

UK Arbitration Act 2025: Shaping Dispute Resolution

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On 24 February 2025, the UK Arbitration Act 2025 (the *2025 Act*) received Royal Assent, marking a long-anticipated update to the Arbitration Act 1996, which had governed arbitrations in England & Wales for nearly three decades. The new law, which is shaped by a multi-year UK Law Commission review, responds to the evolving needs of international commerce and reinforces London's position as a global arbitration hub.

For Chinese clients, from state-owned conglomerates and shipping companies to trading houses and tech firms, this reform is more than a technical update. It represents a strategic opportunity to revisit arbitration strategies involving English law contracts and London-seated arbitration.



Why This Reform Matters

London has long been a preferred seat of arbitration for disputes in shipping, commodities, and international trade, where English law is often the governing law of choice. However, since the Arbitration Act 1996 was enacted, the global arbitration landscape has evolved significantly. Other jurisdictions, such as Singapore, Hong Kong, and Paris, have introduced modern legislative frameworks, prompting the UK to modernise its own.

The 2025 Act is not a complete overhaul but a targeted refinement by preserving the strengths of the 1996 Act while introducing clarity, efficiency, and procedural fairness. It applies to all arbitrations commenced after its effective date (to be confirmed), and to related court proceedings arising thereafter.



Key Changes Introduced by the 2025 Act

1. Clearer rule on the governing law of arbitration agreements

One of the most significant clarifications introduced by the 2025 Act concerns the law governing arbitration agreements. Under the previous legal framework, uncertainty frequently arose where a contract was governed by the law of a particular jurisdiction, but the arbitration clause did not expressly state its governing law. This ambiguity led to inconsistent judicial interpretations and, in some cases, the unintended application of laws that were less supportive of arbitration.

The 2025 Act now establishes a clear statutory rule: unless the parties have expressly agreed otherwise, the governing law of the arbitration agreement will be the law of the seat of arbitration. This legislative clarification departs from the UK Supreme Court's approach in *Enka v Chubb* [2020] UKSC 38, which had allowed the governing law of the main contract to extend by implication to the arbitration clause. As a result, arbitration agreements seated in London could be inadvertently subjected to foreign laws that are not arbitration-friendly, undermining the parties' expectations and the enforceability of the clause. This unintended extension is now removed as the 2025 Act makes it clear that agreement between the parties that a particular law applies to the main contract of which the arbitration agreement forms a part does not constitute express agreement that such law also applies to the arbitration agreement.

For parties selecting London as the seat of arbitration, this new rule provides greater legal certainty and aligns the position in England and Wales with international best practice. It also reduces the risk of satellite disputes over applicable law, which often cause delay and increase costs.

In this context, parties from Mainland Hong Kong, and across the Asia-Pacific region are well advised to give express thought to the choice of law governing their arbitration agreements. Where the seat is London, specifying English law to be the law governing the arbitration agreement remains a prudent and effective choice. Alternatively, where Hong Kong is chosen as the arbitral seat, Hong Kong law offers a comparable legal framework, largely derived from English common law principles, and is similarly regarded as arbitration-friendly. In either case, an express

choice of governing law of the arbitration agreement helps to safeguard the validity and enforceability of the arbitration agreement and ensures that any procedural or jurisdictional issues are resolved in a predictable and pro-arbitration manner.

2. Tribunal power to summarily dismiss weak claims

A notable innovation in the 2025 Act is the introduction of an express power for arbitral tribunals to summarily dismiss claims or defences that have “no real prospect of success”. This new statutory mechanism closely mirrors the striking out or summary judgment procedure available in English court proceedings under the Civil Procedure Rules and addresses a gap that had previously created hesitation among arbitrators.

Before this reform, tribunals were often reluctant to dispose of clearly unmeritorious claims or defences at an early stage, due to concerns over the risk of challenge and enforceability of the award. As a result, parties were sometimes forced to expend significant time and costs dealing with defences or defending claims that lacked any real substance. The 2025 Act now provides a clear legal basis for tribunals to act decisively where appropriate, thereby enhancing procedural efficiency and strengthening confidence in the arbitral process.

Importantly, the use of this power is not mandatory. The parties retain the autonomy to exclude it by agreement, and the tribunal must still ensure that each party has a reasonable opportunity to present its case before any summary determination is made. The 2025 Act deliberately avoids prescribing a detailed procedure, thereby preserving the flexibility that is a hallmark of arbitration.

For parties engaged in high-volume, time-sensitive transactions, such as those in shipping, commodities, or international trade, this reform provides a valuable tool for controlling costs and streamlining proceedings. It also brings London-seated arbitration more in line with modern commercial expectations of procedural efficiency.

Where parties are considering arbitration in other common law jurisdictions, such as Hong Kong, it is worth noting that similar powers may already be available under institutional rules or tribunal discretion, though they may not yet be codified in the same manner. The 2025 Act sets a clear and positive precedent that may well influence the development of arbitration law elsewhere.

For parties drafting arbitration agreements, careful consideration should be given to whether to preserve or opt out of this power. In most commercial contexts, particularly where speed and cost-efficiency are priorities, retaining the tribunal’s ability to summarily dispose of weak claims is likely to be advantageous.

3. Streamlining jurisdictional challenges

Another important reform introduced by the 2025 Act concerns the procedure for challenging an arbitral tribunal’s jurisdiction under Section 67 of the Arbitration Act 1996. Historically, such challenges were treated as full rehearings before the court, effectively allowing a dissatisfied party to re-litigate jurisdictional issues that had already been argued and decided during the arbitration. This approach not only duplicated effort but also led to significant delays and increased costs, undermining the efficiency and finality that arbitration is intended to offer.

The 2025 Act brings a fundamental shift in this area. It now limits the scope of Section 67 challenges by aligning them more closely with the principles of an appeal, rather than a trial de novo. Under the new regime, a party may not introduce new grounds of objection or fresh evidence unless it can demonstrate that, even with reasonable diligence, it could not have presented those matters during the arbitration. Furthermore, courts are no longer expected to re-hear evidence already considered by the tribunal, unless doing so is necessary in the interests of justice.

This change is designed to respect the tribunal’s role as the primary decision-maker on jurisdictional questions, while still preserving the court’s supervisory function. It also reinforces the principle of procedural economy, ensuring that arbitral proceedings are not undermined by tactical or repetitive litigation.

For parties engaged in London-seated arbitrations, this reform provides greater finality and predictability, particularly in complex cross-border disputes where jurisdictional objections are sometimes raised late in the process. It may also influence how jurisdictional objections are approached in arbitrations seated in other common law jurisdictions, including Hong Kong, where courts have generally adopted a more deferential stance towards tribunal findings on jurisdiction.

Overall, the new framework under Section 67 strikes a more appropriate balance between party autonomy, judicial oversight, and procedural efficiency. It reduces the scope for abuse of jurisdictional challenges and reinforces London's reputation as a forum that supports arbitration, rather than undermining it.

4. Clarified court powers in support of arbitration

The 2025 Act also brings welcome clarity to the powers of English courts to support arbitral proceedings, particularly in relation to third parties. While Section 44 of the Arbitration Act 1996 allowed courts to make interim orders in aid of arbitration, such as freezing injunctions or orders for the preservation of evidence, the extent to which these powers could be exercised against non-parties had been subject to legal uncertainty and conflicting case law.

The 2025 Act resolves this by confirming, in express terms, that English courts may issue orders in support of arbitration not only against parties to the arbitration agreement, but also against third parties. These may include orders for the preservation or inspection of evidence, freezing orders over assets, or orders concerning the custody or detention of property relevant to the dispute.

This reform enhances the effectiveness of arbitration as a standalone dispute resolution mechanism by ensuring that tribunals, and by extension, the parties, are not left powerless in situations where critical evidence or assets lie in the hands of third parties. At the same time, the 2025 Act carefully preserves the rights of those third parties by ensuring they retain full rights of appeal. This strikes an important balance between the autonomy of the arbitral process and the procedural fairness owed to those who have not consented to arbitrate.

In practical terms, this development is especially relevant to shipping and commodities disputes, where key documents, cargo, or funds may be held by banks, insurers, freight forwarders, or other intermediaries. The ability to obtain swift and effective relief from the courts, without procedural ambiguity, can be crucial to the success of the arbitration.

For parties operating across borders or relying on asset-heavy transactions, the clarified scope of Section 44 provides an additional layer of reassurance that arbitral proceedings seated in London will be both efficient and enforceable, with robust court support available when needed.

5. Emergency arbitrators with enforceable powers

The 2025 Act marks a significant milestone by formally recognising the role of emergency arbitrators in London-seated arbitration. While many leading arbitral institutions, such as the LCIA, ICC, and HKIAC, have long provided emergency arbitration procedures in their rules, English arbitration law had not previously granted these mechanisms express statutory recognition. This created uncertainty, particularly around the enforceability of interim measures issued by emergency arbitrators.

Under the new framework, emergency arbitrators are now explicitly empowered to issue peremptory orders, such as urgent injunctions or preservation orders with binding deadlines. In addition, they may seek assistance from the court under Section 44 of the Arbitration Act 1996, ensuring that such interim relief can be enforced swiftly and effectively, even before the arbitral tribunal is fully constituted.

This reform is particularly important in high-stakes, time-sensitive disputes, where the ability to freeze assets, preserve evidence, or prevent dissipation of funds at an early stage can have a decisive impact on the outcome of the case. It also brings the 2025 Act into closer alignment with modern arbitral practice and the expectations of international commercial parties.

For businesses operating across borders, especially in sectors such as commodities trading, shipping, finance, or technology, the availability of enforceable emergency relief reinforces the attractiveness of choosing London as the seat of arbitration. At the same time, it is worth noting that other jurisdictions, including Hong Kong, have developed similarly robust emergency arbitration frameworks. The HKIAC, for instance, offers a well-established and responsive emergency arbitrator mechanism, which has proven effective in a wide range of urgent commercial disputes.

When structuring contracts, Chinese parties and their advisors should consider whether the chosen arbitral institution provides a credible and enforceable emergency arbitration regime. Where emergency relief is likely to be important, such as in contracts involving large asset transfers or volatile market conditions, selecting a seat and procedural rules that support this mechanism can offer a crucial layer of protection.

6. Codified duty of disclosure and enhanced arbitrator immunity

The 2025 Act introduces two important reforms that strengthen the transparency and independence of arbitral tribunals: the codification of an arbitrator's duty of disclosure, and the clarification of the scope of arbitrator immunity.

First, the 2025 Act now places on a statutory footing the requirement that arbitrators must disclose any circumstances that might reasonably give rise to doubts about their impartiality. This codification reflects the principles articulated by the UK Supreme Court in *Halliburton v Chubb* [2020] UKSC 48, and brings clarity to what had previously been a matter of evolving common law. The duty is ongoing and applies both before and during the proceedings, ensuring that parties are kept informed of any developments that could affect the neutrality of the tribunal.

Second, the 2025 Act enhances arbitrator immunity in two key respects. Arbitrators are now protected from costs orders in removal proceedings unless they are found to have acted in bad faith, and they are also protected from liability for resignation, unless the resignation was unreasonable. These provisions strike a careful balance: they safeguard the independence of arbitrators while ensuring accountability in cases of misconduct or improper withdrawal.

Together, these reforms reinforce the integrity of the arbitral process and enhance London's attractiveness as a seat of arbitration. They provide assurance to parties that arbitrators will act transparently and without undue fear of personal liability, while also discouraging tactical attempts to challenge or pressure tribunal members without good cause.

In a legal environment where the neutrality and professionalism of the tribunal are paramount to the legitimacy of the process, codifying disclosure obligations and clarifying the protections available to arbitrators under English law represents a thoughtful and timely development. Jurisdictions such as Hong Kong, which similarly uphold high standards of arbitrator independence and ethics, may find these developments complementary to their own frameworks, reinforcing shared principles across leading arbitration centres.

For parties entering into arbitration agreements, these changes further support the selection of London as a seat that promotes both procedural fairness and institutional integrity.

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Implications for China-Related International Contracts

The reforms introduced by the 2025 Act carry important practical implications for Chinese companies and investors involved in international commercial transactions, particularly in sectors such as shipping, commodities trading, infrastructure development, and outbound investment. These transactions frequently adopt English law as the governing law and designate London as the seat of arbitration, reflecting longstanding market practice and the perceived neutrality and sophistication of the English legal system.

The 2025 Act enhances the appeal of London-seated arbitration in several meaningful ways. It introduces greater legal certainty in the drafting and interpretation of arbitration clauses, especially by clarifying the default rule on the governing law of the arbitration agreement. This helps to avoid jurisdictional disputes and supports the enforceability of arbitration agreements across borders.

Procedurally, the 2025 Act improves the efficiency of arbitral proceedings, most notably through the tribunal's new power to summarily dismiss claims or defences that lack merit. This development is particularly relevant in high-volume or fast-moving commercial disputes where time and cost considerations are critical.

In addition, the formal recognition of emergency arbitrators ensures that parties can obtain urgent interim relief, such as asset preservation orders, even before a tribunal is fully constituted. The strengthened court powers in support of arbitration, including orders against third parties, further reinforce the robustness of the English arbitration framework, which is an important consideration in complex disputes involving multiple actors or jurisdictions.

Finally, the 2025 Act maintains a strong commitment to party autonomy, while enhancing transparency and fairness through measures such as the codified duty of disclosure for arbitrators and clearer safeguards for tribunal independence.

Taken together, these developments strengthen London's position as a preferred seat for resolving international disputes. At the same time, they offer a timely opportunity for businesses and legal counsel to review their dispute resolution strategies, ensure that arbitration clauses are

carefully drafted, and select institutional rules and governing laws that align with their commercial objectives.



Navigating English Law and London Arbitration with Confidence

The reforms introduced by the 2025 Act are particularly relevant to industries that traditionally turn to English law and London arbitration to resolve international disputes. These include shipping, commodities, infrastructure, and international trade, sectors in which Chinese enterprises and investors are playing an increasingly prominent role.

Disputes arising in these areas often involve complex legal and procedural issues across multiple jurisdictions. Common scenarios include the interpretation of English-law governed contracts, such as charterparties, bills of lading, sale of goods agreements, and trade finance arrangements, as well as arbitrations seated in London under rules of institutions like the LCIA or ICC, or under industry-specific regimes such as the LMAA Terms. In many cases, parties may also need to seek urgent interim relief, freezing injunctions, anti-suit injunctions, or preservation orders, from the English courts in support of arbitration. Other common issues include the enforcement of arbitral awards and interim measures across multiple jurisdictions, including Mainland Hong Kong, or disputes involving crypto-assets and digital trade infrastructure.

In navigating these matters, legal advisers with experience across common law systems and familiarity with the procedural frameworks of both London and Hong Kong are well positioned to assist. The ability to bridge legal systems, understand cross-cultural dynamics, and manage jurisdictional complexity is often critical to achieving commercially sound outcomes.

The 2025 Act offers a timely opportunity for businesses to revisit their approach to dispute resolution. This includes reviewing arbitration clauses for consistency and enforceability, considering the implications of new tribunal powers, and structuring transactions and enforcement strategies in a way that reflects both commercial realities and the evolving legal landscape.

At Haiwen & Partners' Hong Kong office, our dispute resolution team includes lawyers qualified in both Hong Kong and England & Wales, with experience advising on and acting in arbitrations under English law and London-seated procedures. This cross-border capability supports

clients with China-related interests in navigating the increasingly sophisticated and globally integrated arbitration environment with clarity and confidence.

Conclusion

The 2025 Act introduces a series of reforms that merit careful consideration by businesses engaged in cross-border transactions governed by English law. In light of these changes, parties are encouraged to review existing arbitration clauses to ensure they reflect the updated legal framework, including the clarified default rules on governing law and tribunal powers. Where appropriate, parties may wish to specify English law as the governing law of the arbitration agreement to enhance predictability and enforceability. It is also prudent to consider arbitral rules that provide for emergency arbitration, particularly in transactions involving asset preservation or time-sensitive relief.

Given the potential impact of these developments on contracts involving cross-border risk, shipping arrangements, or trade finance, legal advice should be sought when drafting or revising dispute resolution provisions.

For further information or discussion of how the 2025 Act may affect your contracts or disputes, please feel free to contact the authors.

2025-06-11