



LEGAL UPDATE

Arbitration Act 2025 Receives Royal Assent

On 24 February 2025, the Bill to amend the Arbitration Act 1996 (the “1996 Act”) received Royal Assent, officially becoming an Act of Parliament.

It has widely been acknowledged that the 1996 Act worked well, but it would be remiss not to acknowledge there have been several significant updates to arbitral procedures over the last c.30 years. While the amendments do not represent a significant departure from the established framework of the 1996 Act, the 2025 Act aims to clarify the position developed at common law, and more generally, reaffirm England’s pro-arbitration stance.

[Lisa McCreath](#) (Senior Associate) reflects on a number of key updates made by the 2025 Act

New default rule for the governing law of arbitration agreements

Unless specified in a treaty or foreign legislation, Section 1 of the 2025 Act states that the law applicable to the arbitration agreement will be the law expressly agreed upon by the parties. In the absence of such an agreement, the default will be the law of the country/state of the seat of the arbitration. This clear-cut default rule will hopefully avoid the complex principles developed by the Supreme Court in [Enka v Chubb](#). These principles have been criticised over the years as being too intricate and overemphasising the law governing the main contract over the parties’ intentions for their arbitration.

Revised process for jurisdictional challenges

The 2025 Act updates the framework for jurisdictional challenges under Section 67 of the 1996 Act, which allows parties to challenge an arbitral award based on the Tribunal's lack of jurisdiction. This change responds to the Supreme Court's decision in Dallah v Pakistan, which established a rigorous process for jurisdictional challenges, emphasising the need for a full rehearing of jurisdictional issues, rather than simply reviewing the Tribunal's findings. Under the 2025 Act, the court will only rehear evidence if it is in the interest of justice to do so, it will place greater emphasis on the tribunal's findings (unless there is a compelling reason not to do so), and streamline the process by refusing new evidence or objections unless they could not have been presented to the Tribunal with reasonable diligence.

Arbitrators' new statutory duty of disclosure

Reflecting the Supreme Court's decision in Halliburton v Chubb, Section 2 of the 2025 Act requires arbitrators to disclose any circumstances that might reasonably raise doubts about their impartiality. This duty applies both to known situations and those situations the arbitrator should reasonably know, such as pre-appointment discussions.

The 2025 Act permits courts to enforce emergency

The 2025 Act permits courts to enforce emergency arbitrators' interim orders and allows emergency arbitrators to authorise parties to apply to the court for orders supporting arbitration. This change aligns English law with procedural developments in arbitral practice since 1996. Additionally, it clarifies that Tribunals can decide issues on a summary basis if a party has "no real prospect" of success on that issue.



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