

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.