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The Arbitration Act 1996 - Summary of Substantive Legal Amendments (Effective 1/8/2025)

Area of Reform	Provision	Summary of Amendment
A. New Sections and Concepts		
Applicable Law	**New s.6A**	Introduces a default rule: if no express choice of law governs the arbitration agreement, **the law of the seat applies**. A contract-wide governing law clause does not suffice. Reflected in **s.2(2)(za) and s.83**.
Duty of Disclosure	**New s.23A**	Requires arbitrators and proposed arbitrators to **disclose any relevant circumstances** that might reasonably give rise to doubts as to their impartiality. A **mandatory provision** (Schedule 1).
Summary Disposal	**New s.39A**	Allows tribunals to issue **summary awards** where a party has no real prospect of success, provided both parties have a fair opportunity to be heard.
Emergency Arbitrators	**New s.41A**	Enables emergency arbitrators, where appointed under agreed rules, to issue **peremptory orders** enforceable under s.42. "Emergency arbitrator" and "peremptory order" added to **s.82(1) and s.83.**
B. Amendments to Key Existing Provisions		
Court Removal of Arbitrator	**s.24(5A)**	Court may only order arbitrator to pay costs **if bad faith** is shown. See cross-reference in **s.29(1)**.
Arbitrator Resignation	**s.25**	Replaces fee liability regime. Court may now decide on **entitlement to or return of fees/expenses** on application by any relevant party (**new s.25(3)**).
Arbitrator Immunity	**s.29(4–5)**	Clarifies that an arbitrator is only liable upon resignation if doing so was **unreasonable in all the circumstances**, subject to agreements or court orders.
Jurisdictional Challenges	**s.32**	Removes the "good reason" requirement (**s.32(2)(b)**) and other hurdles (**s.32(3)**). New **s.32(1A)** inserted. Tightens court access after tribunal rulings on jurisdiction.
Enforcement of Orders	**s.42**	Expanded to **include peremptory orders made by emergency arbitrators**, not just the full tribunal.

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Court Support Powers	**s.44**	Amended to: (1) include **non-parties** (**s.44(1)**); (2) require **permission from tribunal/emergency arbitrator** in non-urgent cases (**new s.44(4)**); (3) add procedural and appeal provisions (**s.44(6A–7)**).
Preliminary Points of Law	**s.45**	Mirrors changes to s.32: removes need to prove lack of delay or agreement. New test for leave refers to **either condition in s.45(2)**.
Costs Awards	**s.61**	Tribunal powers no longer conditional on party agreement (**s.61(1)**). Can award costs even if tribunal lacked jurisdiction (**new s.61(1A)**). "Costs follow the event" is now a default rule, subject to party agreement (**s.61(3)**).
Challenges to Award	**s.67**	Reworded for clarity (**s.67(1)(b)**). Courts may declare awards ineffective (**new s.67(3)**). New subsections (**3B–3D**) limit new grounds at court stage unless applicant shows prior unawareness despite diligence.
Time Limits	**s.70(3A–3B, 9)**	Introduces a flexible "**applicable date**" rule for calculating time limits for applications/appeals, including corrections and additional awards. New **s.70(9)** inserted.
C. Repeals and Omissions		
Domestic Arbitration Provisions	**ss.85–88**	Repeals provisions distinguishing **domestic arbitration**, aligning fully with international standards.
Consequential Repeals	**Schedules 3 & 4**	Removes outdated references (e.g. to court appeal routes) consistent with the above reforms.

Key Takeaways

These reforms mark the most substantial update to the Arbitration Act in nearly 30 years. Stakeholders should review:

- The expanded duties and default powers of arbitrators,
- The recalibrated court support framework, and
- The streamlined mechanisms for challenging jurisdiction and awards.

#ArbitrationAct1996 #LawCommission #EmergencyArbitrator #DisclosureDuty #SummaryDisposal #s67 #JurisdictionChallenge #InternationalArbitration #LegalUpdate #ConstructionLaw #DDAlegal #DDA

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Adjudicator Assessor and Re-Assessor for the ICE and the CIArb
Arbitrator Assessor for the CIArb
ICE DRC Member
ICE DRC CPD Committee Chairman
Adjudicator Exam Question Setter for the ICE

CIArb Adjudication Panel Member since 2006
CIArb Arbitration Panel Member since 2006
CIC Adjudication Panel Member since 2010
Law Society Panel Arbitrator
RIBA Adjudication Panel Member since 2018
RICS Adjudication Panel Member since 2006
TECSA Adjudication Panel Member since 2012
FIDIC Adjudication Panel Member since 2021
ICE Adjudication Panel Member since 2021
RICS Dispute Board Registered since 2013

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