if those proceedings were proceedings in the court.

Marginal Citations

M6 1974 c. 47.

M7 S.I. 1976/582 (N.I. 12).

Supplementary

76 Service of notices, &c.

(1) The parties are free to agree on the manner of service of any notice or other document required or authorised to be given or served in pursuance of the arbitration agreement or for the purposes of the arbitral proceedings.

(2) If or to the extent that there is no such agreement the following provisions apply.

(3) A notice or other document may be served on a person by any effective means.

(4) If a notice or other document is addressed, pre-paid and delivered by post—

(a) to the addressee's last known principal residence or, if he is or has been carrying on a trade, profession or business, his last known principal business address, or

(b) where the addressee is a body corporate, to the body's registered or principal office,

it shall be treated as effectively served.

(5) This section does not apply to the service of documents for the purposes of legal proceedings, for which provision is made by rules of court.

(6) References in this Part to a notice or other document include any form of communication in writing and references to giving or serving a notice or other document shall be construed accordingly.

77 Powers of court in relation to service of documents.

(1) This section applies where service of a document on a person in the manner agreed by the parties, or in accordance with provisions of section 76 having effect in default of agreement, is not reasonably practicable.

(2) Unless otherwise agreed by the parties, the court may make such order as it thinks fit—
  (a) for service in such manner as the court may direct, or
  (b) dispensing with service of the document.

(3) Any party to the arbitration agreement may apply for an order, but only after exhausting any available arbitral process for resolving the matter.

(4) The leave of the court is required for any appeal from a decision of the court under this section.

Modifications etc. (not altering text)

C107 s. 77 applied (with modifications) (E.W.) (21.5.2001) by S.I. 2001/1185, arts. 2, 3, **Sch. para. 177(1)**

C108 S. 77 applied (with modifications) (E.W.) (6.4.2003) by The ACAS (Flexible Working) Arbitration Scheme (England and Wales) Order 2003 (S.I. 2003/694), art. 2, **Sch. para. 128** (which amending S.I. was revoked (1.10.2004) by S.I. 2004/2333, art. 3 (subject to art. 8))

C109 S. 77 applied (with modifications) (E.W.) (6.4.2004) by The ACAS Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/753), art. 1, **Sch. para. 223EW**

C110 S. 77 applied (with modifications) (E.W.) (1.10.2004) by The ACAS (Flexible Working) Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/2333), art. 4, **Sch. para. 174EW** (with art. 6)

C111 S. 77 applied (with modifications) (N.I.) (21.5.2006) by The Labour Relations Agency (Flexible Working) Arbitration Scheme Order (Northern Ireland) 2006 (S.R. 2006/206), arts. 2, 3, **Sch. Para. 128**

C112 S. 77 applied (with modifications) (N.I.) (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), art. 1, **Sch. para. 123**

78 Reckoning periods of time.

(1) The parties are free to agree on the method of reckoning periods of time for the purposes of any provision agreed by them or any provision of this Part having effect in default of such agreement.

(2) If or to the extent there is no such agreement, periods of time shall be reckoned in accordance with the following provisions.

(3) Where the act is required to be done within a specified period after or from a specified date, the period begins immediately after that date.

(4) Where the act is required to be done a specified number of clear days after a specified date, at least that number of days must intervene between the day on which the act is done and that date.

(5) Where the period is a period of seven days or less which would include a Saturday, Sunday or a public holiday in the place where anything which has to be done within the period falls to be done, that day shall be excluded.

In relation to England and Wales or Northern Ireland, a "public holiday" means Christmas Day, Good Friday or a day which under the [M8]Banking and Financial Dealings Act 1971 is a bank holiday.

Modifications etc. (not altering text)

C113 S. 78(2)(3)(4)(5) applied (with modifications) (E.W.) (21.5.2001) by S.I. 2001/1185, arts. 2, 3, **Sch. para. 178(1)** (which amending S.I. was revoked (6.4.2004) by S.I. 2004/753, **art. 3** (subject to art. 8))

C114 S. 78(2)(3)(4)(5) applied (with modifications) (E.W.) (6.4.2003) by The ACAS (Flexible Working) Arbitration Scheme (England and Wales) Order 2003 (S.I. 2003/694), art. 2, **Sch. para. 129** (which amending S.I. was revoked (1.10.2004) by S.I. 2004/2333, art. 3 (subject to art. 6))

C115 S. 78(2)(3)(4)(5) applied (with modifications) (E.W.) (6.4.2004) by The ACAS Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/753), art. 1, **Sch. para. 224EW**

C116 S. 78(2)(3)(4)(5) applied (with modifications) (E.W.) (1.10.2004) by The ACAS (Flexible Working) Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/2333), art. 4, **Sch. para. 175EW** (with art. 6)

C117 S. 78(2)(3)(4)(5) applied (with modifications) (N.I.) (21.5.2006) by The Labour Relations Agency (Flexible Working) Arbitration Scheme Order (Northern Ireland) 2006 (S.R. 2006/206), arts. 2, 3, **Sch. Para. 129**

C118 S. 78(2)-(5) applied (with modifications) (N.I.) (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), art. 1, **Sch. para. 124**

Marginal Citations

M8 1971 c. 80.

79 Power of court to extend time limits relating to arbitral proceedings.

(1) Unless the parties otherwise agree, the court may by order extend any time limit agreed by them in relation to any matter relating to the arbitral proceedings or specified in any provision of this Part having effect in default of such agreement.

This section does not apply to a time limit to which section 12 applies (power of court to extend time for beginning arbitral proceedings, &c.).

(2) An application for an order may be made—

(a) by any party to the arbitral proceedings (upon notice to the other parties and to the tribunal), or

(b) by the arbitral tribunal (upon notice to the parties).

(3) The court shall not exercise its power to extend a time limit unless it is satisfied—

(a) that any available recourse to the tribunal, or to any arbitral or other institution or person vested by the parties with power in that regard, has first been exhausted, and

(b) that a substantial injustice would otherwise be done.

(4) The court's power under this section may be exercised whether or not the time has already expired.

(5) An order under this section may be made on such terms as the court thinks fit.

(6) The leave of the court is required for any appeal from a decision of the court under this section.

80 Notice and other requirements in connection with legal proceedings.

(1) References in this Part to an application, appeal or other step in relation to legal proceedings being taken "upon notice" to the other parties to the arbitral proceedings, or to the tribunal, are to such notice of the originating process as is required by rules of court and do not impose any separate requirement.

(2) Rules of court shall be made—
- (a) requiring such notice to be given as indicated by any provision of this Part, and
- (b) as to the manner, form and content of any such notice.

(3) Subject to any provision made by rules of court, a requirement to give notice to the tribunal of legal proceedings shall be construed—
- (a) if there is more than one arbitrator, as a requirement to give notice to each of them; and
- (b) if the tribunal is not fully constituted, as a requirement to give notice to any arbitrator who has been appointed.

(4) References in this Part to making an application or appeal to the court within a specified period are to the issue within that period of the appropriate originating process in accordance with rules of court.

(5) Where any provision of this Part requires an application or appeal to be made to the court within a specified time, the rules of court relating to the reckoning of periods, the extending or abridging of periods, and the consequences of not taking a step within the period prescribed by the rules, apply in relation to that requirement.

(6) Provision may be made by rules of court amending the provisions of this Part—
- (a) with respect to the time within which any application or appeal to the court must be made,
- (b) so as to keep any provision made by this Part in relation to arbitral proceedings in step with the corresponding provision of rules of court applying in relation to proceedings in the court, or
- (c) so as to keep any provision made by this Part in relation to legal proceedings in step with the corresponding provision of rules of court applying generally in relation to proceedings in the court.

(7) Nothing in this section affects the generality of the power to make rules of court.

Modifications etc. (not altering text)

C119 S. 80(1)(2)(4)(5)(6)(7) applied (with modifications) (E.W.) (21.5.2001) by S.I. 2001/1185, arts. 2, 3, **Sch. para. 171(1)** (which amending S.I. was revoked (6.4.2004) by S.I. 2004/753, **art. 3** (subject to art. 8))

C120 S. 80(1)(2)(4)(5)(6)(7) applied (with modifications) (E.W.) (6.4.2003) by The ACAS (Flexible Working) Arbitration Scheme (England and Wales) Order 2003 (S.I. 2003/694), art. 2, **Sch. para. 122** (which amending S.I. was revoked (1.10.2004) by S.I. 2004/2333, art. 3 (subject to art. 6))

C121 S. 80(1)(2)(4)(5)(6)(7) applied (with modifications) (E.W.) (6.4.2004) by The ACAS Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/753), art. 1, **Sch. para. 217EW**

C122 S. 80(1)(2)(4)(5)(6)(7) applied (with modifications) (N.I.) (21.5.2006) by The Labour Relations Agency (Flexible Working) Arbitration Scheme Order (Northern Ireland) 2006 (S.R. 2006/206), arts. 2, 3, **Sch. para. 122**

C123 S. 80(1)(2) applied (with modifications) (N.I.) (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), art. 1, **Sch. para. 119**

C124 S. 80(4)-(7) applied (with modifications) (N.I.) (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), art. 1, **Sch. para. 119**

81 Saving for certain matters governed by common law.

(1) Nothing in this Part shall be construed as excluding the operation of any rule of law consistent with the provisions of this Part, in particular, any rule of law as to—

(a) matters which are not capable of settlement by arbitration;

(b) the effect of an oral arbitration agreement; or

(c) the refusal of recognition or enforcement of an arbitral award on grounds of public policy.

(2) Nothing in this Act shall be construed as reviving any jurisdiction of the court to set aside or remit an award on the ground of errors of fact or law on the face of the award.

Modifications etc. (not altering text)

C125 S. 81(1)(c)(2) applied (E.W.) (21.5.2001) by S.I. 2001/1185, arts. 2, 3, **Sch. para. 166** (which amending S.I. was revoked (6.4.2004) by S.I. 2004/753, **art. 3** (subject to art. 8))

C126 S. 81(1)(c)(2) applied (E.W.) (6.4.2003) by The ACAS (Flexible Working) Arbitration Scheme (England and Wales) Order 2003 (S.I. 2003/694), art. 2, **Sch. para. 117** (which amending S.I. was revoked (1.10.2004) by S.I. 2004/2333, art. 3 (subject to art. 6))

C127 S. 81(1)(c)(2) applied (E.W.) (6.4.2004) by The ACAS Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/753), art. 1, **Sch. para. 209EW**

C128 S. 81(1)(c)(2) applied (E.W.) (1.10.2004) by The ACAS (Flexible Working) Arbitration Scheme (Great Britain) Order 2004 (S.I. 2004/2333), art. 4, **Sch. para. 160EW** (with art. 6)

C129 S. 81(1)(c)(2) applied (N.I.) (21.5.2006) by The Labour Relations Agency (Flexible Working) Arbitration Scheme Order (Northern Ireland) 2006 (S.R. 2006/206), arts. 2, 3, **Sch. para. 117**

C130 S. 81(1)(c) applied (with modifications) (N.I.) (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), art. 1, **Sch. para. 114**

C131 S. 81(2) applied (with modifications) (N.I.) (27.9.2012) by The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 (S.R. 2012/301), art. 1, **Sch. para. 114**

82 Minor definitions.

(1) In this Part—

"arbitrator", unless the context otherwise requires, includes an umpire;

"available arbitral process", in relation to any matter, includes any process of appeal to or review by an arbitral or other institution or person vested by the parties with powers in relation to that matter;

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

"claimant", unless the context otherwise requires, includes a counterclaimant, and related expressions shall be construed accordingly;

"dispute" includes any difference;

"enactment" includes an enactment contained in Northern Ireland legislation;

"legal proceedings" means civil proceedings **[**[F1] in England and Wales in the High Court or the county court or in Northern Ireland **]** in the High Court or a county court;

"peremptory order" means an order made under section 41(5) or made in exercise of any corresponding power conferred by the parties;

"premises" includes land, buildings, moveable structures, vehicles, vessels, aircraft and hovercraft;

"question of law" means—

(a) for a court in England and Wales, a question of the law of England and Wales, and

(b) for a court in Northern Ireland, a question of the law of Northern Ireland;

"substantive jurisdiction", in relation to an arbitral tribunal, refers to the matters specified in section 30(1)(a) to (c), and references to the tribunal exceeding its substantive jurisdiction shall be construed accordingly.

(2) References in this Part to a party to an arbitration agreement include any person claiming under or through a party to the agreement.

Textual Amendments

F1 Words in s. 82(1) inserted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 60(1)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

83 Index of defined expressions: Part I.

In this Part the expressions listed below are defined or otherwise explained by the provisions indicated—

agreement, agree and agreed	section 5(1)
agreement in writing	section 5(2) to (5)
arbitration agreement	sections 6 and 5(1)
arbitrator	section 82(1)
available arbitral process	section 82(1)
claimant	section 82(1)
commencement (in relation to arbitral proceedings)	section 14
costs of the arbitration	section 59
the court	section 105
dispute	section 82(1)

enactment	section 82(1)
legal proceedings	section 82(1)
Limitation Acts	section 13(4)
notice (or other document)	section 76(6)
party—	
—in relation to an arbitration agreement	section 82(2)
—where section 106(2) or (3) applies	section 106(4)
peremptory order	section 82(1) (and see section 41(5))
premises	section 82(1)
question of law	section 82(1)
recoverable costs	sections 63 and 64
seat of the arbitration	section 3
serve and service (of notice or other document)	section 76(6)
substantive jurisdiction (in relation to an arbitral tribunal)	section 82(1) (and see section 30(1)(a) to (c))
upon notice (to the parties or the tribunal)	section 80
written and in writing	section 5(6)

84 Transitional provisions.

(1) The provisions of this Part do not apply to arbitral proceedings commenced before the date on which this Part comes into force.

(2) They apply to arbitral proceedings commenced on or after that date under an arbitration agreement whenever made.

(3) The above provisions have effect subject to any transitional provision made by an order under section 109(2) (power to include transitional provisions in commencement order).

PART II

OTHER PROVISIONS RELATING TO ARBITRATION

Domestic arbitration agreements

PROSPECTIVE

85 Modification of Part I in relation to domestic arbitration agreement.

(1) In the case of a domestic arbitration agreement the provisions of Part I are modified in accordance with the following sections.

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

(2) For this purpose a "domestic arbitration agreement" means an arbitration agreement to which none of the parties is—
  (a) an individual who is a national of, or habitually resident in, a state other than the United Kingdom, or
  (b) a body corporate which is incorporated in, or whose central control and management is exercised in, a state other than the United Kingdom,

  and under which the seat of the arbitration (if the seat has been designated or determined) is in the United Kingdom.

(3) In subsection (2) "arbitration agreement" and "seat of the arbitration" have the same meaning as in Part I (see sections 3, 5(1) and 6).

PROSPECTIVE

86 Staying of legal proceedings.

(1) In section 9 (stay of legal proceedings), subsection (4) (stay unless the arbitration agreement is null and void, inoperative, or incapable of being performed) does not apply to a domestic arbitration agreement.

(2) On an application under that section in relation to a domestic arbitration agreement the court shall grant a stay unless satisfied—
  (a) that the arbitration agreement is null and void, inoperative, or incapable of being performed, or
  (b) that there are other sufficient grounds for not requiring the parties to abide by the arbitration agreement.

(3) The court may treat as a sufficient ground under subsection (2)(b) the fact that the applicant is or was at any material time not ready and willing to do all things necessary for the proper conduct of the arbitration or of any other dispute resolution procedures required to be exhausted before resorting to arbitration.

(4) For the purposes of this section the question whether an arbitration agreement is a domestic arbitration agreement shall be determined by reference to the facts at the time the legal proceedings are commenced.

PROSPECTIVE

87 Effectiveness of agreement to exclude court's jurisdiction.

(1) In the case of a domestic arbitration agreement any agreement to exclude the jurisdiction of the court under—
  (a) section 45 (determination of preliminary point of law), or
  (b) section 69 (challenging the award: appeal on point of law),

  is not effective unless entered into after the commencement of the arbitral proceedings in which the question arises or the award is made.

(2) For this purpose the commencement of the arbitral proceedings has the same meaning as in Part I (see section 14).

(3) For the purposes of this section the question whether an arbitration agreement is a domestic arbitration agreement shall be determined by reference to the facts at the time the agreement is entered into.

88 Power to repeal or amend sections 85 to 87.

(1) The Secretary of State may by order repeal or amend the provisions of sections 85 to 87.

(2) An order under this section may contain such supplementary, incidental and transitional provisions as appear to the Secretary of State to be appropriate.

(3) An order under this section shall be made by statutory instrument and no such order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

Consumer arbitration agreements

89 Application of unfair terms regulations to consumer arbitration agreements.

(1) The following sections extend the application of the [M9]Unfair Terms in Consumer Contracts Regulations 1994 in relation to a term which constitutes an arbitration agreement.

For this purpose "arbitration agreement" means an agreement to submit to arbitration present or future disputes or differences (whether or not contractual).

(2) In those sections "the Regulations" means those regulations and includes any regulations amending or replacing those regulations.

(3) Those sections apply whatever the law applicable to the arbitration agreement.

Marginal Citations

M9 S.I. 1994/3159

90 Regulations apply where consumer is a legal person.

The Regulations apply where the consumer is a legal person as they apply where the consumer is a natural person.

91 Arbitration agreement unfair where modest amount sought.

(1) A term which constitutes an arbitration agreement is unfair for the purposes of the Regulations so far as it relates to a claim for a pecuniary remedy which does not exceed the amount specified by order for the purposes of this section.

(2) Orders under this section may make different provision for different cases and for different purposes.

(3) The power to make orders under this section is exercisable—

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(a) for England and Wales, by the Secretary of State with the concurrence of the Lord Chancellor,

(b) for Scotland, by the Secretary of State [F2]. . ., and

(c) for Northern Ireland, by the Department of Economic Development for Northern Ireland with the concurrence of the Lord Chancellor.

(4) Any such order for England and Wales or Scotland shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Any such order for Northern Ireland shall be a statutory rule for the purposes of the [M10]Statutory Rules (Northern Ireland) Order 1979 and shall be subject to negative resolution, within the meaning of section 41(6) of the [M11]Interpretation Act (Northern Ireland) 1954.

Textual Amendments

F2 Words in s. 91(3)(b) repealed (19.5.1999) by S.I. 1999/678, **art. 6**

Modifications etc. (not altering text)

C132 S. 91(3): functions of the Lord Advocate transferred (19.5.1999) to the Secretary of State by virtue of S.I. 1999/678, arts. 2(1), **Sch.** (with art. 7)

Commencement Information

I1 S. 91 wholly in force 31.1.1997: S. 91 not in force at Royal Assent see s. 109(1); S. 91 in force for certain purposes only at 17.12.1996 otherwise in force at 31.1.1997 by S.I.1996/3146, arts. 2, 3, **Sch. 1**;

Marginal Citations

M10 S.I. 1979/1573 (N.I. 12).

M11 1954 c. 33 (N.I.).

Small claims arbitration in the county court

92 Exclusion of Part I in relation to small claims arbitration in the county court.

Nothing in Part I of this Act applies to arbitration under section 64 of the [M12]County Courts Act 1984.

Marginal Citations

M12 1984 c. 28.

Appointment of judges as arbitrators

93 Appointment of judges as arbitrators.

(1) A judge of the Commercial Court or an official referee may, if in all the circumstances he thinks fit, accept appointment as a sole arbitrator or as umpire by or by virtue of an arbitration agreement.

(2) A judge of the Commercial Court shall not do so unless the Lord Chief Justice has informed him that, having regard to the state of business in the High Court and the Crown Court, he can be made available.

(3) An official referee shall not do so unless the Lord Chief Justice has informed him that, having regard to the state of official referees' business, he can be made available.

(4) The fees payable for the services of a judge of the Commercial Court or official referee as arbitrator or umpire shall be taken in the High Court.

(5) In this section—

"arbitration agreement" has the same meaning as in Part I; and

"official referee" means a person nominated under section 68(1)(a) of the [M13][F3]Senior Courts Act 1981[F3] to deal with official referees' business.

(6) The provisions of Part I of this Act apply to arbitration before a person appointed under this section with the modifications specified in Schedule 2.

Textual Amendments

F3 Words in s. 93(5) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59(5), 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, **art. 2(d)**

Marginal Citations

M13 1981 c. 54.

Statutory arbitrations

94 Application of Part I to statutory arbitrations.

(1) The provisions of Part I apply to every arbitration under an enactment (a "statutory arbitration"), whether the enactment was passed or made before or after the commencement of this Act, subject to the adaptations and exclusions specified in sections 95 to 98.

(2) The provisions of Part I do not apply to a statutory arbitration if or to the extent that their application—

(a) is inconsistent with the provisions of the enactment concerned, with any rules or procedure authorised or recognised by it, or

(b) is excluded by any other enactment.

(3) In this section and the following provisions of this Part "enactment"—

(a) in England and Wales, includes an enactment contained in subordinate legislation within the meaning of the [M14]Interpretation Act 1978;

(b) in Northern Ireland, means a statutory provision within the meaning of section 1(f) of the [M15]Interpretation Act (Northern Ireland) 1954.

Modifications etc. (not altering text)

C133 S. 94 modified (W.) (15.2.2006) by The Valuation Tribunals (Wales) Regulations 2005 (S.I. 2005/3364), regs. 1(4), **42(2)**

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

Marginal Citations

M14 1978 c. 30.

M15 1954 c. 33 (N.I.).

95 General adaptation of provisions in relation to statutory arbitrations.

(1) The provisions of Part I apply to a statutory arbitration—

(a) as if the arbitration were pursuant to an arbitration agreement and as if the enactment were that agreement, and

(b) as if the persons by and against whom a claim subject to arbitration in pursuance of the enactment may be or has been made were parties to that agreement.

(2) Every statutory arbitration shall be taken to have its seat in England and Wales or, as the case may be, in Northern Ireland.

96 Specific adaptations of provisions in relation to statutory arbitrations.

(1) The following provisions of Part I apply to a statutory arbitration with the following adaptations.

(2) In section 30(1) (competence of tribunal to rule on its own jurisdiction), the reference in paragraph (a) to whether there is a valid arbitration agreement shall be construed as a reference to whether the enactment applies to the dispute or difference in question.

(3) Section 35 (consolidation of proceedings and concurrent hearings) applies only so as to authorise the consolidation of proceedings, or concurrent hearings in proceedings, under the same enactment.

(4) Section 46 (rules applicable to substance of dispute) applies with the omission of subsection (1)(b) (determination in accordance with considerations agreed by parties).

97 Provisions excluded from applying to statutory arbitrations.

The following provisions of Part I do not apply in relation to a statutory arbitration—

(a) section 8 (whether agreement discharged by death of a party);

(b) section 12 (power of court to extend agreed time limits);

(c) sections 9(5), 10(2) and 71(4) (restrictions on effect of provision that award condition precedent to right to bring legal proceedings).

98 Power to make further provision by regulations.

(1) The Secretary of State may make provision by regulations for adapting or excluding any provision of Part I in relation to statutory arbitrations in general or statutory arbitrations of any particular description.

(2) The power is exercisable whether the enactment concerned is passed or made before or after the commencement of this Act.

(3) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

PART III

RECOGNITION AND ENFORCEMENT OF CERTAIN FOREIGN AWARDS

Enforcement of Geneva Convention awards

99 Continuation of Part II of the Arbitration Act 1950.

Part II of the [M16]Arbitration Act 1950 (enforcement of certain foreign awards) continues to apply in relation to foreign awards within the meaning of that Part which are not also New York Convention awards.

Marginal Citations
M16 1950 c. 27.

Recognition and enforcement of New York Convention awards

100 New York Convention awards.

(1) In this Part a "New York Convention award" means an award made, in pursuance of an arbitration agreement, in the territory of a state (other than the United Kingdom) which is a party to the New York Convention.

(2) For the purposes of subsection (1) and of the provisions of this Part relating to such awards—
   (a) "arbitration agreement" means an arbitration agreement in writing, and
   (b) an award shall be treated as made at the seat of the arbitration, regardless of where it was signed, despatched or delivered to any of the parties.

   In this subsection "agreement in writing" and "seat of the arbitration" have the same meaning as in Part I.

(3) If Her Majesty by Order in Council declares that a state specified in the Order is a party to the New York Convention, or is a party in respect of any territory so specified, the Order shall, while in force, be conclusive evidence of that fact.

(4) In this section "the New York Convention" means the Convention on the Recognition and Enforcement of Foreign Arbitral Awards adopted by the United Nations Conference on International Commercial Arbitration on 10th June 1958.

101 Recognition and enforcement of awards.

(1) A New York Convention award shall be recognised as binding on the persons as between whom it was made, and may accordingly be relied on by those persons by way of defence, set-off or otherwise in any legal proceedings in England and Wales or Northern Ireland.

(2) A New York Convention award may, by leave of the court, be enforced in the same manner as a judgment or order of the court to the same effect.

   As to the meaning of "the court" see section 105.

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

(3) Where leave is so given, judgment may be entered in terms of the award.

102 Evidence to be produced by party seeking recognition or enforcement.

(1) A party seeking the recognition or enforcement of a New York Convention award must produce—
  (a) the duly authenticated original award or a duly certified copy of it, and
  (b) the original arbitration agreement or a duly certified copy of it.

(2) If the award or agreement is in a foreign language, the party must also produce a translation of it certified by an official or sworn translator or by a diplomatic or consular agent.

103 Refusal of recognition or enforcement.

(1) Recognition or enforcement of a New York Convention award shall not be refused except in the following cases.

(2) Recognition or enforcement of the award may be refused if the person against whom it is invoked proves—
  (a) that a party to the arbitration agreement was (under the law applicable to him) under some incapacity;
  (b) that the arbitration agreement was not valid under the law to which the parties subjected it or, failing any indication thereon, under the law of the country where the award was made;
  (c) that he was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case;
  (d) that the award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration or contains decisions on matters beyond the scope of the submission to arbitration (but see subsection (4));
  (e) that the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, with the law of the country in which the arbitration took place;
  (f) that the award has not yet become binding on the parties, or has been set aside or suspended by a competent authority of the country in which, or under the law of which, it was made.

(3) Recognition or enforcement of the award may also be refused if the award is in respect of a matter which is not capable of settlement by arbitration, or if it would be contrary to public policy to recognise or enforce the award.

(4) An award which contains decisions on matters not submitted to arbitration may be recognised or enforced to the extent that it contains decisions on matters submitted to arbitration which can be separated from those on matters not so submitted.

(5) Where an application for the setting aside or suspension of the award has been made to such a competent authority as is mentioned in subsection (2)(f), the court before which the award is sought to be relied upon may, if it considers it proper, adjourn the decision on the recognition or enforcement of the award.

It may also on the application of the party claiming recognition or enforcement of the award order the other party to give suitable security.

104 Saving for other bases of recognition or enforcement.

Nothing in the preceding provisions of this Part affects any right to rely upon or enforce a New York Convention award at common law or under section 66.

PART IV

GENERAL PROVISIONS

105 Meaning of "the court": jurisdiction of High Court and county court.

(1) In this Act "the court" **[**[F4] in relation to England and Wales means the High Court or the county court and in relation to Northern Ireland **]** means the High Court or a county court, subject to the following provisions.

(2) The Lord Chancellor may by order make provision—

[[F5](za) allocating proceedings under this Act in England and Wales to the High Court or the county court;**]**

(a) allocating proceedings under this Act **[**[F6] in Northern Ireland **]** to the High Court or to county courts; or

(b) specifying proceedings under this Act which may be commenced or taken only in the High Court or in **[**[F7] the county court or (as the case may be) **]** a county court.

(3) The Lord Chancellor may by order make provision requiring proceedings of any specified description under this Act in relation to which a county court **[**[F8] in Northern Ireland **]** has jurisdiction to be commenced or taken in one or more specified county courts.

Any jurisdiction so exercisable by a specified county court is exercisable throughout [F9]... Northern Ireland.

[[F10](3A) The Lord Chancellor must consult the Lord Chief Justice of England and Wales or the Lord Chief Justice of Northern Ireland (as the case may be) before making an order under this section.

(3B) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.

(3C) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—

(a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;

(b) a Lord Justice of Appeal (as defined in section 88 of that Act).**]**

[F10](4) An order under this section—

(a) may differentiate between categories of proceedings by reference to such criteria as the Lord Chancellor sees fit to specify, and

(b) may make such incidental or transitional provision as the Lord Chancellor considers necessary or expedient.

(5) An order under this section for England and Wales shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) An order under this section for Northern Ireland shall be a statutory rule for the purposes of the [M17]Statutory Rules (Northern Ireland) Order 1979 which shall be subject to **[**[F11]negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954)**]**.

Textual Amendments

F4 Words in s. 105(1) inserted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 60(2)(a)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F5 S. 105(2)(za) inserted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 60(2)(b)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F6 Words in s. 105(2)(a) inserted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 60(2)(c)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F7 Words in s. 105(2)(b) inserted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 60(2)(d)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F8 Words in s. 105(3) inserted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 60(2)(e)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F9 Words in s. 105(3) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 60(2)(f)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F10 S. 105(3A)-(3C) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(1), 148, **Sch. 4 para. 250**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(v)

F11 Words in s. 105(6) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 15(5), **Sch. 18 para. 50(2)** (with arts. 28-31)

Marginal Citations

M17 S.I. 1979/1573 (N.I. 12).

106 Crown application.

(1) Part I of this Act applies to any arbitration agreement to which Her Majesty, either in right of the Crown or of the Duchy of Lancaster or otherwise, or the Duke of Cornwall, is a party.

(2) Where Her Majesty is party to an arbitration agreement otherwise than in right of the Crown, Her Majesty shall be represented for the purposes of any arbitral proceedings—

(a) where the agreement was entered into by Her Majesty in right of the Duchy of Lancaster, by the Chancellor of the Duchy or such person as he may appoint, and

(b) in any other case, by such person as Her Majesty may appoint in writing under the Royal Sign Manual.

(3) Where the Duke of Cornwall is party to an arbitration agreement, he shall be represented for the purposes of any arbitral proceedings by such person as he may appoint.

(4) References in Part I to a party or the parties to the arbitration agreement or to arbitral proceedings shall be construed, where subsection (2) or (3) applies, as references to the person representing Her Majesty or the Duke of Cornwall.

107 Consequential amendments and repeals.

(1) The enactments specified in Schedule 3 are amended in accordance with that Schedule, the amendments being consequential on the provisions of this Act.

(2) The enactments specified in Schedule 4 are repealed to the extent specified.

Commencement Information

I2 S. 107 wholly in force 31.1.1997: S. 107 not in force at Royal Assent see s. 109(1); S. 107 in force for certain purposes at 17.12.1996 and otherwise in force at 31.1.1997 by S.I. 1996/3146, arts. 2, 3, **Sch. 1**

108 Extent.

(1) The provisions of this Act extend to England and Wales and, except as mentioned below, to Northern Ireland.

(2) The following provisions of Part II do not extend to Northern Ireland—

section 92 (exclusion of Part I in relation to small claims arbitration in the county court), and

section 93 and Schedule 2 (appointment of judges as arbitrators).

(3) Sections 89, 90 and 91 (consumer arbitration agreements) extend to Scotland and the provisions of Schedules 3 and 4 (consequential amendments and repeals) extend to Scotland so far as they relate to enactments which so extend, subject as follows.

(4) The repeal of the [M18]Arbitration Act 1975 extends only to England and Wales and Northern Ireland.

Marginal Citations

M18 1975 c. 3.

109 Commencement.

(1) The provisions of this Act come into force on such day as the Secretary of State may appoint by order made by statutory instrument, and different days may be appointed for different purposes.

(2) An order under subsection (1) may contain such transitional provisions as appear to the Secretary of State to be appropriate.

Subordinate Legislation Made

P1 S. 109 power partly exercised (16.12.1996): 17.12.1996 and 31.1.1997 appointed for specified provisions by S.I. 1996/3146, **arts. 2**, 3 (with transitional provisions in art. 4, Sch. 2)

110 Short title.

This Act may be cited as the Arbitration Act 1996.

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

SCHEDULES

SCHEDULE 1

Section 4(1).

MANDATORY PROVISIONS OF PART I

sections 9 to 11 (stay of legal proceedings);
section 12 (power of court to extend agreed time limits);
section 13 (application of Limitation Acts);
section 24 (power of court to remove arbitrator);
section 26(1) (effect of death of arbitrator);
section 28 (liability of parties for fees and expenses of arbitrators);
section 29 (immunity of arbitrator);
section 31 (objection to substantive jurisdiction of tribunal);
section 32 (determination of preliminary point of jurisdiction);
section 33 (general duty of tribunal);
section 37(2) (items to be treated as expenses of arbitrators);
section 40 (general duty of parties);
section 43 (securing the attendance of witnesses);
section 56 (power to withhold award in case of non-payment);
section 60 (effectiveness of agreement for payment of costs in any event);
section 66 (enforcement of award);
sections 67 and 68 (challenging the award: substantive jurisdiction and serious irregularity), and sections 70 and 71 (supplementary provisions; effect of order of court) so far as relating to those sections;
section 72 (saving for rights of person who takes no part in proceedings);
section 73 (loss of right to object);
section 74 (immunity of arbitral institutions, &c.);
section 75 (charge to secure payment of solicitors' costs).

SCHEDULE 2

Section 93(6).

MODIFICATIONS OF PART I IN RELATION TO JUDGE-ARBITRATORS

Introductory

1 In this Schedule "judge-arbitrator" means a judge of the Commercial Court or official referee appointed as arbitrator or umpire under section 93.

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

General

2 (1) Subject to the following provisions of this Schedule, references in Part I to the court shall be construed in relation to a judge-arbitrator, or in relation to the appointment of a judge-arbitrator, as references to the Court of Appeal.

(2) The references in sections 32(6), 45(6) and 69(8) to the Court of Appeal shall in such a case be construed as references to the **[**[F12]Supreme Court**]**[F12].

Textual Amendments

F12 Words in Sch. 2 para. 2(2) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40(4), 148, **Sch. 9 para. 60**; S.I. 2009/1604, **art. 2(d)**

Arbitrator's fees

3 (1) The power of the court in section 28(2) to order consideration and adjustment of the liability of a party for the fees of an arbitrator may be exercised by a judge-arbitrator.

(2) Any such exercise of the power is subject to the powers of the Court of Appeal under sections 24(4) and 25(3)(b) (directions as to entitlement to fees or expenses in case of removal or resignation).

Exercise of court powers in support of arbitration

4 (1) Where the arbitral tribunal consists of or includes a judge-arbitrator the powers of the court under sections 42 to 44 (enforcement of peremptory orders, summoning witnesses, and other court powers) are exercisable by the High Court and also by the judge-arbitrator himself.

(2) Anything done by a judge-arbitrator in the exercise of those powers shall be regarded as done by him in his capacity as judge of the High Court and have effect as if done by that court.

Nothing in this sub-paragraph prejudices any power vested in him as arbitrator or umpire.

Extension of time for making award

5 (1) The power conferred by section 50 (extension of time for making award) is exercisable by the judge-arbitrator himself.

(2) Any appeal from a decision of a judge-arbitrator under that section lies to the Court of Appeal with the leave of that court.

Withholding award in case of non-payment

6 (1) The provisions of paragraph 7 apply in place of the provisions of section 56 (power to withhold award in the case of non-payment) in relation to the withholding of an award for non-payment of the fees and expenses of a judge-arbitrator.

(2) This does not affect the application of section 56 in relation to the delivery of such an award by an arbitral or other institution or person vested by the parties with powers in relation to the delivery of the award.

7 (1) A judge-arbitrator may refuse to deliver an award except upon payment of the fees and expenses mentioned in section 56(1).

(2) The judge-arbitrator may, on an application by a party to the arbitral proceedings, order that if he pays into the High Court the fees and expenses demanded, or such lesser amount as the judge-arbitrator may specify—

(a) the award shall be delivered,

(b) the amount of the fees and expenses properly payable shall be determined by such means and upon such terms as he may direct, and

(c) out of the money paid into court there shall be paid out such fees and expenses as may be found to be properly payable and the balance of the money (if any) shall be paid out to the applicant.

(3) For this purpose the amount of fees and expenses properly payable is the amount the applicant is liable to pay under section 28 or any agreement relating to the payment of the arbitrator.

(4) No application to the judge-arbitrator under this paragraph may be made where there is any available arbitral process for appeal or review of the amount of the fees or expenses demanded.

(5) Any appeal from a decision of a judge-arbitrator under this paragraph lies to the Court of Appeal with the leave of that court.

(6) Where a party to arbitral proceedings appeals under sub-paragraph (5), an arbitrator is entitled to appear and be heard.

Correction of award or additional award

8 Subsections (4) to (6) of section 57 (correction of award or additional award: time limit for application or exercise of power) do not apply to a judge-arbitrator.

Costs

9 Where the arbitral tribunal consists of or includes a judge-arbitrator the powers of the court under section 63(4) (determination of recoverable costs) shall be exercised by the High Court.

10 (1) The power of the court under section 64 to determine an arbitrator's reasonable fees and expenses may be exercised by a judge-arbitrator.

(2) Any such exercise of the power is subject to the powers of the Court of Appeal under sections 24(4) and 25(3)(b) (directions as to entitlement to fees or expenses in case of removal or resignation).

Enforcement of award

11 The leave of the court required by section 66 (enforcement of award) may in the case of an award of a judge-arbitrator be given by the judge-arbitrator himself.

Solicitors' costs

12 The powers of the court to make declarations and orders under the provisions applied by section 75 (power to charge property recovered in arbitral proceedings with the payment of solicitors' costs) may be exercised by the judge-arbitrator.

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

Powers of court in relation to service of documents

13 (1) The power of the court under section 77(2) (powers of court in relation to service of documents) is exercisable by the judge-arbitrator.

(2) Any appeal from a decision of a judge-arbitrator under that section lies to the Court of Appeal with the leave of that court.

Powers of court to extend time limits relating to arbitral proceedings

14 (1) The power conferred by section 79 (power of court to extend time limits relating to arbitral proceedings) is exercisable by the judge-arbitrator himself.

(2) Any appeal from a decision of a judge-arbitrator under that section lies to the Court of Appeal with the leave of that court.

SCHEDULE 3

Section 107(1).

CONSEQUENTIAL AMENDMENTS

Merchant Shipping Act 1894 (c.60)

1 In section 496 of the Merchant Shipping Act 1894 (provisions as to deposits by owners of goods), after subsection (4) insert—

"(5) In subsection (3) the expression "legal proceedings" includes arbitral proceedings and as respects England and Wales and Northern Ireland the provisions of section 14 of the Arbitration Act 1996 apply to determine when such proceedings are commenced.".

Stannaries Court (Abolition) Act 1896 (c.45)

2 In section 4(1) of the Stannaries Court (Abolition) Act 1896 (references of certain disputes to arbitration), for the words from "tried before" to "any such reference" substitute " referred to arbitration before himself or before an arbitrator agreed on by the parties or an officer of the court ".

Tithe Act 1936 (c.43)

3 F13 . . . . . .

Textual Amendments

F13 Sch. 3 para. 3 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 6 Group 3}

Education Act 1944 (c.31)

F14 4 . . . . . .

Textual Amendments

F14 Sch. 3 para. 4 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), Sch. 38 Pt. I, **Sch. 39** (with s. 1(4))

Commonwealth Telegraphs Act 1949 (c.39)

5 In section 8(2) of the Commonwealth Telegraphs Act 1949 (proceedings of referees under the Act) for "the Arbitration Acts 1889 to 1934, or the Arbitration Act (Northern Ireland) 1937," substitute " Part I of the Arbitration Act 1996 ".

Lands Tribunal Act 1949 (c.42)

6 F15 . . . . . .

Textual Amendments

F15 Sch. 3 para. 6 repealed (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(5), **Sch. 4** (with Sch. 5)

Wireless Telegraphy Act 1949 (c.54)

7 F16 . . . . . .

Textual Amendments

F16 Sch. 3 para. 7 repealed (25.7.2003) by Communications Act 2003 (c. 21), ss. 406, 411(2)(3), **Sch. 19(1)** (with Schs. 18, 19(1) Note 1); S.I. 2003/1900, **art. 2(1)**, Sch. 1 (with arts. 3-6)

Patents Act 1949 (c.87)

8 In section 67 of the Patents Act 1949 (proceedings as to infringement of pre-1978 patents referred to comptroller), for "The Arbitration Acts 1889 to 1934" substitute " Part I of the Arbitration Act 1996 ".

National Health Service (Amendment) Act 1949 (c.93)

9 In section 7(8) of the [M19]National Health Service (Amendment) Act 1949 (arbitration in relation to hardship arising from the National Health Service Act 1946 or the Act), for "the Arbitration Acts 1889 to 1934" substitute " Part I of the Arbitration Act 1996 " and for "the said Acts" substitute " Part I of that Act ".

Marginal Citations

M19 1946 c. 81.

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

Arbitration Act 1950 (c.27)

10 In section 36(1) of the Arbitration Act 1950 (effect of foreign awards enforceable under Part II of that Act) for "section 26 of this Act" substitute " section 66 of the Arbitration Act 1996 ".

Interpretation Act (Northern Ireland) 1954 (c.33 (N.I.))

11 In section 46(2) of the Interpretation Act (Northern Ireland) 1954 (miscellaneous definitions), for the definition of "arbitrator" substitute—

""arbitrator" has the same meaning as in Part I of the Arbitration Act 1996;".

Agricultural Marketing Act 1958 (c.47)

12 In section 12(1) of the Agricultural Marketing Act 1958 (application of provisions of Arbitration Act 1950)—

(a) for the words from the beginning to "shall apply" substitute " Sections 45 and 69 of the Arbitration Act 1996 (which relate to the determination by the court of questions of law) and section 66 of that Act (enforcement of awards) apply "; and

(b) for "an arbitration" substitute " arbitral proceedings ".

Carriage by Air Act 1961 (c.27)

13 (1) The Carriage by Air Act 1961 is amended as follows.

(2) In section 5(3) (time for bringing proceedings)—

(a) for "an arbitration" in the first place where it occurs substitute " arbitral proceedings "; and

(b) for the words from "and subsections (3) and (4)" to the end substitute " and the provisions of section 14 of the Arbitration Act 1996 apply to determine when such proceedings are commenced. ".

(3) In section 11(c) (application of section 5 to Scotland)—

(a) for "subsections (3) and (4)" substitute " the provisions of section 14 of the Arbitration Act 1996 "; and

(b) for "an arbitration" substitute " arbitral proceedings ".

Factories Act 1961 (c.34)

14 In the Factories Act 1961, for section 171 (application of Arbitration Act 1950), substitute—

"**171 Application of the Arbitration Act 1996.**

Part I of the Arbitration Act 1996 does not apply to proceedings under this Act except in so far as it may be applied by regulations made under this Act.".

Clergy Pensions Measure 1961 (No. 3)

15 In the Clergy Pensions Measure 1961, section 38(4) (determination of questions), for the words "The Arbitration Act 1950" substitute " Part I of the Arbitration Act 1996 ".

Transport Act 1962 (c.46)

16 (1) The Transport Act 1962 is amended as follows.

(2) In section 74(6)(f) (proceedings before referees in pension disputes), for the words "the Arbitration Act 1950" substitute " Part I of the Arbitration Act 1996 ".

(3) In section 81(7) (proceedings before referees in compensation disputes), for the words "the Arbitration Act 1950" substitute " Part I of the Arbitration Act 1996 ".

(4) In Schedule 7, Part IV (pensions), in paragraph 17(5) for the words "the Arbitration Act 1950" substitute " Part I of the Arbitration Act 1996 ".

Corn Rents Act 1963 (c.14)

17 In the Corn Rents Act 1963, section 1(5) (schemes for apportioning corn rents, &c.), for the words "the Arbitration Act 1950" substitute " Part I of the Arbitration Act 1996 ".

Plant Varieties and Seeds Act 1964 (c.14)

F17 18 . . . . . .

Textual Amendments

F17 Sch. 3 para. 18 repealed (8.5.1998) by 1997 c. 66, s. 52, **Sch. 4**; S.I. 1998/1028, **art. 2**

Lands Tribunal and Compensation Act (Northern Ireland) 1964 (c.29 (N.I.))

19 In section 9 of the Lands Tribunal and Compensation Act (Northern Ireland) 1964 (proceedings of Lands Tribunal), in subsection (3) (where Tribunal acts as arbitrator) for "the Arbitration Act (Northern Ireland) 1937" substitute " Part I of the Arbitration Act 1996 ".

Industrial and Provident Societies Act 1965 (c.12)

F18 20 . . . . . .

Textual Amendments

F18 Sch. 3 para. 20 repealed (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), s. 154, **Sch. 7** (with Sch. 5)

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

Carriage of Goods by Road Act 1965 (c.37)

21 In section 7(2) of the Carriage of Goods by Road Act 1965 (arbitrations: time at which deemed to commence), for paragraphs (a) and (b) substitute—

"(a) as respects England and Wales and Northern Ireland, the provisions of section 14(3) to (5) of the Arbitration Act 1996 (which determine the time at which an arbitration is commenced) apply;".

Factories Act (Northern Ireland) 1965 (c.20 (N.I.))

22 In section 171 of the Factories Act (Northern Ireland) 1965 (application of Arbitration Act), for "The Arbitration Act (Northern Ireland) 1937" substitute " Part I of the Arbitration Act 1996 ".

Commonwealth Secretariat Act 1966 (c.10)

23 F19 . . . . . .

Textual Amendments

F19 Sch. 3 para. 23 omitted (7.6.2005) by virtue of International Organisations Act 2005 (c. 20), **ss. 1(2)**, 11(with s. 1(3)); S.I. 2005/1870, **art. 2** and said provision repealed (prosp.) by International Organisations Act 2005 (c. 20), s. 9, **Sch.**

Arbitration (International Investment Disputes) Act 1966 (c.41)

24 In the Arbitration (International Investment Disputes) Act 1966, for section 3 (application of Arbitration Act 1950 and other enactments) substitute—

"**3 Application of provisions of Arbitration Act 1996.**

(1) The Lord Chancellor may by order direct that any of the provisions contained in sections 36 and 38 to 44 of the Arbitration Act 1996 (provisions concerning the conduct of arbitral proceedings, &c.) shall apply to such proceedings pursuant to the Convention as are specified in the order with or without any modifications or exceptions specified in the order.

(2) Subject to subsection (1), the Arbitration Act 1996 shall not apply to proceedings pursuant to the Convention, but this subsection shall not be taken as affecting section 9 of that Act (stay of legal proceedings in respect of matter subject to arbitration).

(3) An order made under this section—

(a) may be varied or revoked by a subsequent order so made, and

(b) shall be contained in a statutory instrument.".

Poultry Improvement Act (Northern Ireland) 1968 (c.12 (N.I.))

25 In paragraph 10(4) of the Schedule to the Poultry Improvement Act (Northern Ireland) 1968 (reference of disputes), for "The Arbitration Act (Northern Ireland) 1937" substitute " Part I of the Arbitration Act 1996 ".

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

Industrial and Provident Societies Act (Northern Ireland) 1969 (c.24 (N.I.))

26 (1) Section 69 of the Industrial and Provident Societies Act (Northern Ireland) 1969 (decision of disputes) is amended as follows.

(2) In subsection (7) (decision of disputes)—

(a) in the opening words, omit the words from "and without prejudice" to "1937";

(b) at the beginning of paragraph (a) insert " without prejudice to any powers exercisable by virtue of Part I of the Arbitration Act 1996, "; and

(c) in paragraph (b) omit "the registrar or" and "registrar or" and for the words from "as might have been granted by the High Court" to the end substitute " as might be granted by the registrar ".

(3) For subsection (8) substitute—

"(8) The court or registrar to whom any dispute is referred under subsections (2) to (6) may at the request of either party state a case on any question of law arising in the dispute for the opinion of the High Court.".

Health and Personal Social Services (Northern Ireland) Order 1972 (N.I.14)

27 In Article 105(6) of the Health and Personal Social Services (Northern Ireland) Order 1972 (arbitrations under the Order), for "the Arbitration Act (Northern Ireland) 1937" substitute " Part I of the Arbitration Act 1996 ".

Consumer Credit Act 1974 (c.39)

28 (1) Section 146 of the Consumer Credit Act 1974 is amended as follows.

(2) In subsection (2) (solicitor engaged in contentious business), for "section 86(1) of the Solicitors Act 1957" substitute " section 87(1) of the Solicitors Act 1974 ".

(3) In subsection (4) (solicitor in Northern Ireland engaged in contentious business), for the words from "business done" to "Administration of Estates (Northern Ireland) Order 1979" substitute " contentious business (as defined in Article 3(2) of the Solicitors (Northern Ireland) Order 1976. ".

Friendly Societies Act 1974 (c.46)

29 (1) The Friendly Societies Act 1974 is amended as follows.

(2) For section 78(1) (statement of case) substitute—

"(1) Any arbitrator, arbiter or umpire to whom a dispute falling within section 76 above is referred under the rules of a registered society or branch may at the request of either party state a case on any question of law arising in the dispute for the opinion of the High Court or, as the case may be, the Court of Session.".

(3) In section 83(3) (procedure on objections to amalgamations &c. of friendly societies), for "the Arbitration Act 1950 or, in Northern Ireland, the Arbitration Act (Northern Ireland) 1937" substitute " Part I of the Arbitration Act 1996 ".

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

Industry Act 1975 (c.68)

30 In Schedule 3 to the Industry Act (arbitration of disputes relating to vesting and compensation orders), in paragraph 14 (application of certain provisions of Arbitration Acts)—

(a) for "the Arbitration Act 1950 or, in Northern Ireland, the Arbitration Act (Northern Ireland) 1937" substitute " Part I of the Arbitration Act 1996 ", and

(b) for "that Act" substitute " that Part ".

Industrial Relations (Northern Ireland) Order 1976 (N.I.16)

[F20]31 . . . . . .

Textual Amendments

F20 Sch. 3 para. 31 repealed (24.9.1996) by S.I. 1996/1921 (N.I. 18), art. 28, **Sch. 3**

Aircraft and Shipbuilding Industries Act 1977 (c.3)

[F21]32 . . . . . .

Textual Amendments

F21 Sch. 3 para. 32 repealed (22.3.2013) by The Public Bodies (Abolition of the Aircraft and Shipbuilding Industries Arbitration Tribunal) Order 2013 (S.I. 2013/686), art. 1(2), **Sch. 1 para. 7**

Patents Act 1977 (c.37)

33 In section 130 of the Patents Act 1977 (interpretation), in subsection (8) (exclusion of Arbitration Act) for "The Arbitration Act 1950" substitute " Part I of the Arbitration Act 1996 ".

Judicature (Northern Ireland) Act 1978 (c.23)

34 (1) The Judicature (Northern Ireland) Act 1978 is amended as follows.

(2) In section 35(2) (restrictions on appeals to the Court of Appeal), after paragraph (f) insert—

"(fa) except as provided by Part I of the Arbitration Act 1996, from any decision of the High Court under that Part;".

(3) In section 55(2) (rules of court) after paragraph (c) insert—

"(cc) providing for any prescribed part of the jurisdiction of the High Court in relation to the trial of any action involving matters of account to be exercised in the prescribed manner by a person agreed by the parties and for the remuneration of any such person;".

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

Health and Safety at Work (Northern Ireland) Order 1978 (N.I.9)

35 In Schedule 4 to the Health and Safety at Work (Northern Ireland) Order 1978 (licensing provisions), in paragraph 3, for "The Arbitration Act (Northern Ireland) 1937" substitute " Part I of the Arbitration Act 1996 ".

County Courts (Northern Ireland) Order 1980 (N.I.3)

36 (1) The County Courts (Northern Ireland) Order 1980 is amended as follows.

(2) In Article 30 (civil jurisdiction exercisable by district judge)—

(a) for paragraph (2) substitute—

"(2) Any order, decision or determination made by a district judge under this Article (other than one made in dealing with a claim by way of arbitration under paragraph (3)) shall be embodied in a decree which for all purposes (including the right of appeal under Part VI) shall have the like effect as a decree pronounced by a county court judge.";

(b) for paragraphs (4) and (5) substitute—

"(4) Where in any action to which paragraph (1) applies the claim is dealt with by way of arbitration under paragraph (3)—

(a) any award made by the district judge in dealing with the claim shall be embodied in a decree which for all purposes (except the right of appeal under Part VI) shall have the like effect as a decree pronounced by a county court judge;

(b) the district judge may, and shall if so required by the High Court, state for the determination of the High Court any question of law arising out of an award so made;

(c) except as provided by sub-paragraph (b), any award so made shall be final; and

(d) except as otherwise provided by county court rules, no costs shall be awarded in connection with the action.

(5) Subject to paragraph (4), county court rules may—

(a) apply any of the provisions of Part I of the Arbitration Act 1996 to arbitrations under paragraph (3) with such modifications as may be prescribed;

(b) prescribe the rules of evidence to be followed on any arbitration under paragraph (3) and, in particular, make provision with respect to the manner of taking and questioning evidence.

(5A) Except as provided by virtue of paragraph (5)(a), Part I of the Arbitration Act 1996 shall not apply to an arbitration under paragraph (3).".

(3) After Article 61 insert—

" Appeals from decisions under Part I of Arbitration Act 1996

61A (1) Article 61 does not apply to a decision of a county court judge made in the exercise of the jurisdiction conferred by Part I of the Arbitration Act 1996.

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

(2) Any party dissatisfied with a decision of the county court made in the exercise of the jurisdiction conferred by any of the following provisions of Part I of the Arbitration Act 1996, namely—

(a) section 32 (question as to substantive jurisdiction of arbitral tribunal);

(b) section 45 (question of law arising in course of arbitral proceedings);

(c) section 67 (challenging award of arbitral tribunal: substantive jurisdiction);

(d) section 68 (challenging award of arbitral tribunal: serious irregularity);

(e) section 69 (appeal on point of law),

may, subject to the provisions of that Part, appeal from that decision to the Court of Appeal.

(3) Any party dissatisfied with any decision of a county court made in the exercise of the jurisdiction conferred by any other provision of Part I of the Arbitration Act 1996 may, subject to the provisions of that Part, appeal from that decision to the High Court.

(4) The decision of the Court of Appeal on an appeal under paragraph (2) shall be final.”.

Commencement Information

I3 Sch. 3 para. 36 wholly in force 31.1.1997: Sch. 3 para. 36 not in force at Royal Assent see s. 109(1); Sch. 3 para. 36 in force for certain purposes only at 17.12.1996 othererwise in force at 31.1.1997 by S.I. 1996/3146, arts. 2, 3, **Sch. 1**

Supreme Court Act 1981 (c.54)

37 (1) The Supreme Court Act 1981 is amended as follows.

(2) In section 18(1) (restrictions on appeals to the Court of Appeal), for paragraph (g) substitute—

“(g) except as provided by Part I of the Arbitration Act 1996, from any decision of the High Court under that Part;”.

(3) In section 151 (interpretation, &c.), in the definition of “arbitration agreement”, for “the Arbitration Act 1950 by virtue of section 32 of that Act;” substitute “ Part I of the Arbitration Act 1996; ”.

Merchant Shipping (Liner Conferences) Act 1982 (c.37)

38 In section 7(5) of the Merchant Shipping (Liner Conferences) Act 1982 (stay of legal proceedings), for the words from “section 4(1)” to the end substitute “ section 9 of the Arbitration Act 1996 (which also provides for the staying of legal proceedings). ”.

Agricultural Marketing (Northern Ireland) Order 1982 (N.I.12)

39 In Article 14 of the Agricultural Marketing (Northern Ireland) Order 1982 (application of provisions of Arbitration Act (Northern Ireland) 1937)—

(a) for the words from the beginning to "shall apply" substitute " Section 45 and 69 of the Arbitration Act 1996 (which relate to the determination by the court of questions of law) and section 66 of that Act (enforcement of awards) " apply; and

(b) for "an arbitration" substitute " arbitral proceedings ".

Mental Health Act 1983 (c.20)

40 In section 78 of the Mental Health Act 1983 (procedure of Mental Health Review Tribunals), in subsection (9) for "The Arbitration Act 1950" substitute " Part I of the Arbitration Act 1996 ".

Registered Homes Act 1984 (c.23)

[[F22]41 In section 43 of the Registered Homes Act 1984 (procedure of Registered Homes Tribunals), in subsection (3) for "The Arbitration Act 1950" substitute " Part I of the Arbitration Act 1996 ".**]**

Textual Amendments

F22 Sch. 3 para. 41 repealed (1.4.2002 for E.W.) by 2000 c. 14, ss. 117(2), 122, Sch. 6; S.I. 2001/4150, art. 3(3)(c)(xi) (subject to art. 4 and to S.I. 2002/1493, art. 4) (as amended by S.I. 2002/1493, art. 6); S.I. 2002/920, **art. 3(3)(g)(ix)** (subject to art. 3(4)(5), Schs. 1-3 and with art. 3(6)-(10))

Housing Act 1985 (c.68)

42 In section 47(3) of the Housing Act 1985 (agreement as to determination of matters relating to service charges) for "section 32 of the Arbitration Act 1950" substitute " Part I of the Arbitration Act 1996 ".

Landlord and Tenant Act 1985 (c.70)

[F23]43 . . . . . .

Textual Amendments

F23 Sch. 3 para. 43 repealed (1.9.1997) by 1996 c. 52, s. 227, **Sch. 19**, Pt. III; S.I. 1997/1851, **art. 1**, 2

Credit Unions (Northern Ireland) Order 1985 (N.I.12)

44 (1) Article 72 of the Credit Unions (Northern Ireland) Order 1985 (decision of disputes) is amended as follows.

(2) In paragraph (7)—

(a) in the opening words, omit the words from "and without prejudice" to "1937";

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

(b) at the beginning of sub-paragraph (a) insert " without prejudice to any powers exercisable by virtue of Part I of the Arbitration Act 1996, "; and

(c) in sub-paragraph (b) omit "the registrar or" and "registrar or" and for the words from "as might have been granted by the High Court" to the end substitute " as might be granted by the registrar ".

(3) For paragraph (8) substitute—

"(8) The court or registrar to whom any dispute is referred under paragraphs (2) to (6) may at the request of either party state a case on any question of law arising in the dispute for the opinion of the High Court.".

Agricultural Holdings Act 1986 (c.5)

45 F24 . . . . . .

Textual Amendments

F24 Sch. 3 para. 45 repealed (19.10.2006) by The Regulatory Reform (Agricultural Tenancies) (England and Wales) Order 2006 (S.I. 2006/2805), arts. 1(1), 18, **Sch. 2** (with art. 10)

Insolvency Act 1986 (c.45)

46 In the Insolvency Act 1986, after section 349 insert—

"**349A Arbitration agreements to which bankrupt is party.**

(1) This section applies where a bankrupt had become party to a contract containing an arbitration agreement before the commencement of his bankruptcy.

(2) If the trustee in bankruptcy adopts the contract, the arbitration agreement is enforceable by or against the trustee in relation to matters arising from or connected with the contract.

(3) If the trustee in bankruptcy does not adopt the contract and a matter to which the arbitration agreement applies requires to be determined in connection with or for the purposes of the bankruptcy proceedings—

(a) the trustee with the consent of the creditors' committee, or

(b) any other party to the agreement,

may apply to the court which may, if it thinks fit in all the circumstances of the case, order that the matter be referred to arbitration in accordance with the arbitration agreement.

(4) In this section—

"arbitration agreement" has the same meaning as in Part I of the Arbitration Act 1996; and

"the court" means the court which has jurisdiction in the bankruptcy proceedings.".

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

Building Societies Act 1986 (c.53)

47 In Part II of Schedule 14 to the Building Societies Act 1986 (settlement of disputes: arbitration), in paragraph 5(6) for "the Arbitration Act 1950 and the Arbitration Act 1979 or, in Northern Ireland, the Arbitration Act (Northern Ireland) 1937" substitute " Part I of the Arbitration Act 1996 ".

Mental Health (Northern Ireland) Order 1986 (N.I.4)

48 In Article 83 of the Mental Health (Northern Ireland) Order 1986 (procedure of Mental Health Review Tribunal), in paragraph (8) for "The Arbitration Act (Northern Ireland) 1937" substitute " Part I of the Arbitration Act 1996 ".

Multilateral Investment Guarantee Agency Act 1988 (c.8)

49 For section 6 of the Multilateral Investment Guarantee Agency Act 1988 (application of Arbitration Act) substitute—

"**6 Application of Arbitration Act.**

(1) The Lord Chancellor may by order made by statutory instrument direct that any of the provisions of sections 36 and 38 to 44 of the Arbitration Act 1996 (provisions in relation to the conduct of the arbitral proceedings, &c.) apply, with such modifications or exceptions as are specified in the order, to such arbitration proceedings pursuant to Annex II to the Convention as are specified in the order.

(2) Except as provided by an order under subsection (1) above, no provision of Part I of the Arbitration Act 1996 other than section 9 (stay of legal proceedings) applies to any such proceedings.".

Copyright, Designs and Patents Act 1988 (c.48)

50 In section 150 of the Copyright, Designs and Patents Act 1988 (Lord Chancellor's power to make rules for Copyright Tribunal), for subsection (2) substitute—

"(2) The rules may apply in relation to the Tribunal, as respects proceedings in England and Wales or Northern Ireland, any of the provisions of Part I of the Arbitration Act 1996.".

Fair Employment (Northern Ireland) Act 1989 (c.32)

F25 51 . . . . . .

Textual Amendments

F25 Sch. 3 para. 51 repealed (1.3.1999) by S.I. 1998/3162, art. 105(4), **Sch. 5**; S.R. 1999/81, **art. 3**

Limitation (Northern Ireland) Order 1989 (N.I.11)

52 In Article 2(2) of the Limitation (Northern Ireland) Order 1989 (interpretation), in the definition of "arbitration agreement", for "the Arbitration Act (Northern Ireland) 1937" substitute " Part I of the Arbitration Act 1996 ".

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

Insolvency (Northern Ireland) Order 1989 (N.I.19)

53 In the Insolvency (Northern Ireland) Order 1989, after Article 320 insert—

" Arbitration agreements to which bankrupt is party.

320A(1) This Article applies where a bankrupt had become party to a contract containing an arbitration agreement before the commencement of his bankruptcy.

(2) If the trustee in bankruptcy adopts the contract, the arbitration agreement is enforceable by or against the trustee in relation to matters arising from or connected with the contract.

(3) If the trustee in bankruptcy does not adopt the contract and a matter to which the arbitration agreement applies requires to be determined in connection with or for the purposes of the bankruptcy proceedings—

(a) the trustee with the consent of the creditors' committee, or

(b) any other party to the agreement,

may apply to the court which may, if it thinks fit in all the circumstances of the case, order that the matter be referred to arbitration in accordance with the arbitration agreement.

(4) In this Article—

"arbitration agreement" has the same meaning as in Part I of the Arbitration Act 1996; and

"the court" means the court which has jurisdiction in the bankruptcy proceedings.".

Social Security Administration Act 1992 (c.5)

54 In section 59 of the Social Security Administration Act 1992 (procedure for inquiries, &c.), in subsection (7), for "The Arbitration Act 1950" substitute " Part I of the Arbitration Act 1996 ".

Social Security Administration (Northern Ireland) Act 1992 (c.8)

F26 55 . . . . . .

Textual Amendments

F26 Sch. 3 para. 55 repealed (29.11.1999) by S.I. 1998/1506, art. 78(2), **Sch. 7**; S.R. 1999/472, art. 2(2)(1)(a), **Sch. I**

Trade Union and Labour Relations (Consolidation) Act 1992 (c.52)

56 In sections 212(5) and 263(6) of the Trade Union and Labour Relations (Consolidation) Act 1992 (application of Arbitration Act) for "the Arbitration Act 1950" substitute " Part I of the Arbitration Act 1996 ".

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

Industrial Relations (Northern Ireland) Order 1992 (N.I.5)

57 In Articles 84(9) and 92(5) of the Industrial Relations (Northern Ireland) Order 1992 (application of Arbitration Act) for "The Arbitration Act (Northern Ireland) 1937" substitute " Part I of the Arbitration Act 1996 ".

Registered Homes (Northern Ireland) Order 1992 (N.I.20)

58 **[**[F27]In Article 33(3) of the Registered Homes (Northern Ireland) Order 1992 (procedure of Registered Homes Tribunal) for "The Arbitration Act (Northern Ireland) 1937" substitute " Part I of the Arbitration Act 1996 ".[F27]**]**

Textual Amendments

F27 Sch. 3 para. 58 repealed (N.I.) (1.4.2005) by The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)), arts. 1, 50(2), **Sch. 5**; S.R. 2005/44, art. 3, **Sch. 1** (with arts. 4-13)

Education Act 1993 (c.35)

[F28]59 . . . . . .

Textual Amendments

F28 Sch. 3 para. 59 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), Sch. 38 Pt. I, **Sch. 39** (with s. 1(4))

Roads (Northern Ireland) Order 1993 (N.I.15)

60 (1) The Roads (Northern Ireland) Order 1993 is amended as follows.

(2) In Article 131 (application of Arbitration Act) for "the Arbitration Act (Northern Ireland) 1937" substitute " Part I of the Arbitration Act 1996 ".

(3) In Schedule 4 (disputes), in paragraph 3(2) for "the Arbitration Act (Northern Ireland) 1937" substitute " Part I of the Arbitration Act 1996 ".

Merchant Shipping Act 1995 (c.21)

61 In Part II of Schedule 6 to the Merchant Shipping Act 1995 (provisions having effect in connection with Convention Relating to the Carriage of Passengers and Their Luggage by Sea), for paragraph 7 substitute—

"7 Article 16 shall apply to arbitral proceedings as it applies to an action; and, as respects England and Wales and Northern Ireland, the provisions of section 14 of the Arbitration Act 1996 apply to determine for the purposes of that Article when an arbitration is commenced.".

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

[F29 Employment Tribunals Act 1996] (c.17)

Textual Amendments

F29 Words in crossheading to Sch. 3 para. 62 substituted (E.W.S.) (1.8.1998) by virtue of 1998 c. 8, **s. 1(2)(c)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

62 In section 6(2) of **[**F30 the Employment Tribunals Act 1996**]** (procedure of **[**F30 employment tribunals**]**), for "The Arbitration Act 1950" substitute " Part I of the Arbitration Act 1996 ".

Textual Amendments

F30 Words in Sch. 3 para. 62 substituted (E.W.S.) (1.8.1998) by 1998 c. 8, **s. 1(2)(b)(c)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

SCHEDULE 4

Section 107(2).

REPEALS

Commencement Information

I4 Sch. 4 wholly in force 31.1.1997: Sch. 4 not in force at Royal Assent see s. 109(1); Sch. 4 in force for certain purposes only at 17.12.1996 otherwise in force at 31.1.1997 by S.I. 1996/3146, arts. 2, 3, **Sch. 1**

Chapter	Short title	Extent of repeal
1892 c. 43.	Military Lands Act 1892.	In section 21(b), the words "under the Arbitration Act 1889".
1922 c. 51.	Allotments Act 1922.	In section 21(3), the words "under the Arbitration Act 1889".
1937 c. 8 (N.I.).	Arbitration Act (Northern Ireland) 1937.	The whole Act.
1949 c. 54.	Wireless Telegraphy Act 1949.	In Schedule 2, paragraph 3(3).
1949 c. 97.	National Parks and Access to the Countryside Act 1949.	In section 18(4), the words from "Without prejudice" to "England or Wales".
1950 c. 27.	Arbitration Act 1950.	Part I. Section 42(3).
1958 c. 47.	Agricultural Marketing Act 1958.	Section 53(8).
1962 c. 46.	Transport Act 1962.	In Schedule 11, Part II, paragraph 7.

1964 c. 14.	Plant Varieties and Seeds Act 1964.	In section 10(4) the words from "or in section 9" to "three arbitrators)". Section 39(3)(b)(i).
1964 c. 29 (N.I.).	Lands Tribunal and Compensation Act (Northern Ireland) 1964.	In section 9(3) the words from "so, however, that" to the end.
1965 c. 12.	Industrial and Provident Societies Act 1965.	In section 60(8)(b), the words "by virtue of section 12 of the said Act of 1950".
1965 c. 37.	Carriage of Goods by Road Act 1965.	Section 7(2)(b).
1965 c. 13 (N.I.).	New Towns Act (Northern Ireland) 1965.	In section 27(2), the words from "under and in accordance with" to the end.
1969 c. 24 (N.I.).	Industrial and Provident Societies Act (Northern Ireland) 1969.	In section 69(7)— (a) in the opening words, the words from "and without prejudice" to "1937"; (b) in paragraph (b), the words "the registrar or" and "registrar or".
1970 c. 31.	Administration of Justice Act 1970.	Section 4. Schedule 3.
1973 c. 41.	Fair Trading Act 1973.	Section 33(2)(d).
1973 N.I. 1.	Drainage (Northern Ireland) Order 1973.	In Article 15(4), the words from "under and in accordance" to the end. Article 40(4). In Schedule 7, in paragraph 9(2), the words from "under and in accordance" to the end.
1974 c. 47.	Solicitors Act 1974.	In section 87(1), in the definition of "contentious business", the words "appointed under the Arbitration Act 1950".
1975 c. 3.	Arbitration Act 1975.	The whole Act.
1975 c. 74.	Petroleum and Submarine Pipe-Lines Act 1975.	In Part II of Schedule 2— (a) in model clause 40(2), the words "in accordance with the Arbitration Act 1950"; (b) in model clause 40(2B), the words "in accordance with the Arbitration Act (Northern Ireland) 1937".

Status: *Point in time view as at 01/08/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Arbitration Act 1996. (See end of Document for details)*

		In Part II of Schedule 3, in model clause 38(2), the words "in accordance with the Arbitration Act 1950".
1976 N.I. 12.	Solicitors (Northern Ireland) Order 1976.	In Article 3(2), in the entry "contentious business", the words "appointed under the Arbitration Act (Northern Ireland) 1937". Article 71H(3).
1977 c. 37.	Patents Act 1977.	In section 52(4) the words "section 21 of the Arbitration Act 1950 or, as the case may be, section 22 of the Arbitration Act (Northern Ireland) 1937 (statement of cases by arbitrators); but". Section 131(e).
1977 c. 38.	Administration of Justice Act 1977.	Section 17(2).
1978 c. 23.	Judicature (Northern Ireland) Act 1978.	In section 35(2), paragraph (g)(v). In Schedule 5, the amendment to the Arbitration Act 1950.
1979 c. 42.	Arbitration Act 1979.	The whole Act.
1980 c. 58.	Limitation Act 1980.	Section 34.
1980 N.I. 3.	County Courts (Northern Ireland) Order 1980.	Article 31(3).
1981 c. 54.	Supreme Court Act 1981.	Section 148.
1982 c. 27.	Civil Jurisdiction and Judgments Act 1982.	Section 25(3)(c) and (5).
		In section 26— (a) in subsection (1), the words "to arbitration or"; (b) in subsection (1)(a)(i), the words "arbitration or"; (c) in subsection (2), the words "arbitration or".
1982 c. 53.	Administration of Justice Act 1982.	Section 15(6). In Schedule 1, Part IV.
1984 c. 5.	Merchant Shipping Act 1984.	Section 4(8).
1984 c. 12.	Telecommunications Act 1984.	Schedule 2, paragraph 13(8).
1984 c. 16.	Foreign Limitation Periods Act 1984.	Section 5.

1984 c. 28.	County Courts Act 1984.	In Schedule 2, paragraph 70.
1985 c. 61.	Administration of Justice Act 1985.	Section 58. In Schedule 9, paragraph 15.
1985 c. 68.	Housing Act 1985.	In Schedule 18, in paragraph 6(2) the words from "and the Arbitration Act 1950" to the end.
1985 N.I. 12.	Credit Unions (Northern Ireland) Order 1985.	In Article 72(7)— (a) in the opening words, the words from "and without prejudice" to "1937"; (b) in sub-paragraph (b), the words "the registrar or" and "registrar or".
1986 c. 45.	Insolvency Act 1986.	In Schedule 14, the entry relating to the Arbitration Act 1950.
1988 c. 8.	Multilateral Investment Guarantee Agency Act 1988.	Section 8(3).
1988 c. 21.	Consumer Arbitration Agreements Act 1988.	The whole Act.
1989 N.I. 11.	Limitation (Northern Ireland) Order 1989.	Article 72. In Schedule 3, paragraph 1.
1989 N.I. 19.	Insolvency (Northern Ireland) Order 1989.	In Part II of Schedule 9, paragraph 66.
1990 c. 41.	Courts and Legal Services Act 1990.	Sections 99 and 101 to 103.
1991 N.I. 7.	Food Safety (Northern Ireland) Order 1991.	In Articles 8(8) and 11(10), the words from "and the provisions" to the end.
1992 c. 40.	Friendly Societies Act 1992.	In Schedule 16, paragraph 30(1).
1995 c. 8.	Agricultural Tenancies Act 1995.	Section 28(4).
1995 c. 21.	Merchant Shipping Act 1995.	Section 96(10). Section 264(9).
1995 c. 42.	Private International Law (Miscellaneous Provisions) Act 1995.	Section 3.

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