

Updates to the UK's Arbitration Bill

28 October 2024

In September 2023 the Law Commission published its final 189 page report on the Arbitration Act 1996.

This review contained several recommendations that the previous Conservative government was keen to take forward. The July 2024 General Election put the process on pause, but the UK's new Labour government has chosen to pick this up.

What is arbitration?

Arbitration is an alternative process in which two parties may agree to take some or all of their disputes outside of the public court process. In arbitration an individual arbitrator or a tribunal will hear a dispute, they will then present their decision through an award (rather than a written judgement). The London Court of International Arbitration and the International Chamber of Commerce are two of many institutions that have their own rules, and parties can agree which one they would like to apply to their dispute (or they can choose alternative rules if they prefer). Despite these different institutions having different rules, legislative oversight is provided by the Arbitration Act 1996.

Proposed changes

There has always been an existing issue surrounding arbitration, specifically what is the appropriate governing law to apply to an arbitration case. Should it be the law of the remainder of the contract or of the law of the seat of arbitration? This is because any arbitration clause survives even if the remainder of the policy is held to be invalid or to have never come into force. The Arbitration Bill proposes to settle this issue by setting the governing law to that of the seat of the arbitration unless there is an express provision otherwise.

The Arbitration Bill also proposes the creation of a power to summarily dispose of disputes where they have little chance of success. This is based on summary judgment applications in the civil courts, and is intended to put an end of parties relying on provisions in the Arbitration Act that allow them to reasonably put forward their case, even when they have limited grounds.

Finally, the Arbitration Bill recommends confirming into law a new general principle to disclose circumstances that may give rise to doubts surrounding an arbitrator's impartiality.

What does this mean for insurers?

These changes to the [Arbitration Bill](#) serve as a reminder that the focus of arbitration is to be quick and efficient (or, at the least, quick and more efficient than conventional civil proceedings). [Insurers](#) should also consider whether they need to update their arbitration provisions to specify the governing law.

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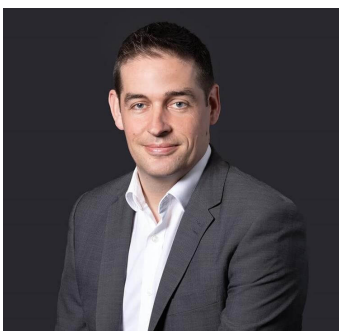


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