

New Arbitration Law introduced in the UAE

The new Arbitration Law was introduced in the UAE in July 2018 in the form of Federal Law No. 6 of 2018. It will apply to arbitral proceedings conducted in the UAE and international commercial arbitration procedures conducted outside the UAE where the parties have agreed that the arbitration law will apply. In July 2018, a new Federal Arbitration Law (New Law) was introduced in the UAE. This article will focus on the changes brought forth in relation to the New Law and their mechanism of enforcement which provides a greater certainty of outcome.

THE OLD LAW vs THE NEW LAW

The Civil Procedures Law, which contains the arbitration provisions (Old Law), albeit satisfactory in many ways, are not known to extend itself due to certain fundamental limitations such as the enforcements and nullification of awards. This New Law is principally based on UNICITRAL Model Law, which allows for legal reformation related to the arbitration procedure. The New Law also incorporates several international principles such as the doctrine of competence enabling tribunals to decide on their own jurisdiction and the principle of autonomy of arbitration agreements by virtue of which these agreements are separable from other provisions contained in underlying contracts. Additionally the New Law requires that should a party wish to set aside an award, they must file the application for an annulment within 30 days from the date of the notification of the award. The New Law also allows preliminary orders and interim measures and ensures that enforcement is not automatically stopped if the award is challenged.

APPLICATION OF THE LAW

The Arbitration Law will apply to:- All arbitration proceedings conducted in the UAE unless parties choose another law provided that this other law does not infringe the UAE public order and ethics;- Arbitral proceedings conducted abroad, subject to the agreement between the parties involved;- Any arbitration matters arising from a legal relationship in line with the UAE law. There are still some doubts over whether the effect of this aspect of the law will extend to foreign arbitral proceedings where UAE law is applied.

IMPACT OF THE NEW ARBITRATION LAW

The New Law will not apply to arbitration proceedings held at the Dubai International Financial Centre (DIFC) and Abu Dhabi Global Market (ADGM) free zones, or to the ratification and enforcement of foreign arbitral awards. The New Law dictates that it shall apply to any ongoing Arbitration at the time of its entry into force, even if it is based on an earlier Arbitration Agreement, provided that the proceedings carried out in accordance with the provisions of any previous legislation shall remain valid. Another important feature is that the New Law will allow tribunals to correct any obvious inaccuracies in its awards or even amend the form of the award to preserve its enforceability. The approval and the execution of arbitral awards is now expected to be completed within 60 days. The adoption of the New Law is aimed at improvising the means to resolve contractual disputes in the UAE. By strengthening the legal protection via the New Law, the UAE can expect to attract foreign investments. It remains to be seen how the UAE Courts will interpret the new UAE Federal Arbitration Law, however the expectation is that the UAE Courts will continue to grow as an arbitration friendly jurisdiction. Another key concern is the requirement for a party's representative to have special authority to bind a company to arbitration remains unamended by the New Law. Firas Adi, Umaira Choudhry