

DRAFT ARBITRATION (JERSEY) LAW 1998 (APPOINTED DAY) ACT 2000

**Lodged au Greffe on 8th February 2000
by the Finance and Economics Committee**



STATES OF JERSEY

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This Act would appoint 1st March 2000 as the day on which all of the provisions of the Arbitration (Jersey) Law 1998 would come into force.

The Law was considered and adopted by the States on 23rd September 1997 (P.113 of 1997). It is based largely on the United Kingdom Arbitration Acts 1950-1982, although some Guernsey and Hong Kong provisions have also been incorporated. It is the first statute to deal generally with arbitration in Jersey, but is not a consolidating measure - what it does is to deal with a range of particular aspects of the arbitral process.

The Law is mainly concerned with domestic arbitrations, in which respect it supplements the general law of arbitration in three ways:

- (a) It contains machinery provisions (for example, relating to majority decisions and costs) that will be implied into an arbitration agreement unless the parties have agreed otherwise.
- (b) It empowers the Royal Court, on the application of a party, to exercise certain powers (e.g. to remove and replace an arbitrator) whether or not the arbitration agreement contains such a power.
- (c) It contains rules of general application in arbitrations (e.g. the effect of the death of a party).

However, it also enables effect to be given in Jersey to the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (“the New York Convention”), which is an important international convention for enforcing foreign awards. Two other major conventions - the League of Nations “Protocol” of 1923 and the “Geneva Convention” of 1927 - are already in force in Jersey. For convenience of presentation, they are now dealt with in this Law as well, and the existing statutes that implement them in the Island will be consequentially repealed.

After the Law was adopted by the States, but before it received the Royal Sanction, the Home Office became aware that certain provisions in the current United Kingdom legislation, relating to references to arbitration and to agreements to exclude certain disputes from reference to a court of law, discriminated between domestic and foreign arbitration agreements in contravention of European Union requirements. These provisions had been followed in the Jersey Law. Accordingly, the commencement of the Law (which received the Royal Sanction on 21st October 1998 and was registered in the Royal Court on 20th November 1998) has been deferred pending the amendment of the relevant Articles.

The States subsequently adopted the Arbitration (Amendment) (Jersey) Law 1999, which makes those amendments, on 7th July 1999 (P.78 of 1999). That amending Law has now received the Royal Sanction and been registered in the Royal Court as well.

It is therefore proposed to bring the two Laws into force simultaneously on 1st March 2000, and a separate Appointed Day Act has accordingly been lodged in respect of the amending Law, for consideration at the same time as the present Act.

Explanatory Note

The purpose of this Act is to appoint 1st March 2000 as the day for the commencement of the Arbitration (Jersey) Law 1998, which was adopted by the States on 23rd September 1997 (P.113 of 1997).

Arbitration (Jersey) Law 1998

ARBITRATION (JERSEY) LAW 1998
(APPOINTED DAY) ACT 2000

(Promulgated on the day of 2000)

STATES OF JERSEY

The day of 2000

THE STATES, in pursuance of Article 51 of the Arbitration (Jersey) Law 1998,^[1] have made the following Act -

1. The Arbitration (Jersey) Law 1998 shall come into force on the first day of March 2000.
2. This Act may be cited as the Arbitration (Jersey) Law 1998 (Appointed Day) Act 2000.

^[1] Recueil des Lois, Volume 1998, page 481.