



# Arbitration Act 1996

## 1996 CHAPTER 23

### PART I

#### ARBITRATION PURSUANT TO AN ARBITRATION AGREEMENT

VALID FROM 31/01/1997

#### *The award*

#### **46 Rules applicable to substance of dispute.**

- (1) The arbitral tribunal shall decide the dispute—
  - (a) in accordance with the law chosen by the parties as applicable to the substance of the dispute, or
  - (b) if the parties so agree, in accordance with such other considerations as are agreed by them or determined by the tribunal.
- (2) For this purpose the choice of the laws of a country shall be understood to refer to the substantive laws of that country and not its conflict of laws rules.
- (3) If or to the extent that there is no such choice or agreement, the tribunal shall apply the law determined by the conflict of laws rules which it considers applicable.

#### **Modifications etc. (not altering text)**

- C1** S. 46(1)(b) applied (with modifications) (E.W.) (21.5.2001) by [S.I. 2001/1185, art. 4\(1\)](#) (which amending S.I. was revoked (6.4.2004) by [S.I. 2004/753, art. 3](#) (subject to [art. 8](#)))  
S. 46(1)(b) applied (with modifications) (N.I.) (28.4.2002) by [Labour Relations Agency Arbitration Scheme Order \(Northern Ireland\) 2002 \(S.R. 2002/120\), art. 4](#)
- C2** S. 46(1)(b) applied (with modifications) (E.W.) (6.4.2003) by [The ACAS \(Flexible Working\) Arbitration Scheme \(England and Wales\) Order 2003 \(S.I. 2003/694\), art. 4](#) (which amending S.I. was revoked (1.10.2004) by [S.I. 2004/2333, art. 3](#) (subject to [art. 6](#)))

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- C3** S. 46(1)(b) applied (with modifications) (E.W.) (6.4.2004) by [The ACAS Arbitration Scheme \(Great Britain\) Order 2004 \(S.I. 2004/753\)](#), **art. 5(1)**
- C4** S. 46(1)(b) applied (with modifications) (E.W.) (1.10.2004) by [The ACAS \(Flexible Working\) Arbitration Scheme \(Great Britain\) Order 2004 \(S.I. 2004/2333\)](#), **art. 5** (with art. 6)
- C5** S. 46(1)(b) applied (with modifications) (N.I.) (21.5.2006) by [The Labour Relations Agency \(Flexible Working\) Arbitration Scheme Order \(Northern Ireland\) 2006 \(S.R. 2006/206\)](#), **art. 4**

#### **47 Awards on different issues, &c.**

- (1) Unless otherwise agreed by the parties, the tribunal may make more than one award at different times on different aspects of the matters to be determined.
- (2) The tribunal may, in particular, make an award relating—
  - (a) to an issue affecting the whole claim, or
  - (b) to a part only of the claims or cross-claims submitted to it for decision.
- (3) If the tribunal does so, it shall specify in its award the issue, or the claim or part of a claim, which is the subject matter of the award.

#### **48 Remedies.**

- (1) The parties are free to agree on the powers exercisable by the arbitral tribunal as regards remedies.
- (2) Unless otherwise agreed by the parties, the tribunal has the following powers.
- (3) The tribunal may make a declaration as to any matter to be determined in the proceedings.
- (4) The tribunal may order the payment of a sum of money, in any currency.
- (5) The tribunal has the same powers as the court—
  - (a) to order a party to do or refrain from doing anything;
  - (b) to order specific performance of a contract (other than a contract relating to land);
  - (c) to order the rectification, setting aside or cancellation of a deed or other document.

#### **49 Interest.**

- (1) The parties are free to agree on the powers of the tribunal as regards the award of interest.
- (2) Unless otherwise agreed by the parties the following provisions apply.
- (3) The tribunal may award simple or compound interest from such dates, at such rates and with such rests as it considers meets the justice of the case—
  - (a) on the whole or part of any amount awarded by the tribunal, in respect of any period up to the date of the award;
  - (b) on the whole or part of any amount claimed in the arbitration and outstanding at the commencement of the arbitral proceedings but paid before the award was made, in respect of any period up to the date of payment.

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- (4) The tribunal may award simple or compound interest from the date of the award (or any later date) until payment, at such rates and with such rests as it considers meets the justice of the case, on the outstanding amount of any award (including any award of interest under subsection (3) and any award as to costs).
- (5) References in this section to an amount awarded by the tribunal include an amount payable in consequence of a declaratory award by the tribunal.
- (6) The above provisions do not affect any other power of the tribunal to award interest.

#### **50 Extension of time for making award.**

- (1) Where the time for making an award is limited by or in pursuance of the arbitration agreement, then, unless otherwise agreed by the parties, the court may in accordance with the following provisions by order extend that time.
- (2) An application for an order under this section may be made—
  - (a) by the tribunal (upon notice to the parties), or
  - (b) by any party to the proceedings (upon notice to the tribunal and the other parties),but only after exhausting any available arbitral process for obtaining an extension of time.
- (3) The court shall only make an order if satisfied that a substantial injustice would otherwise be done.
- (4) The court may extend the time for such period and on such terms as it thinks fit, and may do so whether or not the time previously fixed (by or under the agreement or by a previous order) has expired.
- (5) The leave of the court is required for any appeal from a decision of the court under this section.

#### **51 Settlement.**

- (1) If during arbitral proceedings the parties settle the dispute, the following provisions apply unless otherwise agreed by the parties.
- (2) The tribunal shall terminate the substantive proceedings and, if so requested by the parties and not objected to by the tribunal, shall record the settlement in the form of an agreed award.
- (3) An agreed award shall state that it is an award of the tribunal and shall have the same status and effect as any other award on the merits of the case.
- (4) The following provisions of this Part relating to awards (sections 52 to 58) apply to an agreed award.
- (5) Unless the parties have also settled the matter of the payment of the costs of the arbitration, the provisions of this Part relating to costs (sections 59 to 65) continue to apply.

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**52 Form of award.**

- (1) The parties are free to agree on the form of an award.
- (2) If or to the extent that there is no such agreement, the following provisions apply.
- (3) The award shall be in writing signed by all the arbitrators or all those assenting to the award.
- (4) The award shall contain the reasons for the award unless it is an agreed award or the parties have agreed to dispense with reasons.
- (5) The award shall state the seat of the arbitration and the date when the award is made.

**53 Place where award treated as made.**

Unless otherwise agreed by the parties, where the seat of the arbitration is in England and Wales or Northern Ireland, any award in the proceedings shall be treated as made there, regardless of where it was signed, despatched or delivered to any of the parties.

**54 Date of award.**

- (1) Unless otherwise agreed by the parties, the tribunal may decide what is to be taken to be the date on which the award was made.
- (2) In the absence of any such decision, the date of the award shall be taken to be the date on which it is signed by the arbitrator or, where more than one arbitrator signs the award, by the last of them.

**55 Notification of award.**

- (1) The parties are free to agree on the requirements as to notification of the award to the parties.
- (2) If there is no such agreement, the award shall be notified to the parties by service on them of copies of the award, which shall be done without delay after the award is made.
- (3) Nothing in this section affects section 56 (power to withhold award in case of non-payment).

**56 Power to withhold award in case of non-payment.**

- (1) The tribunal may refuse to deliver an award to the parties except upon full payment of the fees and expenses of the arbitrators.
- (2) If the tribunal refuses on that ground to deliver an award, a party to the arbitral proceedings may (upon notice to the other parties and the tribunal) apply to the court, which may order that—
  - (a) the tribunal shall deliver the award on the payment into court by the applicant of the fees and expenses demanded, or such lesser amount as the court may specify,
  - (b) the amount of the fees and expenses properly payable shall be determined by such means and upon such terms as the court may direct, and

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- (c) out of the money paid into court there shall be paid out such fees and expenses as may be found to be properly payable and the balance of the money (if any) shall be paid out to the applicant.
- (3) For this purpose the amount of fees and expenses properly payable is the amount the applicant is liable to pay under section 28 or any agreement relating to the payment of the arbitrators.
- (4) No application to the court may be made where there is any available arbitral process for appeal or review of the amount of the fees or expenses demanded.
- (5) References in this section to arbitrators include an arbitrator who has ceased to act and an umpire who has not replaced the other arbitrators.
- (6) The above provisions of this section also apply in relation to any arbitral or other institution or person vested by the parties with powers in relation to the delivery of the tribunal's award.

As they so apply, the references to the fees and expenses of the arbitrators shall be construed as including the fees and expenses of that institution or person.

- (7) The leave of the court is required for any appeal from a decision of the court under this section.
- (8) Nothing in this section shall be construed as excluding an application under section 28 where payment has been made to the arbitrators in order to obtain the award.

## **57 Correction of award or additional award.**

- (1) The parties are free to agree on the powers of the tribunal to correct an award or make an additional award.
- (2) If or to the extent there is no such agreement, the following provisions apply.
- (3) The tribunal may on its own initiative or on the application of a party—
- (a) correct an award so as to remove any clerical mistake or error arising from an accidental slip or omission or clarify or remove any ambiguity in the award, or
  - (b) make an additional award in respect of any claim (including a claim for interest or costs) which was presented to the tribunal but was not dealt with in the award.

These powers shall not be exercised without first affording the other parties a reasonable opportunity to make representations to the tribunal.

- (4) Any application for the exercise of those powers must be made within 28 days of the date of the award or such longer period as the parties may agree.
- (5) Any correction of an award shall be made within 28 days of the date the application was received by the tribunal or, where the correction is made by the tribunal on its own initiative, within 28 days of the date of the award or, in either case, such longer period as the parties may agree.
- (6) Any additional award shall be made within 56 days of the date of the original award or such longer period as the parties may agree.

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(7) Any correction of an award shall form part of the award.

**58 Effect of award.**

- (1) Unless otherwise agreed by the parties, an award made by the tribunal pursuant to an arbitration agreement is final and binding both on the parties and on any persons claiming through or under them.
- (2) This does not affect the right of a person to challenge the award by any available arbitral process of appeal or review or in accordance with the provisions of this Part.

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