

Fiona Cain and Kayley Rousell on Law.com: Making English Arbitration Fit for the 21st Century

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PRACTICES International Arbitration, International, Litigation

Haynes Boone Counsel [Fiona Cain](#) and Trainee Solicitor [Kayley Rousell](#) authored an article on *Law.com* on the current state of play for arbitration in England, Wales and Northern Ireland following the U.K. government's decision to include the Arbitration Bill in the first King's Speech by King Charles III on 7 November 2023.

Read an excerpt below:

The importance of international arbitration to the U.K. was recently confirmed by the U.K. government's decision to include the Arbitration Bill in the first King's Speech by King Charles III on the 7 November 2023 (the "Bill"). The Bill has now completed its first reading in the House of Lords and will be debated further by the UK Parliament during the current parliamentary session and is intended to become the Arbitration Act 2024 for England, Wales and Northern Ireland.

[London remains one of the world's leading centres for international arbitration and in 2021 was ranked as the most preferred seat for international arbitration](#). When an arbitration is seated in London, England or Wales, the law governing the arbitration (also referred to as the curial law or *lex arbitri*) is English law, including the Arbitration Act 1996 (the "Act"). The law governing the underlying contract in respect of which the dispute has arisen does not have to be English law for the Act to apply.

The Act provides that "parties should be free to agree how their disputes are resolved" including the relevant procedure. Parties commonly agree the procedure by agreeing that an arbitration will be subject to the rules of an arbitral institution (for example the London Court of International Arbitration ("LCIA")) or ad-hoc rules (such as the London Maritime Arbitrators Association's ("LMAA") Terms), although the Act provides in its non-mandatory sections a default procedure. In addition, the Act contains certain mandatory sections that seek to protect public interest.

The Act sought to "restate and improve" English arbitration law, which had evolved over the 20th Century. Twenty-five years after the Act came into force, the U.K. Ministry of Justice requested in March 2021 that the Law Commission conduct a review of the Act. The rationale behind the review was to establish whether the Act remained fit for purpose, particularly given the popularity of London as a seat for international arbitrations.

Following a first consultation in late 2022, containing 38 questions, a second consultation was run earlier this year, focussing on three key topics. In the Law Commission's Review of the Arbitration Act 1996: Final Report (the "Final Report"), which was published in September 2023, the Law Commission acknowledged that a "root and branch reform is not needed or wanted". The Final Report considered 10 issues, together with some minor corrections, but only resulted in six major areas of focus and four minor reforms in a draft bill annexed to the Final Report which consists of only 18 sections and is eight pages long.

To read the full article on *Law.com*, click [here](#).