



Arbitration Act 1996

1996 CHAPTER 23

PART I

ARBITRATION PURSUANT TO AN ARBITRATION AGREEMENT

The arbitral proceedings

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.

*Changes to legislation: There are currently no known outstanding effects
for the Arbitration Act 1996, Section 41. (See end of Document for details)*

- (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)

- C1** 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**)
- C2** 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**)

Changes to legislation:

There are currently no known outstanding effects for the Arbitration Act 1996, Section 41.