



# Arbitration Act 1996

## 1996 CHAPTER 23

### PART II

#### OTHER PROVISIONS RELATING TO ARBITRATION

##### *Domestic arbitration agreements*

#### **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.
- (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).

#### **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

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*Status: This is the original version (as it was originally enacted).*

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- (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.

### **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.