



Arbitration Act 1996

1996 CHAPTER 23

PART I

ARBITRATION PURSUANT TO AN ARBITRATION AGREEMENT

Powers of court in relation to arbitral proceedings

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.

*Changes to legislation: There are currently no known outstanding effects
for the Arbitration Act 1996, Section 45. (See end of Document for details)*

- (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)

- C1** 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 para. 94(1)** (which amending S.I. was revoked (6.4.2004) by [S.I. 2004/753](#), **art. 3** (subject to art. 8))
- C2** 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))
- C3** 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**
- C4** 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)
- C5** 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**
- C6** 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**

Changes to legislation:

There are currently no known outstanding effects for the Arbitration Act 1996, Section 45.