

INTERNATIONAL ARBITRATION | MARCH 2022

DUBAI INTERNATIONAL ARBITRATION CENTRE ISSUES ITS NEW AND LONG-AWAITED ARBITRATION RULES

Following some uncertainty in the aftermath of Dubai Decree No. 34 of 2021 (Decree No. 34), the Dubai International Arbitration Centre (DIAC) has now issued its long-awaited Arbitration Rules 2022 (the Rules). The Rules come into force on 21 March 2022

Under Decree No. 34, the Emirates Maritime Arbitration Centre and the DIFC Arbitration Institute (and effectively, the DIFC-LCIA Arbitration Centre of which it was a part) were abolished. Their work was subsumed under DIAC, which becomes the principal arbitration centre in Dubai. Unless agreed otherwise, those with arbitration agreements referring to the abolished arbitration centres will now have arbitrations administered by DIAC under the DIAC Rules.

The new Rules provide some much needed clarity and comfort as the transition period under Decree No. 34 comes to an end. The new Rules will provide a more sophisticated framework for parties to arbitrate, and will attract arbitration practitioners to use DIAC, where they may have been reluctant to do so previously or they may have had DIAC imposed on them by virtue of Decree No. 34.

On first review, it certainly seems as though the new Rules are set to deliver. The Rules provide for expedited proceedings in certain circumstances including in matters where the sums claimed are valued at AED 1 million or less (exclusive of interest and legal costs). This allows for a significant time and costs saving in relatively low value matters, making DIAC arbitration very appealing for lower value contracts and commercial transactions.

The default seat for DIAC arbitrations will now be the DIFC, making DIAC even more attractive to parties based overseas who can take advantage of straightforward enforcement procedures and the common-law DIFC Courts as the supervisory courts of the arbitrations.

Perhaps most significantly, the new DIAC rules expressly allow for awards of legal costs. Traditionally, DIAC arbitration could come at considerable risk to parties due to the limitations on the powers of the tribunals to award such costs. Although in practice, DIAC tribunals did often award legal costs, now they have express power to do so.

Additional amendments include provisions clarifying the use of third party funding, improved procedures for constituting tribunals, joinder and consolidation, all of which are instrumental in creating a more accessible, efficient and expedient arbitration process.

Whilst the Rules are a significant step in bolstering arbitration as a dispute resolution mechanism in the region, the ongoing effects of Decree No. 34 still linger.

There has been some uncertainty as to what happens to existing arbitrations administered by the abolished arbitration centres. At the date of writing, a number of DIFC-LCIA arbitration proceedings remain at a standstill. It is hoped that there will be clarifications by 21 March 2022, which as well as being the date of the formal enactment of the Rules, it is also the date the transitional period expires. It is expected that the administration of these arbitrations will now pass to DIAC, however we await a formal update later this month.

Nonetheless, the new DIAC rules mark a huge step in the modernisation and development of the arbitration procedures, making DIAC the pre-eminent centre for arbitration in the region.

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