Title: Arbitration Bill **IA No:** **MoJ062/2023** **RPC Reference No: N/A** **Lead department or agency:** Ministry of Justice **Other departments or agencies**: Law Commission of England and Wales	Impact Assessment (IA) **Date:** 16.07.2024 **Stage:** Final **Source of intervention:** Domestic **Type of measure:** Primary Legislation **Contact for enquiries:** Lee.pedder@justice.gov.uk
Summary: Intervention and Options	**RPC Opinion Status** N/A

Cost of Preferred (or more likely) Option (in 2023 prices)			
Total Net Present Social Value N/A	**Business Net Present Value** N/A	**Net cost to business per year** N/A	**Business Impact Target Status** NQRP

What is the problem under consideration? Why is government action or intervention necessary?

Arbitration is a form of dispute resolution. There are at least 5000 domestic and international arbitrations in England and Wales each year, generating about £2.5 billion in arbitral and legal fees alone. London is an international centre for arbitration and forms an important node in a wider network of business that includes legal, banking, insurance and trade and has benefits for many others. While arbitration is usually private and often confidential, it is regulated by the Arbitration Act 1996. A 2022 review by the Law Commission assessed whether the 1996 Act remained fit for purpose and recommended amendments to update the arbitral framework. As international arbitration is highly competitive, the Government is legislating to modernise the 1996 Act to prevent international business being lost to other jurisdictions and ensure domestic arbitration is as efficient and fair as possible. We propose targeted reform of the 1996 Act to ensure it is up to date and to support London retaining its competitive edge on the international stage. Government intervention is required as amending the Arbitration Act 1996 requires primary legislation.

What are the policy objectives of the action or intervention and the intended effects?

The intended effects are to: update the legislative framework governing arbitration in England and Wales and Northern Ireland to ensure that it is modern and enduring and, by doing so, to support increased competitiveness, and increase business, or to prevent any loss of business to international competition. The associated policy objectives are to promote more efficient and fairer arbitration (both domestic and international).

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

- **Option 0: Do Nothing.**
- **Option 1: Make targeted amendments to the Arbitration Act 1996.**

Option 1 is preferred as it best meets the policy objectives.

Alternatives to regulation are inapplicable to the proposed measures that provide for changes to court rules or procedures. Alternatives to regulation would be inappropriate for some of the other measures as a core policy intention is to codify and clarify arbitral case law and the Arbitration Act 1996. While some of the proposed changes could be effected by arbitral institutions changing their rules, others could not be so effected.

Will the policy be reviewed? There are no plans to review this policy. **If applicable, set review date:** N/A

Is this measure likely to impact on international trade and investment?		Yes			
Are any of these organisations in scope?	**Micro** **Y**	**Small** **Y**		**Medium** **Y**	**Large** **Y**
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)		**Traded:** **N/A**	**Non-traded:** N/A		

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: Date: 16.07.2024

Summary: Analysis & Evidence — Policy Option 1

Description: Make targeted amendments to the Arbitration Act 1996

FULL ECONOMIC ASSESSMENT

Price Base Year 2019	PV Base Year 2020	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	**High:** Optional	**Best Estimate:** N/A

COSTS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant Price)	**Total Cost** (Present Value)
Low				
High				
Best Estimate	N/A		N/A	**N/A**

Description and scale of key monetised costs by 'main affected groups'

As arbitration is usually private and confidential, it has not been possible to monetise most of the costs. There may be costs if the new amendments create legal challenges as new points of law are litigated before the Court of Appeal. Our best estimate of these costs is £0.5 million a year. These costs are expected to be incurred in the first few years after enactment before returning to their pre-reform levels.

Other key non-monetised costs by 'main affected groups'

There may be familiarisation costs, such as training and revised guidance, but these are expected to be negligible as modest changes can be incorporated into existing provision and made on-line. There are expected to be on-going costs due to the codification of the duty on arbitrators to disclose potential conflicts.

BENEFITS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant Price)	**Total Benefit** (Present Value)
Low				
High				
Best Estimate	0		N/A	**N/A**

Description and scale of key monetised benefits by 'main affected groups'

None. For the reasons given above, we have been unable to monetise any of the benefits of this option.

Other key non-monetised benefits by 'main affected groups'

This option could produce wider economic benefits to all of those involved in arbitration including: enhanced international competitiveness; more efficient dispute resolution; reduced pressure on the court system; a fairer and more transparent system following codification of the duty for disclosure; and potential for increased reconciliation and social wellbeing for individuals involved in a dispute.

Key assumptions/sensitivities/risks	**Discount rate (%)**	3.5

We have determined this option does not pose direct costs to businesses as they largely seek to codify case law – reflecting activities that businesses are already doing – or streamline or clarify court rules and procedures.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			**Score for Business Impact Target (qualifying provisions only) £m: N/A**
Costs: N/A	**Benefits:** N/A	**Net:** N/A	

Evidence Base

A. Background

1. Arbitration is a form of dispute resolution. If two or more parties have a dispute which they cannot resolve themselves, and instead of going to court, they can appoint a third person as an arbitrator to resolve the dispute for them by issuing an award. They can also appoint a panel of arbitrators to act as an arbitral tribunal. The Arbitration Act 1996 ("the 1996 Act") provides a framework for arbitration in England and Wales and Northern Ireland.

2. Arbitration is usually private and often confidential. Arbitration can be domestic (where all the parties are resident in England and Wales or Northern Ireland) or international (where one or all the parties might reside outside the UK). Arbitration also happens in a wide range of settings, from family law and rent reviews, through commodity trades and shipping, to international commercial contracts and investor claims against states. Some arbitrations might happen on documents only (without a hearing), or for fixed costs. Likewise, some arbitral hearings may last for less than a day whereas others might take years and cost millions of pounds.

3. There are about 1,500 domestic cases of arbitration per year and 3,500 international cases in England and Wales. The trend is one of growth. Domestic cases tend to be quicker and cheaper than international cases. In the case of the latter the sums involved can be significant and run into several millions. The Law Commission estimates that arbitrations in England and Wales generate at least £2.5 billion annually in arbitral and legal fees.[7] There are no equivalent case numbers or fee estimates available for Northern Ireland.

4. Arbitration does not exist in a vacuum but generates significant spill-over effects for other related sectors that have emerged because of the sector's growth. For example, London based trade bodies need to offer dispute resolution services and, in turn, users of those bodies will also engage with other services like legal, banking, insurance, and the stock market. As a result, arbitration activity has multiplier effects on the wider UK economy.

5. The UK is currently the preferred choice for international arbitration. The strength of the UK legal services market, including arbitration services is its democratic institutions, adherence to rule of law, and its well-regarded legal system and legal practitioners. English is often the first or second language of business and English law is used extensively in international commerce. The UK is also a major centre for financial, legal and insurance services.

Problem under consideration

6. The choice of where to arbitrate is subject to international competition. As noted above, London is the world's preferred choice for international arbitration but, for the first time, in 2021, Singapore ranked equal first.[1] The Singapore International Arbitration Centre had a surge in its caseload in 2020,[2] and the first quarter of 2023 saw another record caseload.

7. While the Arbitration Act 1996 generally works well, it is now over 25 years old. Since the 1996 Act entered force, there has been case law regarding: an arbitrator's duty of disclosure, the law governing the arbitration agreement, the right to appeal a stay of legal proceedings, the remedies and time limits for challenges to arbitral awards, and how to interpret the court's

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[1] White & Case / Queen Mary University of London International Arbitration Survey 2021: https://arbitration.qmul.ac.uk/research/2021-international-arbitration-survey/

[2] https://www.lexisnexis.co.uk/blog/research-legal-analysis/arbitration-statistics-2021-from-sole-arbitrators-to-sole-arbitrations

powers in support of arbitral proceedings. Stakeholders acting in accordance with this current case law have adopted it into their practices, but it is not reflected in the legislative framework. Furthermore, there has been uncertainty about how the 1996 Act operates regarding preliminary applications to court, costs awards, and summary disposal. Other jurisdictions have recently updated their arbitration legislation: Singapore in 2023, Hong Kong in 2022, and both Sweden and Dubai in 2018. Not updating the 1996 Act – to address areas of case law and uncertainty in primary legislation, as well as generally enhance support for arbitration – risks these competing jurisdictions being seen as offering a more modern arbitral framework than England and Wales and Northern Ireland.

8. Similarly, arbitral institutions can change their own rules, to make their own institutions more attractive than their competitors. But where these institutions are international, like the International Chamber of Commerce (ICC), their rules do not always bring arbitration cases to London. So, while the market may be able to evolve, if the arbitral framework does not evolve in tandem, then the market is at risk of relocating away from London.

The Consultations

9. In March 2021, the Ministry of Justice asked the Law Commission of England and Wales to conduct a review of the Arbitration Act 1996. The terms of reference were to determine whether there were any amendments which could and should be made to the current legal framework to ensure that it is fit for purpose and that it continues to promote the UK as a leading destination for commercial arbitrations.

10. The review began in January 2022. Over 1400 pages of submissions were received from around 118 respondents. The Law Commission also had discussions with a wide range of stakeholders. In September 2022, the first consultation paper was published. It analysed the current law before reaching provisional conclusions and making provisional proposals for reform. The consultation period closed in December 2022. A second consultation, on issues raised in the first consultation, ran from March to May 2023.

11. Respondents to both consultations included individual practitioners, academics and specialist bodies, as well as major domestic and international firms and institutions, some representing thousands of people. Engagement has therefore been broad, and the responses were often detailed.

12. The Law Commission identified a number of problems with the Arbitration Act 1996. The principal technical deficiencies of the 1996 Act currently are as follows:
    - There is uncertainty and complexity surrounding an arbitrator's duty to disclose potential conflicts of interest. An inconsistent regard to the duty for disclosure of any conflicts means that some parties to a case operate from a disadvantaged position. There may be perceptions of bias if parties fail to provide full disclosure of interests or relationships, and this can adversely affect decision-making in the absence of trust. The potential for unfair treatment may be more likely when arbitration occurs in a country removed from where the dispute originated.
    - There is no explicit provision for arbitrators to dispose of issues with no real prospect of success. This can increase the time and cost of arbitral proceedings if even hopeless cases must run their full course.
    - There is uncertainty about whether court orders in support of arbitral proceedings can be made against third parties or can be made in support of emergency arbitration proceedings.
    - Challenging arbitral awards, on the basis that the arbitral tribunal lacked jurisdiction, can involve complete re-hearings at court. This increases time and expense.

- There is complexity and uncertainty over which law governs an international arbitration agreement.

13. The Law Commission presented its report on the Review of the Arbitration Act 1996[3] to Parliament on 5 September 2023, which recommended amendments to the 1996 Act.

14. The option considered in this IA draws upon the recommendations made by the Law Commission. The Government believes modernising the arbitral framework to respond to these issues will send a clear message about how seriously the UK seeks international business; provide a marketing opportunity for London arbitration; bring the legislation up to date with modern practice; correct errors or problems which have arisen over the past quarter century; provide a competitive edge to attract international business to London; and will increase domestic arbitration by making it both fairer and more efficient.

B. Policy rationale and objectives

Rationale

15. The conventional economic approach to government intervention is based on efficiency or equity arguments. Government may consider intervening if there are strong enough failures in the way markets operate, for example monopolies overcharging debtors, or if there are strong enough failures in existing government interventions, such as outdated regulations generating inefficiencies. In all cases the proposed intervention should avoid generating a further set of disproportionate costs and distortions. Government may also intervene for reasons of equity (fairness) and for re-distributional reasons (e.g. reallocating resources from one group in society to another).

16. The main rationale for intervention in this instance is efficiency. The proposed amendments will resolve information asymmetries, for example by forcing arbitrators to disclose conflicts of interest; reduce uncertainty by stating which law applies in the enforcement of arbitration agreements as well as the procedure to challenge the jurisdiction of arbitral tribunals; increase clarity by codifying existing case law within the legislative framework; and reduce costs by reducing the opportunity for satellite litigation against arbitrators. These reforms will have the effect of making the market more competitive.

Policy Objectives

17. The associated policy objectives are to:

    - Modernise the arbitration framework that aims to maintain and grow international arbitration business; and
    - Provide more efficient and fairer domestic arbitration.

C. Affected Stakeholder Groups, Organisations and Sectors

18. A list of the main groups that would be affected by the options in this Impact Assessment is shown below:

    - The parties involved in a dispute to be settled by arbitration;
    - Individual practitioners (arbitrators and lawyers);

3 Review of the Arbitration Act 1996 - Law Commission

- Specialist trade bodies;
- HM Courts and Tribunals Service and the judiciary;
- Arbitral institutions.
- The wider UK economy

D. Description of options considered

19. The following options are considered in this IA:

    - **Option 0 – Do nothing**
    - **Option 1 – Make targeted amendments to the Arbitration Act 1996**

20. Option 1 is the preferred option as it best meets the policy objectives.

Option 0

21. Under this option the Arbitration Act 1996 will continue to govern arbitrations in England and Wales and Northern Ireland unamended. The risk, as noted above, is that international arbitration in London becomes less competitive, with business moving to other jurisdictions like Singapore.

Option 1

22. Under this option, the Arbitration Bill 2024 will make targeted amendments to the Arbitration Act 1996 to modernise the legislative framework.

23. The principal amendments to the current framework consist of 15 clauses, many of which will codify existing case law and therefore practices undertaken by stakeholders who are complying with the current law. The main clauses of the legislation are explained below.
    - Clause 1 will replace the common law in *Enka v Chubb*[4] with a statutory rule. By inserted section 6A(1), the law governing the arbitration agreement will be the law expressly chosen by the parties, otherwise it will be the law of the seat.
    - The Arbitration Act 1996 imposes a duty of impartiality on arbitrators (by section 33). Additionally, a duty of disclosure was recognised by the Supreme Court in its decision in *Halliburton v Chubb* (2020)[5]. Clause 2 will codify the general duty of disclosure as articulated in that case.
    - Clause 3 will provide that an arbitrator will not be liable for the costs of an application to court under section 24 for their removal unless the arbitrator has acted in bad faith. Clause 4 will also provide that an arbitrator will no longer be liable for resignation unless the resignation is shown by a complainant to be unreasonable.
    - There are two ways for a party to question the jurisdiction of the arbitral tribunal. One way is to wait until the tribunal has issued a ruling (by section 32), and then challenge that ruling under section 67 of the 1996 Act, which allows a challenge to an arbitral award on the basis that the tribunal lacked jurisdiction. Another way is by invoking section 32, which allows the court to decide whether the tribunal has jurisdiction as a preliminary point. There is currently some uncertainty as to whether sections 32 and 67 are mutually exclusive alternatives. Clause 5 of the Bill will resolve that uncertainty by amending section 32 to make it clear that it can only be invoked instead of the tribunal

4 Enka Insaat Ve Sanayi A.S. (Respondent) v OOO Insurance Company Chubb (Appellant) - The Supreme Court

5 Halliburton Company (Appellant) v Chubb Bermuda Insurance Ltd (Formerly known as Ace Bermuda Insurance Ltd) (Respondent) - The Supreme Court

ruling on its jurisdiction. If the tribunal has already ruled, then any challenge must be brought through section 67.

- The arbitral tribunal or the court might rule that the tribunal has no jurisdiction to resolve a particular dispute. In this case, the arbitration proceedings must come to an end. Clause 6 will provide that, in those circumstances, the tribunal can nevertheless award the costs of the arbitration proceedings up until that point.
- Clause 7 will confer an express power on arbitrators to make an award on a summary basis to dispose of an issue where an arbitrating party has no real prospect of succeeding on that issue.
- Arbitral rules sometimes provide a regime for the appointment of emergency arbitrators. Clause 8 will provide for the consequences for failing to comply with an order made by the emergency arbitrator to be the same as those for a normal arbitrator.
- By section 44 of the 1996 Act, the court can make orders in support of arbitration proceedings on certain matters. Clause 9 will amend section 44 to make it clear that court orders under that section are also available against third parties (people who are not party to the arbitration proceedings).
- An arbitral tribunal can issue an award on whether it has jurisdiction, and it can issue an award on the merits of the dispute. Either type of award can be challenged under section 67 of the Arbitration Act 1996 on the basis that the arbitral tribunal did not have jurisdiction. Clause 10 will amend section 67 to provide the remedies of remittance for reconsideration, and declaring the award to be of no effect. This will render section 67 consistent with the scheme of remedies in sections 68 and 69, and consistent with the assumptions in the case law that these remedies were intended to be available.
- Clause 11 will amend section 67 to confer power for rules of court to provide that, unless necessary in the interests of justice, there should be no new grounds of objection, and no new evidence, before the court, unless it was not reasonably possible to put these before the tribunal; and evidence should not be reheard by the court.
- Under the Arbitration Act 1996, an arbitral award can be challenged before the courts. Section 70 governs how this challenge must be made. By section 70, an applicant must first exhaust any available arbitral process of appeal or review (section 70(2)(a)) and any available recourse under section 57 to correct the award or issue an additional award (section 70(2)(b)). The application to court must be made within 28 days. Clause 12 will amend section 70 to clarify that the time limit of 28 days begins to run after any arbitral appeal or any application under section 57. (In any other case, it begins to run from the date of the award.)
- Under section 9 of the Arbitration Act 1996, a party can apply to court to stay legal proceedings in favour of arbitration proceedings. Clause will 13 amend section 9 to state expressly that an appeal is available.
- Under section 32 of the Arbitration Act 1996, an arbitrating party can apply to the court for the court to make a preliminary ruling on whether the arbitral tribunal has jurisdiction. Under section 45, a party can apply to the court for the court to rule on a preliminary point of law arising in the arbitration. Clause 14 will amend both sections so that an application will require either the agreement of the parties or the permission of the tribunal. It removes the further requirement to satisfy the court on a list of matters. Nevertheless, the court still retains a general discretion whether to accede to the application.
- Finally, Clause 15 will repeal unused sections of the 1996 act.

D. Cost and Benefit Analysis

24. This IA follows the procedures and criteria set out in the IA Guidance and is consistent with the HM Treasury Green Book.

25. Where possible, IAs identify both monetised and non-monetised impacts on individuals, groups and businesses in England and Wales and Northern Ireland with the aim of understanding what the overall impact on society might be from the proposals under consideration. IAs place a strong focus on the monetisation of costs and benefits.

26. There are often, however, important impacts which cannot sensibly be monetised. These might be impacts on certain groups of society or data privacy impacts, both positive and negative. Impacts in this IA are therefore interpreted broadly, to include both monetisable and non-monetisable costs and benefits, with due weight given to those that are not monetised.

27. The costs and benefits of each option are compared to option 0, the counterfactual or "do nothing" scenario, where the arbitral regime established by the 1996 Act remains unamended. As the counterfactual is compared to itself, the costs and benefits are necessarily zero, as is its net present value (NPV).

28. In this case, however, this IA mainly identifies non-monetised impacts on individuals, groups and businesses. This is because arbitration is private and confidential and proceedings are not public. As a result, it has not been possible to monetise the impacts although we provide below a clear indication of areas of impact of how the costs and benefits of the preferred option compare to the "do nothing" option. The main exception to this is where the amended legislation results in appeals before the courts to clarify the legal position.

29. We also note at this point that the amendments which form Option 1 impose no direct costs or benefits on businesses. Many stakeholders will already be acting in accordance with those amendments that codify existing case law, and so would not face any additional impacts relative to the counterfactual. All the other amendments govern scenarios that would only arise if parties took actions additional to dispute resolution through arbitration, meaning that the impact of these amendments are indirect.

<u>Option 1: Make targeted amendments to the Arbitration Act 1996</u>

Costs of option 1

<u>Transitional costs</u>

30. It is anticipated that the transitional costs associated with this option will be low. Option 1 follows from comprehensive consultation with the arbitration sector as part of the Law Commission review, so individuals and institutions will already be prepared. Arbitrators and arbitral institutions have been broadly supportive of reforms and have engaged with the process. As many of the changes are based on existing best practice and decisions in case law, many stakeholders will already be acting in accordance with Option 1.

Training

31. It is also expected that any additional training costs would be negligible for two reasons. First, the industry already has extensive training programmes, so information on the changes can be wrapped up into regularly occurring sessions. Secondly, the changes envisaged are largely based on existing best practice and decisions in case law so do not represent a wholesale change in approach. This suggests that for the general market training costs will be minimal and easily absorbed within existing training arrangements.

Guidance

32. No significant changes will be required as most of the clauses of Option 1 codify what already exists in case law. As a result, the amendments can be disseminated via professional associations, newsletters and/or through online guidance.

New procedures

33. Option 1 will not require stakeholders to adopt any new procedures. Stakeholders might wish to review their procedures for disclosing conflicts of interest, in light of clause 2 in the Bill and its duty of disclosure. However, since this clause codifies existing case law, there will be no costs to stakeholders who are complying with the current law. The Bill will simply provide them with an opportunity to self-audit.

Increased number of Appeal rulings to resolve legal uncertainty

34. Any new law involves new legal challenges, as new points of law are litigated before the appeal courts. There is a risk that the effect of legal reform will be that some disputes which would have been resolved at High Court level may now be taken to the Court of Appeal for a ruling on legal issues.

35. It is estimated that the effect of new law will double the number of cases brought before the courts, leading to an additional 23 cases before the Court of Appeal over 10 years, or between 2 and 3 per year. At £200,000 per appeal, 2 appeals would generate additional aggregate costs to business of £400,000 per year, and 3 appeals would generate additional costs of £600,000 per year. Because the number each year will vary, the midpoint has been taken as an average and best estimate. The best estimate is therefore £500,000, or £0.5 million a year.

Ongoing costs

Increased initial costs

36. The duty of disclosure on arbitrators will create an upfront cost to arbitrators but should also prevent subsequent costs in the absence of non-disclosure. Furthermore, the requirement to disclose is already law with Option 1 simply codifying the general principle derived from case law, creating no additional burden and providing statutory clarity. As was suggested above, arbitrators should already be adhering to the requirements of case law.

Benefits of Option 1

Transitional benefits

37. None identified

Ongoing benefits

Reduced reliance on court resources

38. Litigation through the court system is an expensive, time consuming and uncertain undertaking. Option 1 will correct in legislation recognised errors, problems, and uncertainties with arbitration, including through codifying case law, meaning that its standing will rise. This should mean that those parties on the margin of choosing arbitration may be encouraged to choose this alternative when confronted with increased certainty and reduced cost of legal advice and satellite litigation.

A fairer more transparent system

39. Codification of case law into a statutory duty to disclose potential conflicts of interest will promote transparency. It will allow users to identify potential biases and/or interests that could impact the outcome of the process and so reduce the potential for challenges down the line. Full disclosure will also help build trust between all parties and facilitates a more open and productive discussion of the issues which fosters a fair and impartial outcome.

Enhanced international competitiveness

40. Arbitration services operate within a highly competitive environment where potential users are increasingly able to assess the relative merits of different markets with relative ease. With law reform alongside its long-standing benefits of proximity to supporting services, London will be supported to maintain its competitive position. The capacity to demonstrate legislative agility will further enhance England and Wales and Northern Ireland's reputation as a leading destination for international arbitration. Investors are more likely to invest in a country that has a reliable, efficient, and impartial dispute resolution system.

41. London has the potential to benefit from the first mover advantage that delivers opportunities for a spike in international business. For example, legislative provision for arbitral summary awards would be a world-first. Legislative provision for the governing law of an arbitration agreement is also absent from our major competitors.

42. Option 1 also includes some small changes which will nevertheless clarify the arbitral process or render it more efficient, thus also enhancing its overall appeal.

Improved prospect for growth

43. Arbitration is often part of a much broader package of services sought by those engaged in dispute resolution. A positive correlation exists between arbitration and related services, such as legal services and banking. The increased demand for the former should lead to an increased demand for the latter within the same jurisdiction.

44. The scope for growth can be illustrated by consideration of a small 1 percent increase in the demand for arbitration leading to the equivalent annual increase in arbitral and legal fees of some £25 million.

Reduced court litigation

45. Domestic arbitration is multi-dimensioned involving a diversity of participants. Reform to the 1996 Act will make domestic arbitration more attractive for dispute resolution as it becomes fairer and more efficient. There is the potential for reduced recourse to the courts relieving some of the pressure on its demand for speedy services.

F. Risks & assumptions

46. We have assumed that modernisation and reform will make England and Wales and Northern Ireland a more attractive destination for international arbitration. Should this not be case, the reforms would still benefit existing users of the services by clarifying and codifying existing rules and making it simpler to resolve disputes. The cost of implementing these rules will be minimal as in many cases they codify existing case law and best practices and in other cases they introduce protections for arbitrators and routes for appeal to guarantee lawful and satisfactory resolution of disputes. The risks are minimal.

G. Wider impacts

Equality impact

47. Following extensive research and consultation with a diverse range of interested parties, no adverse impacts of the proposed legislation on those with protected characteristics have been identified. The Equality Impact Assessment Initial Screening has been completed and a further full assessment is not required.

Health impact

48. No formal health assessment has been undertaken, but we expect there will be no significant impacts on health.

Better Regulation

49. *Small and Micro Businesses:* We have considered the impact on small and micro businesses. Sole traders and small businesses are significant users of arbitral services. Improvements in the Act will mean this group will have a disproportionate benefit. In particular, the duty for disclosure and early arbitral judgements provide for the avoidance of unnecessary costs.

50. For the purposes of this impact assessment, there will be no significant costs to business of updating the legislative framework governing arbitration in England and Wales and Northern Ireland. The proposal is a non-qualifying regulatory provision under the Small Business, Enterprise, and Employment Act 2015.

Impact on competitiveness

51. The impact on competitiveness has been assessed throughout this IA.

Impact on trade

52. The impact on trade has been addressed throughout this IA. The measures should have the effect of making UK arbitration businesses more competitive internationally. However, it does so without distorting the international market or restricting the ability of foreign businesses to transact.

53. We have posited that reforming the Arbitration Act is likely to make England and Wales and Northern Ireland more attractive as a destination for arbitration, thereby increasing net exports. The proposed reforms will benefit domestic and foreign businesses the same.

H. Monitoring & Evaluation

54. We do not plan to review the policy following modernisation of the arbitral framework. The reason for this is that the measures proposed do not introduce any requirements that have a measurable outcome. We expect English and Welsh and Northern Irish arbitration firms to become more attractive internationally. However, we cannot reliably determine if any variation in the volume of trade is due to our new policy. We will monitor impacts on the court of appeals internally as we do already.