

Alert | International Arbitration



March 2025

Arbitration Act 2025 Updates UK's Dispute Resolution Framework

Go-To Guide

- The UK Arbitration Act 2025 seeks to modernise arbitration law through a series of targeted reforms to the Arbitration Act 1996:
 - New statutory rule establishes arbitration agreement's governing law as the law of the seat, absent express agreement.
 - Arbitrators gain express power to summarily dismiss claims or defences with no real prospect of success.
 - Codifies arbitrators' duty to disclose potential conflicts of interest on an ongoing basis.
 - Court powers extended to issue orders against third parties in support of arbitration proceedings.
 - Equips emergency arbitrators with extended enforcement powers.

The Arbitration Act 2025 (the 2025 Act) received Royal Assent on 24 February 2025. This new legislation introduces a series of targeted reforms to modernise and enhance the Arbitration Act 1996 (the 1996 Act), which has underpinned England's arbitration offering for the past 30 years. The changes the 2025 Act introduce seek to reinforce and preserve London's status as one of the world's leading international arbitration seats.

Background

The 2025 Act follows a multi-year review process conducted by the Law Commission, which included two consultations and a final report containing proposed amendments to ensure the 1996 Act was fit for purpose. The Greenberg Traurig London arbitration team was one of the initial consultees and offered feedback on the Law Commission's proposed reforms. The team's input sought to ensure any reforms addressed practical considerations and aligned with arbitration practitioners and stakeholders' needs.

In particular, the Greenberg Traurig London arbitration team supported the issue of summary disposal and, more specifically, advocated against establishing a statutory procedure for its application, arguing that the appropriate procedure should vary depending on the specifics of each case. The wording of the Arbitration Act 2025 adopts the approach Greenberg Traurig suggested, as acknowledged in the [Law Commission's recommendations](#).

Arbitration Act 2025's Key Changes

The five key changes and their practical implications include:

- 1. Governing Law of Arbitration Agreements:** The 2025 Act establishes a clear rule for determining the governing law of an arbitration agreement. In the absence of an express agreement between the parties, the governing law will be the same as the law of the seat of arbitration. This new statutory rule seeks to address a practical challenge often encountered in English-seated arbitrations, where the governing law of the main contract is of a jurisdiction that is not arbitration-friendly, yet there is no express choice of law for the arbitration agreement. The new statutory rule circumvents the common law position the Supreme Court previously adopted in *Enka Insaat Ve Sanayi AS v OOO Insurance Company Chubb* [2020] UKSC 38. There is a limited exception to the statutory rule's application for certain types of investment treaty arbitration clauses.
- 2. Summary Disposal Powers:** Arbitrators are now expressly empowered to summarily dismiss claims or defences that have no real prospect of success. The tribunal may issue an award on a summary basis, disposing of a claim/defence or a particular issue upon either party's application, provided that the parties have not agreed to exclude this power. The 2025 Act refrains from prescribing a detailed procedure, instead stipulating only the requirement that all parties be given a reasonable opportunity to make representations, thereby ensuring flexibility in its implementation. Overall, the new provisions for summary disposal contained within the 2025 Act seek to align arbitration procedures more closely with those of the English courts by empowering tribunals to filter out claims or defences that lack legal or factual merit at an early stage, without requiring a full, costly, and time-consuming hearing.
- 3. Arbitrators' Duty of Disclosure:** The 2025 Act establishes a statutory obligation on arbitrators to disclose, on an ongoing basis, any circumstances that might reasonably raise justifiable doubts about their impartiality. This statutory duty now requires arbitrators to reveal both what they actually know and what they reasonably ought to have known regarding potential conflicts of interest. Although the 1996 Act did not previously include a statutory duty of disclosure, the Supreme Court did determine that such a duty existed in common law (*Halliburton v Chubb* [2020] UKSC 48). The 2025 Act therefore seeks to promote transparency by codifying this duty.
- 4. Court Powers in Support of Arbitration:** The court's authority to issue orders supporting arbitration proceedings pursuant to section 44 of 1996 Act (including freezing orders or orders in respect of the preservation of evidence) has been extended to include orders against third parties, as opposed to only against parties to the arbitration. This change reinforces the court's role in ensuring

the arbitral process' effectiveness and allows the courts to target other persons connected with an arbitration. This extension of the court's power may be deployed in cases involving fraud, asset dissipation, or when a third party, such as a bank or supplier, holds important evidence.

5. **Emergency Arbitrators:** It is common practice among the most popular sets of arbitration rules to appoint emergency arbitrators to make interim decisions before establishing the full tribunal. In light of this trend, the 2025 Act introduces new provisions that enable parties to enforce orders made by emergency arbitrators when the relevant arbitration rules allow their appointment. These new provisions allow the emergency arbitrators, where a party has failed to comply with the emergency arbitrator's order or directions, to make and enforce a peremptory order with the same authority as a fully constituted tribunal. This creates a clearer framework for interim relief in arbitration and equips emergency arbitrators with enforcement powers that were previously exclusive to fully constituted tribunals.

Takeaways

The changes the 2025 Act introduces will take effect through relevant regulations as soon as practicable. However, these changes will not affect (i) arbitral proceedings commenced before the relevant changes come into force, (ii) court proceedings related to arbitral proceedings commenced before the relevant changes come into force, and (iii) any other court proceedings commenced before the relevant changes come into force.

Overall, the reforms represent targeted refinements to England's existing framework. They seek to enhance expeditiousness, fairness, efficiency, and legal certainty in the arbitration process, all while maintaining the core principles of the 1996 Act that have served this jurisdiction for three decades. Fundamentally, the changes aim to reinforce London's status as a leading arbitral seat in the international arbitration landscape.

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