



# Arbitration Act 1996

## 1996 CHAPTER 23

### PART I

#### ARBITRATION PURSUANT TO AN ARBITRATION AGREEMENT

##### *Miscellaneous*

#### **72 Saving for rights of person who takes no part in proceedings.**

- (1) A person alleged to be a party to arbitral proceedings but who takes no part in the proceedings may question—
- (a) whether there is a valid arbitration agreement,
  - (b) whether the tribunal is properly constituted, or
  - (c) what matters have been submitted to arbitration in accordance with the arbitration agreement,
- by proceedings in the court for a declaration or injunction or other appropriate relief.
- (2) He also has the same right as a party to the arbitral proceedings to challenge an award—
- (a) by an application under section 67 on the ground of lack of substantive jurisdiction in relation to him, or
  - (b) by an application under section 68 on the ground of serious irregularity (within the meaning of that section) affecting him;
- and section 70(2) (duty to exhaust arbitral procedures) does not apply in his case.

#### **73 Loss of right to object.**

- (1) If a party to arbitral proceedings takes part, or continues to take part, in the proceedings without making, either forthwith or within such time as is allowed by the arbitration agreement or the tribunal or by any provision of this Part, any objection—
- (a) that the tribunal lacks substantive jurisdiction,
  - (b) that the proceedings have been improperly conducted,

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- (c) that there has been a failure to comply with the arbitration agreement or with any provision of this Part, or
- (d) that there has been any other irregularity affecting the tribunal or the proceedings,

he may not raise that objection later, before the tribunal or the court, unless he shows that, at the time he took part or continued to take part in the proceedings, he did not know and could not with reasonable diligence have discovered the grounds for the objection.

- (2) Where the arbitral tribunal rules that it has substantive jurisdiction and a party to arbitral proceedings who could have questioned that ruling—
  - (a) by any available arbitral process of appeal or review, or
  - (b) by challenging the award,

does not do so, or does not do so within the time allowed by the arbitration agreement or any provision of this Part, he may not object later to the tribunal's substantive jurisdiction on any ground which was the subject of that ruling.

#### **74 Immunity of arbitral institutions, &c.**

- (1) An arbitral or other institution or person designated or requested by the parties to appoint or nominate an arbitrator is not liable for anything done or omitted in the discharge or purported discharge of that function unless the act or omission is shown to have been in bad faith.
- (2) An arbitral or other institution or person by whom an arbitrator is appointed or nominated is not liable, by reason of having appointed or nominated him, for anything done or omitted by the arbitrator (or his employees or agents) in the discharge or purported discharge of his functions as arbitrator.
- (3) The above provisions apply to an employee or agent of an arbitral or other institution or person as they apply to the institution or person himself.

#### **75 Charge to secure payment of solicitors' costs.**

The powers of the court to make declarations and orders under section 73 of the <sup>M1</sup>Solicitors Act 1974 or Article 71H of the <sup>M2</sup>Solicitors (Northern Ireland) Order 1976 (power to charge property recovered in the proceedings with the payment of solicitors' costs) may be exercised in relation to arbitral proceedings as if those proceedings were proceedings in the court.

#### **Marginal Citations**

**M1** 1974 c. 47.

**M2** S.I. 1976/582 (N.I. 12).

**Status:**

Point in time view as at 01/09/2021.

**Changes to legislation:**

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