



# Arbitration Act 1996

## 1996 CHAPTER 23

### PART I

#### ARBITRATION PURSUANT TO AN ARBITRATION AGREEMENT

##### *Jurisdiction of the arbitral tribunal*

#### **30 Competence of tribunal to rule on its own jurisdiction**

- (1) Unless otherwise agreed by the parties, the arbitral tribunal may rule on its own substantive jurisdiction, that is, as to—
  - (a) whether there is a valid arbitration agreement,
  - (b) whether the tribunal is properly constituted, and
  - (c) what matters have been submitted to arbitration in accordance with the arbitration agreement.
- (2) Any such ruling may be challenged by any available arbitral process of appeal or review or in accordance with the provisions of this Part.

#### **31 Objection to substantive jurisdiction of tribunal**

- (1) An objection that the arbitral tribunal lacks substantive jurisdiction at the outset of the proceedings must be raised by a party not later than the time he takes the first step in the proceedings to contest the merits of any matter in relation to which he challenges the tribunal's jurisdiction.

A party is not precluded from raising such an objection by the fact that he has appointed or participated in the appointment of an arbitrator.

- (2) Any objection during the course of the arbitral proceedings that the arbitral tribunal is exceeding its substantive jurisdiction must be made as soon as possible after the matter alleged to be beyond its jurisdiction is raised.

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*Status: This is the original version (as it was originally enacted).*

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- (3) The arbitral tribunal may admit an objection later than the time specified in subsection (1) or (2) if it considers the delay justified.
- (4) Where an objection is duly taken to the tribunal's substantive jurisdiction and the tribunal has power to rule on its own jurisdiction, it may—
  - (a) rule on the matter in an award as to jurisdiction, or
  - (b) deal with the objection in its award on the merits.

If the parties agree which of these courses the tribunal should take, the tribunal shall proceed accordingly.

- (5) The tribunal may in any case, and shall if the parties so agree, stay proceedings whilst an application is made to the court under section 32 (determination of preliminary point of jurisdiction).

### **32 Determination of preliminary point of jurisdiction**

- (1) The court may, on the application of a party to arbitral proceedings (upon notice to the other parties), determine any question as to the substantive jurisdiction of the tribunal.  
 A party may lose the right to object (see section 73).
- (2) An application under this section shall not be considered unless—
  - (a) it is made with the agreement in writing of all the other parties to the proceedings, or
  - (b) it is made with the permission of the tribunal and the court is satisfied—
    - (i) that the determination of the question is likely to produce substantial savings in costs,
    - (ii) that the application was made without delay, and
    - (iii) that there is good reason why the matter should be decided by the court.
- (3) An application under this section, unless made with the agreement of all the other parties to the proceedings, shall state the grounds on which it is said that the matter should be decided by the court.
- (4) Unless otherwise agreed by the parties, the arbitral tribunal may continue the arbitral proceedings and make an award while an application to the court under this section is pending.
- (5) Unless the court gives leave, no appeal lies from a decision of the court whether the conditions specified in subsection (2) are met.
- (6) The decision of the court on the question of jurisdiction shall be treated as a judgment of the court for the purposes of an appeal.

But no appeal lies without the leave of the court which shall not be given unless the court considers that the question involves a point of law which is one of general importance or is one which for some other special reason should be considered by the Court of Appeal.