

Amendment of Tanzanian Arbitration Act

by *Krystal Lee* and *Charlotte Welsh*, Stephenson Harwood

Legal update: archive | **Published on 26-Feb-2020** | Tanzania

A draft Arbitration Bill 2020 has been published and tabled for discussion in the Tanzanian Parliament.

In late January 2020, a draft *Arbitration Bill 2020* was published and tabled for discussion in the Tanzanian Parliament (Bill). The Bill is modelled on the English Arbitration Act 1996 (English Act), with key differences, and is intended to replace the Tanzanian Arbitration Act 1931. It is a significant reform, with proposed amendments in relation to a variety of key substantive and procedural issues. The Bill endeavours to promote alternative dispute resolution and aims to create a better framework for the enforcement of arbitral awards.

In mirroring the English Act, the Bill helps bring Tanzania in line with other modern arbitral jurisdictions, although there have been criticisms as to why Tanzania has not chosen to base its amendments on the more widely used *UNCITRAL Model Law*. By way of example, section 32 of the Bill provides for a tribunal to rule on its own jurisdiction, which will bring Tanzania up to date with most other jurisdictions that expressly recognise the doctrine of *kompétenz-kompétenz*.

There has also been a complete reform in relation to the setting aside of an arbitral award. While the court had the discretion to set aside an award where an arbitrator or umpire misconducted himself or an arbitration, or if the award was improperly procured under section 16 of the 1931 Act, sections 69-71 of the Bill provide for a much more comprehensive regime for the challenge of awards, relatively similar to sections 67-69 of the English Act.

One of the most notable aspects of the Bill (and one not derived from the English Act) is its establishment of the Tanzania Arbitration Centre (TAC) under Part X. The functions of the TAC will be to conduct and manage arbitrations, register and maintain a list of accredited arbitrators and to enforce the code of conduct and practice for arbitrators. It will also manage and provide continued education for arbitrators and perform any other functions as the Minister for Legal Affairs may direct. The TAC will not be the first arbitration centre operating in the jurisdiction, as it will be joining existing organisations (that is, the National Construction Council and the Tanzania Institute of Arbitrators).

A modernised legal framework for arbitration in Tanzania is likely to be welcomed. It remains to be seen whether the changes will have the intended effect of encouraging investor confidence in the jurisdiction.

END OF DOCUMENT

Related Content

Topics

[National arbitration legislation](#)

