

## UAE issues new arbitration law

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The United Arab Emirates (the UAE) issued a new arbitration law, Federal Arbitration Law No. 6 of 2018 (the "Arbitration Law"), thus repealing the provisions of the Arbitration Chapter in the UAE Civil Procedures Federal Law No. 11 of 1992 (the CPC).

The Arbitration Law is a long time coming; although the UAE Ministry of Economy has circulated various drafts of a proposed federal arbitration law in the past, this is the first time the UAE Federal National Council has approved a draft. The new Arbitration Law adopts the UNCITRAL Model Law, thereby modernising the current arbitration process and aligning the UAE arbitral framework with international standards. The law is expected to have a positive impact on foreign business operations and investments within the UAE, with the aim of supporting economic development and attracting foreign direct investments. In particular, it is expected to bring more certainty and confidence in arbitration as an effective means of dispute resolution in the UAE and in the wider MENA region.

Some key highlights of the new [Arbitration Law](#) include:

### **Scope of Application**

- Article 2: The Arbitration Law applies to domestic and international arbitration proceedings.
- Article 61 provides that the Arbitration Law will enter into effect one month following its publication in the UAE's Official Gazette and pursuant to Article 59, the Arbitration Law will apply to all ongoing arbitral proceedings at the time of it coming into effect.

### **Arbitration Agreement**

- The requirements of a valid arbitration agreement include: Article 4: Legal capacity of a person to enter into an arbitration agreement and Article 7: The arbitration agreement must be in writing.
- Article 6: The arbitration agreement is separable and independent from the other terms of the contract, a principle that was not provided for in the CPC.

### **Tribunal Authority and Court Assistance**

- Article 9: The default is that the arbitral tribunal shall be composed of three arbitrators,

unless the parties agree otherwise.

- Article 10(2): Arbitrators cannot be members of the Board of Trustees or of the administrative body within the relevant domestic arbitral institution.
- Article 10(3): There are no gender or nationality requirements for arbitrators unless the parties or the governing law provide otherwise.
- Article 19: Although not provided for in the CPC, the new Arbitration Law grants the tribunal authority to rule on its own jurisdiction.
- Article 8: A court petition in relation to the arbitration agreement does not preclude the commencement or continuation of the arbitral proceedings or the issuance of an award.

### **Electronic Communications**

- Article 24: Written correspondence can be sent, amongst other means, via fax or email.
- Article 28: Arbitral sessions and deliberations can be conducted via telephone or through other electronic means.
- Article 41: Arbitral awards can be signed electronically outside the seat of arbitration.

### **Interim Measures**

- Article 21: While the CPC did not provide for interim measures, the Arbitration Law permits the tribunal to award interim measures and to issue provisional orders which are enforceable in court, including ordering a party to provide adequate security.
- Article 18: The relevant courts are directed to support the arbitral process by ordering interim or provisional measures in support of current or potential arbitral proceedings.

### **Challenging an Arbitral Award**

- Article 53 of the Arbitration Law provides limited grounds for annulment, which include the lack of capacity of a party entering into the arbitration agreement, lack of authorisation to act on the matter, lack of notice, or that the award did not apply the law chosen by the parties. Additionally, Article 54(2) of the Arbitration Law provides a 30 day time limit for a party to commence nullification proceedings.

### **Recognition and Enforcement of an Arbitral Award**

- Article 55: To rectify the lengthy and uncertain enforcement process that has plagued the arbitration process in the UAE, the Arbitration Law provides that a court has 60 days from the application date to order the enforcement of an award if it does not find any grounds to set aside or nullify it. This is in contrast to the CPC, which did not provide a timeline for enforcement.

The Arbitration Law is a positive development in the arbitral community as it sets a comprehensive framework for the complex business disputes in the greater MENA

region. Please look out in the upcoming days for our detailed analysis of the Arbitration Law and its potential ramifications.

> [Read the full article online](#)