



# Courts and Legal Services Act 1990

## 1990 CHAPTER 41

### PART V

#### ARBITRATION

#### **101 Power of parties in certain cases to fill vacancy**

(1) In section 10 of the Arbitration Act 1950 (power of court in certain cases to appoint an arbitrator or umpire), the following shall be substituted for subsection (3)—

“(3) In any case where—

- (a) an arbitration agreement provides that the reference shall be to three arbitrators, one to be appointed by each party and the third to be appointed by the two appointed by the parties or in some other manner specified in the agreement; and
- (b) one of the parties (“the party in default”) refuses to appoint an arbitrator or does not do so within the time specified in the agreement or, if no time is specified, within a reasonable time,

the other party to the agreement, having appointed his arbitrator, may serve the party in default with a written notice to appoint an arbitrator.

(3A) A notice under subsection (3) must indicate whether it is served for the purposes of subsection (3B) or for the purposes of subsection (3C).

(3B) Where a notice is served for the purposes of this subsection, then unless a contrary intention is expressed in the agreement, if the required appointment is not made within seven clear days after the service of the notice—

- (a) the party who gave the notice may appoint his arbitrator to act as sole arbitrator in the reference; and
- (b) his award shall be binding on both parties as if he had been appointed by consent.

(3C) Where a notice is served for the purposes of this subsection, then, if the required appointment is not made within seven clear days after the service

---

*Status: This is the original version (as it was originally enacted).*

---

of the notice, the High Court or a judge thereof may, on the application of the party who gave the notice, appoint an arbitrator on behalf of the party in default who shall have the like powers to act in the reference and make an award (and, if the case so requires, the like duty in relation to the appointment of a third arbitrator) as if he had been appointed in accordance with the terms of the agreement.

(3D) The High Court or a judge thereof may set aside any appointment made by virtue of subsection (3B).”

- (2) Section 10 of the Act of 1950 shall continue to apply in relation to any arbitration agreement entered into before the commencement of this section as if this section had not been enacted.
- (3) Subsection (2) does not apply if a contrary intention is expressed in the arbitration agreement, whether or not as the result of a variation made after the commencement of this section.