



# Arbitration Act 1996

## 1996 CHAPTER 23

### PART I

#### ARBITRATION PURSUANT TO AN ARBITRATION AGREEMENT

##### *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.

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*Status: This is the original version (as it was originally enacted).*

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## **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.

## **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 Banking and Financial Dealings Act 1971 is a bank holiday.

## **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.

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*Status: This is the original version (as it was originally enacted).*

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## **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.

## **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;
- “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 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.

## **83 Index of defined expressions: Part I**

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

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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)

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## **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).