

PRACTICE DIRECTION – ARBITRATIONS

**THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 49
AND REPLACES, WITH MODIFICATIONS, ORDER 73 OF THE
RULES OF THE SUPREME COURT**

PART I

THE OVERRIDING OBJECTIVE

1. This Part of this practice direction is founded on the general principles in section 1 of the Arbitration Act and shall be construed accordingly.

MEANING OF ARBITRATION APPLICATION

- 2.1 Subject to paragraph 22.2, “arbitration application” means the following -
 - (1) an application to the court under the Arbitration Act;
 - (2) proceedings to determine -
 - (a) whether there is a valid arbitration agreement;
 - (b) whether an arbitration tribunal is properly constituted;
 - (c) what matters have been submitted to arbitration in accordance with an arbitration agreement;
 - (3) proceedings to declare that an award made by an arbitral tribunal is not binding on a party;
 - (4) any other application affecting arbitration proceedings (whether instituted or anticipated) or to construe or affecting an arbitration agreement.
- 2.2 In this Part, an arbitration application does not include proceedings to enforce an award -
 - (1) to which Part III applies; or
 - (2) by a claim on the award.

INTERPRETATION

3. In this Part -

“applicant” means the party making an arbitration application and references to respondent shall be construed accordingly;

“the Arbitration Act” means the Arbitration Act 1996 and any expressions used in this Part and in Part I of the Arbitration Act have the same meanings in this Part as they have in that Part of the Arbitration Act.

“arbitration claim form” means the arbitration claim form by the issue of which an arbitration application is begun.

FORM AND CONTENT OF ARBITRATION CLAIM FORM

- 4.1 An arbitration claim form must be in the practice form N8A
- 4.2 Every arbitration claim form must -
 - (1) include a concise statement of
 - (a) the remedy claimed, and
 - (b) (where appropriate) the questions on which the applicant seeks the determination or direction of the Court;
 - (2) give details of any arbitration award that is challenged by the applicant, showing the grounds for any such challenge;
 - (3) where the applicant claims an order for costs, identify the respondent against whom the claim is made,
 - (4) (where appropriate) specify the section of the Arbitration Act under which the application is brought; and
 - (5) show that any statutory requirements have been satisfied including those set out, by way of example, in the Table Below.

Application made	Statutory requirements
section 9 (stay of legal proceedings)	see section 9 (3)
section 12 (extensions of time for beginning arbitral proceedings)	see section 12 (2)
section 18 (failure of appointment procedure)	see section 18 (2)
section 21 (umpires)	see section 21 (5)
section 24 (removal of arbitrators)	see section 24 (2)
section 32 (preliminary point of jurisdiction)	see section 32 (3)
section 42 (enforcement of peremptory orders)	see section 42 (3)
section 44 (powers in support of arbitral proceedings)	see section 44 (4), (5)
section 45 (preliminary point of law)	see section 45 (3)
section 50 (extension of time for making award)	see section 50 (2)
section 56 (power to withhold award)	see section 56 (4)

sections 67, 68 (challenging the award)	see section 70 (2), (3)
section 69 (appeal on point of law)	see sections 69 (2), (4), 70(2), (3)
section 77 (service of documents)	see section 77(3)

4.3 The arbitration claim form must also state

- (1) whether it is made on notice or without notice and, if made on notice, must give the names and addresses of the persons on whom it is to be served, stating their role in the arbitration and whether they are made respondents to the application;
- (2) whether (having regard to paragraph 15) the application will be heard by a judge sitting in public or in private; and
- (3) the date and time when the application will be heard or that such date has not yet been fixed.

4.4 Every arbitration claim form shall be indorsed with the applicant's address for service in accordance with CPR Rule 6.5(2)

ISSUE OF ARBITRATION CLAIM FORM

5.1 These paragraphs (5.1 to 5.7) are to be read with the provisions of the High Court and County Courts (Allocation of Arbitration Proceedings) Order 1996 which allocates proceedings under the Arbitration Act to the High Court and the county courts and specifies proceedings which may be commenced or taken only in the High Court or in a county court.

5.2 These paragraphs (5.1 to 5.7) do not apply to applications under section 9 of the Arbitration Act to stay legal proceedings.

5.3 Subject to paragraphs 5.1 and 5.2 above, an arbitration claim form by which proceedings are commenced may be issued:

- (1) out of the Admiralty and Commercial Registry in the Royal Courts of Justice, in which case the arbitration application will be entered into the commercial list;
- (2) out of a district registry where a Mercantile Court has been established, in which case the arbitration application will be entered into the list of that Mercantile Court; or
- (3) out of the office of the Central London County Court, in which case the arbitration application will be entered into the Business List of that court.

(Attention is drawn to the provisions relating to the commencement of proceedings contained in the Commercial Court Practice Direction and the Mercantile Court and Business Lists Practice Direction which supplement CPR Part 49).

- 5.4 Except where an arbitration claim form is issued out of the Admiralty and Commercial Registry, the Judge in charge of the list into which the arbitration application has been entered shall
- (1) as soon as practicable after the issue of the arbitration claim form, and
 - (2) in consultation with the Judge in charge of the commercial list,
- consider whether the application should be transferred to the Commercial Court or to any another list.
- 5.5 Where an arbitration claim form is issued out of the Admiralty and Commercial Registry, the Judge in charge of the commercial list may at any time after the issue of the arbitration claim form transfer the application to another list, court or Division of the High Court to which he has power to transfer proceedings.
- 5.6 In considering whether to transfer an arbitration application, the Judges referred to in paragraphs 5.4 and 5.5 shall have regard to the criteria specified in article 5 (4) of the High Court and County Courts (Allocation of Arbitration Proceedings) Order 1996 and the application shall be transferred if those Judges so decide.
- 5.7 In this practice direction "Judge in charge of the list" means:
- (a) in relation to the commercial list, a judge of the Commercial Court;
 - (b) in relation to the list of a Mercantile Court, a Circuit mercantile judge of that court; and
 - (c) in relation to the Business List in the Central London County Court, a Circuit Judge authorised to deal with cases in that list,
- but nothing in this paragraph shall be construed as preventing the powers of a judge of the Commercial Court from being exercised by any judge of the High Court.

STAY OF LEGAL PROCEEDINGS

- 6.1 An application notice by which an application under section 9 of the Arbitration Act to stay legal proceedings is made shall be served -
- (1) in accordance with CPR Rule 6.5 on the party bringing the relevant legal proceedings and on any other party to those proceedings who has given an address for service; and
 - (2) on any party to those legal proceedings who has not given an address for service, by sending to him (whether or not he is within the jurisdiction) at his last known address or at a place where it is likely to come to his attention, a copy of the application notice for his information.

- 6.2 Where a question arises as to whether an arbitration agreement has been concluded or as to whether the dispute which is the subject-matter of the proceedings falls within the terms of such an agreement, the Court may determine that question or give directions for its determination, in which case it may order the proceedings to be stayed pending the determination of that question.

SERVICE OF ARBITRATION CLAIM FORM

- 7.1 Subject to paragraphs 7.2 and 7.4 below and to paragraphs 6.1 and 8.1 to 8.4, an arbitration claim form shall be served in accordance with CPR Part 6.
- 7.2 Where the Court is satisfied on an application made without notice that
- (1) arbitral proceedings are taking place, or an arbitration award has been made, within the jurisdiction; and
 - (2) an arbitration application is being made in connection with those arbitral proceedings or being brought to challenge the award or to appeal on a question of law arising out of the award; and
 - (3) the respondent to the arbitration application (not being an individual residing or carrying on business within the jurisdiction or a body corporate having a registered office or a place of business within the jurisdiction)
 - (a) is or was represented in the arbitral proceedings by a solicitor or other agent within the jurisdiction who was authorised to receive service of any notice or other document served for the purposes of those proceedings; and
 - (b) has not (at the time when the arbitration application is made) determined the authority of that solicitor or agent,
- the Court may authorise service of the arbitration claim form to be effected on the solicitor or agent instead of the respondent.
- 7.3 An order made under paragraph 7.2 must limit a time within which the respondent must acknowledge service and a copy of the order and of the arbitration claim form must be sent by post to the respondent at his address out of the jurisdiction.
- 7.4 Where an applicant has made an arbitration application (the first arbitration application) and a subsequent arbitration application arising out of the same arbitration or arbitration agreement is made by a party to the first arbitration application (other than the applicant), that party's arbitration claim form may be served in accordance with CPR rule 6.5 or may be served on the applicant at his address for service given in his arbitration claim form, and on any other party to the first arbitration application at the address for service given in that party's acknowledgement of service in the first arbitration application, and on any further arbitration application the same provisions as to service will apply.

- 7.5 For the purposes of service, an arbitration claim form is valid in the first instance-
- (1) where service is to be effected out of the jurisdiction, for such period as the Court may fix;
 - (2) in any other case, for one month, beginning with the date of its issue.

SERVICE OUT OF THE JURISDICTION

- 8.1 The Court may give permission to serve an arbitration claim form out of the jurisdiction if the arbitration application falls into one of the categories mentioned in the following table and satisfies the conditions specified.

Nature of application	Conditions to be satisfied
1. The applicant seeks to challenge, or to appeal to the Court on a question of law arising out of, an arbitration award.	Award must have been made in England & Wales. Section 53 of the Arbitration Act shall apply for determining the place where award is treated as made.
2. The application is for an order under section 44 of the Arbitration Act (Court powers exercisable in support of arbitral proceedings). Where the application is for an interim remedy in support of arbitral proceedings which are taking (or will take) place outside England and Wales, the Court may give permission for service out of the jurisdiction notwithstanding that no other remedy is sought.	None.
3. The applicant seeks some other remedy or requires a question to be determined by the court, affecting an arbitration (whether pending or anticipated), an arbitration agreement or an arbitration award.	The seat of the arbitration is or will be in England & Wales or the conditions in Section 2(4) of the Arbitration Act are satisfied.

- 8.2 An application for the grant of permission under paragraph 8.1 must be supported by an affidavit or witness statement-
- (1) stating, or, if the grounds were set out in the application notice, confirming the grounds on which the application is made; and
 - (2) showing in what place or country the person to be served is, or probably may be found, and no such permission shall be granted unless it shall be made sufficiently to appear to the Court that the case is a proper one for service out of the jurisdiction under this paragraph.

- 8.3 RSC Order 11, rules 5 to 8 (Schedule 1 to the CPR) shall apply to the service of an arbitration claim form under this paragraph as they apply to the service of other claim forms.
- 8.4 Any order made on an arbitration application may be served out of the jurisdiction with the permission of the court.

EVIDENCE IN SUPPORT OF ARBITRATION APPLICATION

- 9.1 The applicant shall file an affidavit or witness statement in support of the arbitration application which sets out the evidence on which he intends to rely and a copy of every affidavit or witness statement so filed must be served with the arbitration claim form.
- 9.2 Where an arbitration application is made with the written agreement of all the other parties to the arbitral proceedings or with the permission of the arbitral tribunal, the affidavit or witness statement in support must
- (1) give details of the agreement or, as the case may be, permission; and
 - (2) exhibit copies of any document which evidences that agreement or permission.

REQUIREMENTS AS TO NOTICE

- 10.1 Where the Arbitration Act requires that an application to the Court is to be made upon notice to other parties notice shall be given by making those parties respondents to the application and serving on them the arbitration claim form and any affidavit or witness statement in support.
- 10.2 Where an arbitration application is made under section 24, 28 or 56 of the Arbitration Act, the arbitrators or, in the case of an application under section 24, the arbitrator concerned shall be made respondents to the application and notice shall be given by serving on them the arbitration claim form and any affidavit or witness statement in support.
- 10.3 In cases where paragraph 10.2 does not apply, an applicant shall be taken as having complied with any requirement to give notice to the arbitrator if he sends a copy of the arbitration claim form to the arbitrator for his information at his last known address with a copy of any affidavit or witness statement in support.
- 10.4 This paragraph does not apply to applications under section 9 of the Arbitration Act to stay legal proceedings.

ACKNOWLEDGMENT OF SERVICE

- 11.1 Service of an arbitration claim form may be acknowledged by completing an acknowledgment of service in Form No. N15A in accordance with CPR Rule 8.3.

- 11.2 A respondent who -
- (1) fails to acknowledge service within the time limited for so doing; or
 - (2) having indicated on his acknowledgment of service that he does not intend to contest the arbitration application, then wishes to do so, shall not be entitled to contest the application without the permission of the Court.
- 11.3 The Court will not give notice of the date on which an arbitration application will be heard to a respondent who has failed to acknowledge service.
- 11.4 The failure of a respondent to give notice of intention to contest the arbitration application or to acknowledge service shall not affect the applicant's duty to satisfy the Court that the order applied for should be made.
- 11.5 This paragraph does not apply to -
- (1) applications under section 9 of the Arbitration Act to stay legal proceedings; or
 - (2) subsequent arbitration applications.

ACKNOWLEDGMENT OF SERVICE, ETC., BY ARBITRATOR

- 12.1 An arbitrator who is sent a copy of an arbitration claim form for his information may make
- (1) a request (without notice to any party) to be made a respondent; or
 - (2) representations to the Court under this rule,
- and, where an arbitrator is ordered to be made a respondent, he shall acknowledge service within 14 days of the making of that order.
- 12.2 An arbitrator who wishes to make representations to the Court under this rule may file an affidavit or witness statement or make representations in writing to the Court.
- 12.3 The arbitrator shall as soon as is practicable send a copy of any document filed or made under paragraph 12.2 to all the parties to the arbitration application.
- 12.4 Nothing in this paragraph shall require the Court to admit a document filed or made under sub-paragraph (2) and the weight to be given to any such document shall be a matter for the Court.

AUTOMATIC DIRECTIONS

- 13.1 Unless the Court otherwise directs, the following directions shall take effect automatically.
- 13.2 A respondent who wishes to put evidence before the Court in response to any affidavit or witness statement filed in support of an arbitration application shall

serve his affidavit or witness statement on the applicant before the expiration of 21 days after the time limited for acknowledging service or, in a case where a respondent is not required to file an acknowledgment of service, within 21 days after service of the arbitration claim form.

- 13.3 An applicant who wishes to put evidence before the court in response to an affidavit or witness statement filed under paragraph 13.2 shall serve his affidavit or witness statement on the respondent within 7 days after service of the respondent's evidence.
- 13.4 Where a date has not been fixed for the hearing of the arbitration application, the applicant shall, and the respondent may, not later than 14 days after the expiration of the time limit specified in paragraph 13.2, apply to the Court for such a date to be fixed.
- 13.5 Agreed indexed and paginated bundles of all the evidence and other documents to be used at the hearing shall be prepared by the applicant (with the co-operation of the respondent).
- 13.6 Not later than 5 clear days before the hearing date estimates for the length of the hearing shall be lodged with the Court together with a complete set of the documents to be used.
- 13.7 Not later than 2 days before the hearing date the applicant shall lodge with the Court -
 - (1) a chronology of the relevant events cross-referenced to the bundle of documents;
 - (2) (where necessary) a list of the persons involved;
 - (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,and shall send copies to the respondent.
- 13.8 Not later than the day before the hearing date the respondent shall lodge with the Court 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, and shall send a copy to the applicant.

DIRECTIONS BY THE COURT

- 14.1 The rules of the CPR relating to allocation questionnaires and track allocation do not apply to arbitration applications, and the Court may give such directions as to the conduct of the arbitration application as it thinks best adapted to secure the just, expeditious and economical disposal thereof.
- 14.2 Where the Court considers that there is or may be a dispute as to fact and that the just, expeditious and economical disposal of the application can best be secured by hearing the application on oral evidence or mainly on oral evidence, it may, if it thinks fit, order that no further evidence shall be filed and that the application shall be heard on oral evidence or partly on oral evidence and partly on written evidence, with or without cross-examination of any of the witnesses, as it may direct.
- 14.3 The Court may give directions as to the filing of evidence and as to the attendance of witnesses for cross-examination and any other directions which it could give in proceedings begun by claim form.
- 14.4 If the applicant makes default in complying with these provisions or with any order or direction of the Court as to the conduct of the application, or if the Court is satisfied that the applicant is not prosecuting the application with due despatch, the Court may order the application to be dismissed or may make such other order as may be just.
- 14.5 If the respondent fails to comply with these provisions or with any order or direction given by the Court in relation to the evidence to be relied on, or the submission to be made by that respondent, the Court may, if it thinks fit, hear and determine the application without having regard to that evidence or those submissions.
- 14.6 Unless the Court orders otherwise, affidavits and witness statements may contain hearsay.

HEARING OF APPLICATIONS: PUBLIC OR PRIVATE

- 15.1 The Court may order that any arbitration application be heard either in public or in private.
- 15.2 Subject to any order made under paragraph 15.1 and paragraph 15.3, all arbitration applications shall be heard in private.
- 15.3 Subject to any order made under paragraph 15.1, the determination of a preliminary point of law under section 45 of the Arbitration Act, or an appeal under section 69 on a question of law arising out of an award shall be heard in public.
- 15.4 Paragraph 15.3 shall not apply to –

- (1) the preliminary question whether the Court is satisfied of the matters set out in section 45 (2)(b); or
- (2) an application for permission to appeal under section 69 (2)(b).

SECURING THE ATTENDANCE OF WITNESSES

- 16.1 A party to arbitral proceedings being conducted in England and Wales who wishes to rely on section 43 of the Arbitration Act to secure the attendance of a witness may apply for a witness summons in accordance with Part 34 of the CPR to the Admiralty and Commercial Registry or, if the attendance of the witness is required within the district of a district registry, at that registry at the option of the party.
- 16.2 A witness summons shall not be issued until the applicant files an affidavit or witness statement which shows that the application is made with the permission of the tribunal or the agreement of the other parties.

SECURING FOR COSTS

- 17.1 Subject to section 70 (6) of the Arbitration Act, the Court may order any applicant (including an applicant who has been granted permission to appeal) to provide security for costs of any arbitration application.

POWERS EXERCISABLE IN SUPPORT OF ARBITRAL PROCEEDINGS

- 18.1 Where the case is one of urgency, an application for an order under section 44 of the Arbitration Act (Court powers exercisable in support of arbitral proceedings) may be made without notice on affidavit or witness statement (before the issue of an arbitration claim form) and the affidavit or witness statement shall (in addition to dealing with the matters required to be dealt with by paragraphs 9.1 & 9.2) state the reasons–
 - (1) why the application is made without notice; and
 - (2) (where the application is made without the permission of the arbitral tribunal or the agreement of the other parties to the arbitral proceedings) why it was not practicable to obtain that permission or agreement; and
 - (3) why the witness believes that the condition in section 44 (5) is satisfied.
- 18.2 Where the case is not one of urgency, an application for an order under section 44 of the Arbitration Act shall be made on notice and the affidavit or witness statement in support shall (in addition to dealing with the matters required to be dealt with by paragraph 9 and paragraph 18.1(3) above) state that the application is made with the permission of the tribunal or the written agreement of the other parties to the arbitral proceedings.
- 18.3 Where an application for an order under section 44 of the Arbitration Act is made before the issue of an arbitration claim form, any order made by the Court may be granted on terms providing for the issue of an arbitration claim form and such other terms, if any, as the court thinks fit.

APPLICATIONS UNDER SECTIONS 32 AND 45 OF THE ARBITRATION ACT

- 19.1 This paragraph applies to the following arbitration applications:
 - (1) applications for the determination of a question as to the substantive jurisdiction of the arbitral tribunal under section 32 of the Arbitration Act; and
 - (2) applications for the determination of a preliminary point of law under section 45 of the Arbitration Act.
- 19.2 Where an application 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 affidavits or witness statements filed by the parties shall set out any evidence relied on by the parties in support of their contention that the Court should, or should not, consider the application.
- 19.3 As soon as practicable after the written evidence is filed, the Court shall decide whether or not it should consider the application and, unless the Court otherwise directs, shall so decide without a hearing.

APPLICATIONS FOR PERMISSION TO APPEAL

- 20.1 Where the applicant seeks permission to appeal to the Court on a question of law arising out of an arbitration award, the arbitration claim form shall identify the question of law and state the grounds on which the applicant alleges that permission should be granted.
- 20.2 The affidavit or witness statement in support of the application shall set out any evidence relied on by the applicant for the purpose of satisfying the Court of the matters mentioned in section 69 (3) of the Arbitration Act and for satisfying the Court that permission should be granted.
- 20.3 The affidavit or witness statement filed by the respondent to the application shall—
 - (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 Arbitration 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.
- 20.4 As soon as practicable after the filing of the affidavits and witness statements, the Court shall determine the application for permission in accordance with section 69 (5) of the Arbitration Act.
- 20.5 Where permission is granted, a date shall be fixed for the hearing of the appeal.

EXTENSION OF TIME: APPLICATIONS UNDER SECTION 12

- 21.1 An application for an order under section 12 of the Arbitration Act may include as an alternative an application for a declaration that such an order is not needed.

TIME LIMIT FOR CHALLENGES TO OR APPEALS FROM AWARDS

- 22.1 An applicant shall not be taken as having complied with the time limit of 28 days referred to in section 70 (3) of the Arbitration Act unless the arbitration claim form has been issued, and all the affidavits or witness statements in support have been filed, by the expiry of that time limit.
- 22.2 An applicant who wishes–
- (1) to challenge an award under section 67 or 68 of the Arbitration Act; or
 - (2) to appeal under section 69 on a question of law arising out of an award,
- may, where the time limit of 28 days has not yet expired, apply without notice on affidavit or witness statement for an order extending that time limit.
- 22.3 In any case where an applicant seeks to challenge an award under section 67 or 68 of the Arbitration Act or to appeal under section 69 after the time limit of 28 days has already expired, the following provisions shall apply:
- (1) the applicant must state in his arbitration claim form the grounds why an order extending time should be made and his affidavit or witness statement in support shall set out the evidence on which he relies;
 - (2) a respondent who wishes to oppose the making of an order extending time shall file an affidavit or witness statement within 7 days after service of the applicant's evidence, and
 - (3) the Court shall decide whether or not to extend time without a hearing unless it appears to the Court that a hearing is required, and, where the Court makes an order extending the time limit, the respondent shall file his affidavit or witness statement in response to the arbitration application 21 days after the making of the order.

PART II

APPLICATION OF THIS PART

- 23.1 This Part of this practice direction applies to any application to the Court to which the old law applies and, in this rule, "the old law" means the enactments specified in section 107 of the Arbitration Act 1996 as they stood before their amendment or repeal by that Act.
- 23.2 This Part does not apply to proceedings to enforce an award -
- (1) to which Part III of this practice direction applies; or

(2) by a claim based on the award.

- 23.3 Reference should be made to the other provisions of the CPR (except Parts I and III of this Part) for the procedure for any application not expressly provided for in this Part.

MATTERS FOR A JUDGE IN COURT

- 24.1 Every application to the Court -
- (1) to remit an award under section 22 of the Arbitration Act 1950 ; or
 - (2) to remove an arbitrator or umpire under section 23 (1) of that Act; or
 - (3) to set aside an award under section 23 (2) of that Act, or
 - (4) to determine, under section 2 (1) of the Arbitration Act 1979, any question of law arising in the course of a reference,
- must be made by the issue of an arbitration claim form under CPR rule 8.6 (a Part 8 claim form).
- 24.2 Any appeal to the High Court under section 1 (2) of the Arbitration Act 1979 shall be made by the issue of a Part 8 claim form.
- 24.3 An application for a declaration that an award made by an arbitrator or umpire is not binding on a party to the award on the ground that it was made without jurisdiction may be made by the issue of a Part 8 claim form, but the foregoing provision shall not be taken as affecting the judge's power to refuse to make such a declaration in proceedings begun otherwise.

MATTERS FOR JUDGE IN CHAMBERS OR MASTER

- 25.1 Subject to the foregoing provisions of this Order and the provisions of this rule, the jurisdiction of the High Court or a judge thereof under the Arbitration Act 1950 and the jurisdiction of the High Court under the Arbitration Act 1975 and the Arbitration Act 1979 may be exercised by a judge in chambers, a master or the Admiralty Registrar.
- 25.2 Any application
- (1) for permission to appeal under section 1 (2) of the Arbitration Act 1979, or
 - (2) under section 1 (5) of that Act (including any application for permission), or
 - (3) under section 5 of that Act,
- shall be made to a judge in chambers.
- 25.3 Any application to which this rule applies shall, where there are existing court proceedings be made by the issue of an application notice in those proceedings, and in any other case a Part 8 claim form.

- 25.4 Where an application is made under section 1 (5) of the Arbitration Act 1979 (including any application for permission), the Part 8 claim form or the application notice as the case may be, must be served on the arbitrator or umpire and on any other party to the reference.

APPLICATIONS IN DISTRICT REGISTRIES

- 26.1 An application under section 12 (4) of the Arbitration Act 1950 for an order that a witness summons shall issue to compel the attendance before an arbitrator or umpire of a witness may, if the attendance of the witness is required within the district of a district registry, be made at that registry, instead of at the Admiralty and Commercial Registry, at the option of the applicant.

TIME LIMITS AND OTHER SPECIAL PROVISIONS AS TO APPEALS AND APPLICATIONS UNDER THE ARBITRATION ACTS

- 27.1 An application to the Court -
- (1) to remit an award under section 22 of the Arbitration Act 1950; or
 - (2) to set aside an award under section 23 (2) of that Act or otherwise, or
 - (3) to direct an arbitrator or umpire to state the reasons for an award under section 1 (5) of the Arbitration Act 1979,
- must be made, and the Part 8 claim form or application notice, as the case may be, must be served, within 21 days after the award has been made and published to the parties.
- 27.2 In the case of an appeal to the Court under section 1 (2) of the Arbitration Act 1979, the application for permission to appeal, where permission is required, and the Part 8 claim form must be served and the appeal entered, within 21 days after the award has been made and published to the parties. Provided that, where reasons material to the appeal are given on a date subsequent to the publication of the award, the period of 21 days shall run from the date on which the reasons are given.
- 27.3 An application, under section 2 (1) of the Arbitration Act 1979, to determine any question of law arising in the course of a reference, must be made, and the Part 8 claim form served, within 14 days after the arbitrator or umpire has consented to the application being made, or the other parties have so consented.
- 27.4 For the purpose of paragraph 27.3 the consent must be given in writing.
- 27.5 In the case of every appeal or application to which this paragraph applies, the Part 8 claim form or the application notice, as the case may be, must state the grounds of the appeal or application and, where the appeal or application is founded on evidence by affidavit or witness statement, or is made with the consent of the arbitrator or umpire or of the other parties, a copy of every

affidavit or witness statement intended to be used, or, as the case may be, of every consent given in writing, must be served with the Part 8 claim form or application notice.

- 27.6 Without prejudice to sub-paragraph (5), in an appeal under section 1 (2) of the Arbitration Act 1979 the statement of the grounds of the appeal shall specify the relevant parts of the award and reasons, or the relevant parts thereof, shall be lodged with the court and served with the Part 8 claim form.
- 27.7 In an application for permission to appeal under section 1 (2) of the Arbitration Act 1979, any affidavit or witness statement verifying the facts in support of a contention that the question of law concerns a term of a contract or an event which is not a one-off term or event must be filed with the court and served with the Part 8 claim form.
- 27.8 Any affidavit or witness statement in reply to written evidence under sub-paragraph (7) shall be filed with the court and served on the applicant not less than two clear days before the hearing of the application.
- 27.9 A respondent to an application for permission to appeal under section 1 (2) of the Arbitration Act 1979 who desires to contend that the award should be upheld on grounds not expressed or fully expressed in the award and reasons shall not less than two clear days before the hearing of the application file with the court and serve on the applicant a notice specifying the grounds of his contention.

APPLICATIONS AND APPEALS TO BE HEARD BY COMMERCIAL JUDGES

- 28.1 Any matter which is required, by paragraph 24 or 25, to be heard by a judge, shall be heard by a judge of the Commercial Court unless any such judge otherwise directs.
- 28.2 Nothing in the foregoing sub-paragraph shall be construed as preventing the powers of a judge of the Commercial Court from being exercised by any judge of the High Court.

SERVICE OUT OF THE JURISDICTION

- 29.1 Subject to paragraph 29.2,
 - (1) any Part 8 claim form whereby an application under the Arbitration Act 1950 or the Arbitration Act 1979, is made, or
 - (2) any order made on such an application,
 may be served out of the jurisdiction with the permission of the Court provided that the arbitration to which the application relates is governed by English law or has been, is being or is to be held within the jurisdiction.
- 29.2 A Part 8 claim form whereby permission to enforce an award is sought may be served out of the jurisdiction with the permission of the Court whether or not the arbitration is governed by English law.

- 29.3 An application for the grant of permission under this paragraph must be supported by an affidavit or witness statement stating the grounds on which the application is made and showing in what place or country the person to be served is, or probably may be found; and no such permission shall be granted unless it shall be made to appear to the Court that the case is a proper one for service out of the jurisdiction under this paragraph.
- 29.4 RSC Order 11, rules 5 to 8, (Schedule 1 to the CPR) shall apply in relation to any such Part 8 claim form or order as is referred to in sub-paragraph (1) as they apply in relation to any other claim form.

PART III

APPLICATION OF THIS PART

- 30.1 This Part of this practice direction applies to all enforcement proceedings (other than by an action or claim on the award) regardless of when they are commenced and when the arbitral proceedings took place.

ENFORCEMENT OF AWARDS

- 31.1 This rule applies to applications to enforce awards which are brought in the High Court and such an application may be made in the Royal Courts of Justice or in any district registry.
- 31.2 An application for permission under -
- (1) section 66 of the Arbitration Act 1996;
 - (2) section 101 of the Arbitration Act 1996;
 - (3) section 26 of the Arbitration Act 1950; or
 - (4) section 3 (1)(a) of the Arbitration Act 1975;
- to enforce an award in the same manner as a judgment or order may be made without notice by use of the practice form referred to in paragraph 4.1.
- 31.3 The Court hearing an application under paragraph 31.2 may direct that the form (in this Part of this practice direction called “the enforcement form”) is to be served on such parties to the arbitration as it may specify and the enforcement form may with the permission of the court be served out of the jurisdiction irrespective of where the award is, or is treated as, made.
- 31.4 Where a direction is given under paragraph 31.3, paragraphs 11.1 to 11.5 and 13.1 to 17.1 shall apply with the necessary modifications as they apply to applications under Part 1 of this practice direction.
- 31.5 Where the applicant applies to enforce an agreed award within the meaning of section 51 (2) of the Arbitration Act 1996, the enforcement form must state that the award is an agreed award and any order made by the Court shall also contain such a statement.

- 31.6 An application for permission must be supported by affidavit or witness statement -
- (1) exhibiting
 - (a) where the application is made under section 66 of the Arbitration Act 1996 or under section 26 of the Arbitration Act 1950, the arbitration agreement and the original award or, in either case, a copy thereof;
 - (b) where the application is under section 101 of the Arbitration Act 1996, the documents required to be produced by section 102 of that Act;
 - (c) where the application is under section 3 (1)(a) of the Arbitration Act 1975, the documents required to be produced by section 4 of that Act;
 - (2) stating the name and the usual or last known place of residence or business of the applicant and of the person against whom it is sought to enforce the award respectively,
 - (3) stating, as the case may require, either that the award has not been complied with or the extent to which it has not been complied with at the date of the application.
- 31.7 An order giving permission must be drawn up by or on behalf of the applicant and must be served on the respondent by delivering a copy to him personally or by sending a copy to him at his usual or last known place of residence or business or in such other manner as the Court may direct.
- 31.8 The order may be served out of the jurisdiction without permission, and RSC Order 11, rules 5 to 8, (Schedule 1 to the CPR) shall apply in relation to such an order as they apply in relation to a claim form.
- 31.9 Within 14 days after service of the order or, if the order is to be served out of the jurisdiction, within such other period as the Court may fix, the respondent may apply to set aside the order and the award shall not be enforced until after the expiration of that period or, if the respondent applies within that period to set aside the order, until after the application is finally disposed of.
- 31.10 The copy of the order served on the respondent shall state the effect of paragraph 31.9.
- 31.11 In relation to a body corporate paragraphs 31.1 – 31.10 shall have effect as if for any reference to the place of residence or business of the applicant or the respondent there were substituted a reference to the registered or principal address of the body corporate.

Nothing in paragraphs 31.1 – 31.10 shall affect any enactment which provides for the manner in which a document may be served on a body corporate.

INTEREST ON AWARDS

- 32.1 Where an applicant seeks to enforce an award of interest, the whole or any part of which relates to a period after the date of the award, he shall file a certificate giving the following particulars
- (1) whether simple or compound interest was awarded;
 - (2) the date from which interest was awarded;
 - (3) whether rests were provided for, specifying them;
 - (4) the rate of interest awarded, and
 - (5) a calculation showing the total amount claimed up to the date of the certificate and any sum which will become due thereafter on a per diem basis.
- 32.2 The certificate under paragraph 32.1 must be filed whenever the amount of interest has to be quantified for the purpose of obtaining a judgment or order under section 66 of the Arbitration Act (enforcement of the award) or for the purpose of enforcing such a judgment or order by one of the means mentioned in RSC Order 45, rule 1 (Schedule 1 to the CPR).

REGISTRATION IN HIGH COURT OF FOREIGN AWARDS

- 33.1 Where an award is made in proceedings on an arbitration in any part of Her Majesty's dominions or other territory to which Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933 extends, being a part to which Part II of the Administration of Justice Act 1920 extended immediately before the said Part I was extended thereto, then, if the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place, RSC Order 71 (Schedule 1 to the CPR) shall apply in relation to the award as it applies in relation to a judgment given by that court, subject, however, to the following modifications:
- (1) for references to the country of the original court there shall be substituted references to the place where the award was made; and
 - (2) the affidavit required by rule 3 of the said Order must state (in addition to the other matters required by that rule) that to the best of the information or belief of the deponent the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place.

REGISTRATION OF AWARDS UNDER THE ARBITRATION (INTERNATIONAL INVESTMENT DISPUTES) ACT 1966

- 34.1 In paragraphs 34.1 – 34.7 and in any provision of this practice direction as applied by this paragraph -
- “the Act of 1966” means the Arbitration (International Investment Disputes) Act 1966;

“award” means an award rendered pursuant to the Convention;

“the Convention” means the Convention referred to in section 1 (1) of the Act of 1966;

“judgment creditor” and “judgment debtor” mean respectively the person seeking recognition or enforcement of an award and the other party to the award.

- 34.2 Subject to the provisions of paragraphs 34.1 – 34.7, the following provisions of RSC Order 71, namely, rules 1, 3 (1) (except sub-paragraphs (c)(iv) and (d) thereof) 7 (except paragraph (3)(c) and (d)) thereof, and 10 (3) shall apply with the necessary modifications in relation to an award as they apply in relation to a judgment to which Part II of the Foreign Judgments (Reciprocal Enforcement) act 1933 applies.
- 34.3 An application to have an award registered in the High Court under section 1 of the Act of 1966 shall be made by claim form under CPR rule 8.6.
- 34.4 The witness statement or affidavit required by Order 71, rule 3, in support of an application for registration shall -
- (1) in lieu of exhibiting the judgment or a copy thereof, exhibit a copy of the award certified pursuant to the Convention; and
 - (2) in addition to stating the matters mentioned in paragraph 3 (1)(c)(i) and (ii) of the said rule 3, state whether at the date of the application the enforcement of the award has been stayed (provisionally or otherwise) pursuant to the Convention and whether any, and if so what, application has been made pursuant to the Convention, which, if granted, might result in a stay of the enforcement of the award.
- 34.5 There shall be kept in the Admiralty and Commercial Registry under the direction of the Senior Master a register of the awards ordered to be registered under the Act of 1966 and particulars shall be entered in the register of any execution issued on such an award.
- 34.6 Where it appears to the court on granting permission to register an award or an application made by the judgment debtor after an award has been registered -
- (1) that the enforcement of the award has been stayed (whether provisionally or otherwise) pursuant to the Convention; or
 - (2) that an application has been made pursuant to the Convention, which, if granted, might result in a stay of the enforcement of the award,
- the Court shall, or in the case referred to in sub-paragraph (2) may, stay execution of the award for such time as it considers appropriate in the circumstances.
- 34.7 An application by the judgment debtor under paragraph 34.6 shall be made by application notice and supported by affidavit.