

PRACTICE DIRECTION – ARBITRATION

THIS PRACTICE DIRECTION SUPPLEMENTS PART 62

SECTION I

- 1.1 This Section of this Practice Direction applies to arbitration claims to which Section I of Part 62 applies.
- 1.2 In this Section ‘the 1996 Act’ means the Arbitration Act 1996.
- 1.3 Where a rule provides for a document to be sent, it may be sent –
 - (1) by first class post;
 - (2) through a document exchange; or
 - (3) by fax, electronic mail or other means of electronic communication.

62.3 – Starting the claim

- 2.1 An arbitration claim under the 1996 Act (other than under section 9) must be started in accordance with the High Court and County Courts (Allocation of Arbitration Proceedings) Order 1996 by the issue of an arbitration claim form.
- 2.2 An arbitration claim form must be substantially in the form set out in Appendix A to this practice direction.
- 2.3 Subject to paragraph 2.1, an arbitration claim form may be issued at the courts set out in column 1 of the table below and will be entered in the list set out against that court in column 2.

<i>Court</i>	<i>List</i>
Admiralty and Commercial Registry at the Royal Courts of Justice, London	Commercial list
Technology and Construction Court Registry, St. Dunstan’s House, London	TCC list
District Registry of the High Court (where mercantile court established)	Mercantile list
District Registry of the High Court (where arbitration claim form marked ‘Technology and Construction Court’ in top right hand corner)	TCC list
Central London County Court	Mercantile list

62.4 – Arbitration claim form

Service

- 3.1 The court may exercise its powers under rule 6.8 to permit service of an arbitration claim form at the address of a party's solicitor or representative acting for him in the arbitration.
- 3.2 Where the arbitration claim form is served by the claimant he must file a certificate of service within 7 days of service of the arbitration claim form. (Rule 6.10 specifies what a certificate of service must show).

Acknowledgment of service or making representations by arbitrator or ACAS

- 4.1 Where –
 - (1) an arbitrator; or
 - (2) ACAS (in a claim under the 1996 Act as applied with modifications by the ACAS Arbitration Scheme (England and Wales) Order 2001)
 is sent a copy of an arbitration claim form (including an arbitration claim form sent under rule 62.6(2)), that arbitrator or ACAS (as the case may be) may –
 - (a) apply to be made a defendant; or
 - (b) make representations to the court under paragraph 4.3.
- 4.2 An application under paragraph 4.1(2)(a) to be made a defendant –
 - (1) must be served on the claimant; but
 - (2) need not be served on any other party.
- 4.3 An arbitrator or ACAS may make representations by filing written evidence or in writing to the court.

Supply of documents from court records

- 5.1 An arbitration claim form may only be inspected with the permission of the court.

62.7 – Case management

- 6.1 The following directions apply unless the court orders otherwise.
- 6.2 A defendant who wishes to rely on evidence before the court must file and serve his written evidence –
 - (1) within 21 days after the date by which he was required to acknowledge service; or,
 - (2) where a defendant is not required to file an acknowledgement of service, within 21 days after service of the arbitration claim form.

- 6.3 A claimant who wishes to rely on evidence in reply to written evidence filed under paragraph 6.2 must file and serve his written evidence within 7 days after service of the defendant's evidence.
- 6.4 Agreed indexed and paginated bundles of all the evidence and other documents to be used at the hearing must be prepared by the claimant.
- 6.5 Not later than 5 days before the hearing date estimates for the length of the hearing must be filed together with a complete set of the documents to be used.
- 6.6 Not later than 2 days before the hearing date the claimant must file and serve –
- (1) a chronology of the relevant events cross-referenced to the bundle of documents;
 - (2) (where necessary) a list of the persons involved; and
 - (3) a skeleton argument which lists succinctly –
 - (a) the issues which arise for decision;
 - (b) the grounds of relief (or opposing relief) to be relied upon;
 - (c) the submissions of fact to be made with the references to the evidence; and
 - (d) the submissions of law with references to the relevant authorities.
- 6.7 Not later than the day before the hearing date the defendant must file and serve a skeleton argument which lists succinctly –
- (1) the issues which arise for decision;
 - (2) the grounds of relief (or opposing relief) to be relied upon;
 - (3) the submissions of fact to be made with the references to the evidence; and
 - (4) the submissions of law with references to the relevant authorities.

Securing the attendance of witnesses

- 7.1 A party to arbitral proceedings being conducted in England or Wales who wishes to rely on section 43 of the 1996 Act to secure the attendance of a witness must apply for a witness summons in accordance with Part 34.
- 7.2 If the attendance of the witness is required within the district of a district registry, the application may be made at that registry.
- 7.3 A witness summons will not be issued until the applicant files written evidence showing that the application is made with –
- (1) the permission of the tribunal; or
 - (2) the agreement of the other parties.

Interim remedies

- 8.1 An application for an interim remedy under section 44 of the 1996 Act must be made in an arbitration claim form.

Applications under sections 32 and 45 of the 1996 Act

- 9.1 This paragraph applies to arbitration claims for the determination of –
- (1) a question as to the substantive jurisdiction of the arbitral tribunal under section 32 of the 1996 Act; and
 - (2) a preliminary point of law under section 45 of the 1996 Act.
- 9.2 Where an arbitration claim is made without the agreement in writing of all the other parties to the arbitral proceedings but with the permission of the arbitral tribunal, the written evidence or witness statements filed by the parties must set out any evidence relied on by the parties in support of their contention that the court should, or should not, consider the claim.
- 9.3 As soon as practicable after the written evidence is filed, the court will decide whether or not it should consider the claim and, unless the court otherwise directs, will so decide without a hearing.

Decisions without a hearing

- 10.1 Having regard to the overriding objective the court may decide particular issues without a hearing. For example, as set out in paragraph 9.3, the question whether the court is satisfied as to the matters set out in section 32(2)(b) or section 45(2)(b) of the 1996 Act.
- 10.2 The court will generally decide whether to extend the time limit under section 70(3) of the 1996 Act without a hearing. Where the court makes an order extending the time limit, the defendant must file his written evidence within 21 days from service of the order.

62.9 – Variation of time

- 11.1 An application for an order under rule 62.9(1) –
- (1) before the period of 28 days has expired, must be made in a Part 23 application notice; and
 - (2) after the period of 28 days has expired, must be set out in a separately identified part in the arbitration claim form.

Applications for permission to appeal

- 12.1 Where a party seeks permission to appeal to the court on a question of law arising out of an arbitration award, the arbitration claim form must –
- (1) identify the question of law; and

(2) state the grounds

on which the party alleges that permission should be given.

12.2 The written evidence in support of the application must set out any evidence relied on by the party for the purpose of satisfying the court –

(1) of the matters referred to in section 69(3) of the 1996 Act; and

(2) that permission should be given.

12.3 The written evidence filed by the respondent to the application must –

(1) state the grounds on which the respondent opposes the grant of permission;

(2) set out any evidence relied on by him relating to the matters mentioned in section 69(3) of the 1996 Act; and

(3) specify whether the respondent wishes to contend that the award should be upheld for reasons not expressed (or not fully expressed) in the award and, if so, state those reasons.

SECTION II

13.1 This Section of this Practice Direction applies to arbitration claims to which Section II of Part 62 applies.

62.13 – Starting the claim

14.1 An arbitration claim must be started in the Commercial Court and, where required to be heard by a judge, be heard by a judge of that court unless he otherwise directs.

SECTION III

15.1 This Section of this Practice Direction applies to enforcement proceedings to which Section III of Part 62 applies.

62.21 – Registration of awards under the Arbitration (International Investment Disputes) Act 1966

16.1 Awards ordered to be registered under the 1966 Act and particulars will be entered in the Register kept for that purpose at the Admiralty and Commercial Registry.



Claim Form (arbitration)

In the

	<i>for court use only</i>
Claim No.	
Issue date	

In an arbitration claim between

Claimant



Defendant(s)

In the matter of an [intended] arbitration between

Claimant

Respondent(s) *Set out the names and addresses of persons to be served with the claim form stating their role in the arbitration and whether they are defendants.*

Defendant's
name and
address

This claim will be heard on:

at am/pm

This claim is made without notice.

The court office at

When corresponding with the court, please address forms or letters to the Court Manager and quote the case number.

N8 Claim form (arbitration)

Claim No.	
------------------	--

Remedy claimed and grounds on which claim is made

[Large empty rectangular area for text entry]

Claim No.	
------------------	--

The claimant seeks an order for costs against

Statement of Truth

*(I believe)(The Claimant believes) that the facts stated in these particulars of claim are true.

* I am duly authorised by the claimant to sign this statement

Full name _____

Name of claimant's solicitor's firm _____

signed _____ position or office held _____

*(Claimant)(Claimant's solicitor)

(if signing on behalf of firm or company)

**delete as appropriate*

Claimant's or claimant's solicitor's address to which documents should be sent if different from overleaf. If you are prepared to accept service by DX, fax or e-mail, please add details.

Arbitration Claim - notes for the claimant

Please read these guidance notes before you begin completing the claim form

The arbitration claim form may be used to start proceedings and make an application in existing proceedings. Where an application is being made in existing proceedings, an acknowledgment of service form is not required and the references to an acknowledgment of service form in the Notes for the Defendant should be deleted.

With the exception of:

- applications under section 9 of the Arbitration Act 1996; and
- certain proceedings which may be started only in the High Court or only in a county court - see High Court and County Courts (Allocation of Arbitration Proceedings) Order 1996, arbitration proceedings may be started in the courts set out in the table opposite.

Court	List
Admiralty and Commercial Registry at the Royal Courts of Justice, London	Commercial
Technology and Construction Court Registry, St Dunstan's House, London	TCC
District Registry of the High Court <i>(where Mercantile court established)</i>	Mercantile
District Registry of the High Court <i>(where the Claim form marked 'Technology and Construction Court' in top right hand corner)</i>	TCC
Central London County Court	Mercantile

Heading

You must fill in the heading of the claim form with:

- the name of the court (High Court or county court); and
- if issued in a District Registry, the name of the District Registry

Claimant and defendant details

You must provide your full name and address and the full names and addresses of the defendants to be served. If a defendant is to be served outside England and Wales, the court's permission may need to be sought (*see Rule 62.5*).

Remedy claimed and grounds on which claim is made

You must:

- include a concise statement of
 - the remedy claimed; and
 - any questions on which you seek the decision of the court;
- give details of any arbitration award which you challenge, identifying which part or parts of the award are challenged and the grounds for the challenge;
- show that any statutory requirements have been met;

- specify under which section of the Act the claim is made;

Respondents

- if on notice, give the names and addresses of the persons on whom the arbitration claim form is to be served, stating their role in the arbitration and whether they are defendants; or
- state that the claim is made without notice under section 44(3) of the 1966 Act, and the grounds relied on.

Acknowledgment of service form

An acknowledgment of service form N15 must accompany the arbitration claim form. You should complete the heading on this form. Where the claim form is to be served out of the jurisdiction, you must amend the Notes for the Defendant to give the time within which the defendant must acknowledge service and file evidence. The claim form is valid for one month beginning with the date of its issue or, where required to be served out of the jurisdiction, for such period as the court may fix.

Address for documents

You must provide an address for service within England and Wales to which documents should be sent. That address must be either the business address of your solicitor, or your residential or business address.

Statement of Truth

The statement of truth must be signed by you or by your solicitor. Where the statement of truth is not signed by the solicitor and the claimant is a registered company or corporation, the statement of truth must be signed by either a director, the treasurer, secretary, chief executive, manager or other officer of the company and (in the case of a corporation) the mayor, chairman, president or town clerk.

You may rely on the matters set out in the claim form as evidence only if the claim form is verified by a statement of truth. You may also file an affidavit or witness statement in support of the arbitration claim, which must be served with the claim form.

Arbitration Claim - notes for the defendant

Please read these guidance notes carefully before you respond to the arbitration claim form

Court staff can help you with procedures but they cannot give legal advice. If you need legal advice, you should contact a solicitor or a Citizens Advice Bureau immediately.

Responding to the claim

If you are:

- named as a defendant in the claim form; and
- served with a copy of it,

you should respond by completing and returning to the court office the acknowledgment of service form which was enclosed with the claim form, within *(14 days) () of the date it was served on you. At the same time you must serve a copy on the claimant and any other party shown on the claim form.

If the claim form was:

- sent by post, the *(14 days) () starts 2 days from the date of the postmark on the envelope;
- delivered or left at your address, the *(14 days) () starts on the day it was given to you;
- handed to you personally, the *(14 days) () starts on the day it was given to you.

The acknowledgment of service

If you:

- fail to complete and file the acknowledgment of service within the time specified; or
- if you indicate that you do not intend to contest the claim,

If you later change your mind, you will not be entitled to contest the claim without the court's permission.

Evidence

If you wish to rely on evidence before the court, you must file and serve your written evidence within *(21 days) () of the date the claim form was served on you.

Statement of truth

The acknowledgment of service must be signed by you or by your solicitor. Where the acknowledgment of service is not signed by your solicitor and you are a registered company or corporation, it must be

signed by either a director, the treasurer, secretary, chief executive, manager or other officer of the company and (in the case of a corporation) the mayor, Chairman, president or town clerk.

Notes for arbitrators

If you are:

- an arbitrator; or
- ACAS (in a claim under the 1996 Act as applied with modification by the ACAS (England and Wales) Order 2001),

who has been named as a defendant in the claim form, the above notes apply to you as they do to any other defendant.

If you were, or are:

- an arbitrator in the arbitration which led to this claim; and
- if you are not named as a defendant;

this claim form is sent to you for information

You may either:

- make a request (with notice only to the claimant) to be made a defendant
- may make representations to the court (*see paragraph 4.3 of practice direction to Part 62*)

**Claimant should alter where appropriate if the claim form is to be served out of the jurisdiction (see CPR Part6)*

Acknowledgment of Service (arbitration claim)

You should read the 'notes for defendant' attached to the claim form which will tell you how to complete this form, and when and where to send it.

In the	
Claim No.	
Claimant (including ref)	
Defendant	

Tick and complete sections A - D as appropriate.
In all cases you must complete sections E and F

Section A

I do not intend to contest this claim

Section B

I intend to contest this claim

Give brief details of any different remedy you are seeking.

Section C

I intend to dispute the court's jurisdiction
(Please note, any application must be filed within 14 days of the date on which you file this acknowledgment of service)

The court office at

When corresponding with the court, please address forms or letters to the Court Manager and quote the claim number.

N15 Acknowledgment of Service (arbitration) (03.02)

Claim No.	
------------------	--

Section D

I intend to rely on written evidence

My written evidence:

- is filed with this form
- will be filed and served within 21 days after the date by which I am required to file this acknowledgment of service.

Section E

Full name of defendant filing this acknowledgment _____

Section F

Signed
(To be signed by you or by your solicitor)

*(I believe)(The defendant believes) that the facts stated in this form are true. *I am duly authorised by the defendant to sign this statement

**delete as appropriate*

Position or office held
(if signing on behalf of firm or company)

--

Date

--

Give an address in England or Wales to which notices about this case can be sent to you

Postcode

Tel. no.

if applicable	
Ref. no.	
fax no.	
DX no.	
e-mail	