



THE REVISED UNIFORM ARBITRATION ACT (2000)

- A Summary -

The Uniform Law Commission promulgated the original Uniform Arbitration Act (UAA) in 1955. The UAA is the law in 49 jurisdictions, and the Federal Arbitration Act contains many similar provisions.

The original UAA does two fundamental things: 1) allows parties to agree to arbitrate a dispute before an actual dispute arises, which reverses the common law rule; and 2) provides some basic procedures for the conduct of an arbitration. The Revised Uniform Arbitration Act (RUAA) changes arbitration procedures to meet modern needs. RUAA deals with procedural issues not addressed in the original Act.

First, the RUAA expressly provides that it is a default act. Most of its provisions may be varied or waived by contract. Some provisions may not be waived or varied, including: the basic rule that an agreement to submit a dispute to arbitration is valid; the rules that govern disclosure of facts by a neutral arbitrator; the rules guaranteeing enforcement or appeal of the Act, an arbitration agreement or an arbitration decision in a court; and the standards for vacating an award. These restrictions on waiving or varying certain statutory requirements protect the parties to the arbitration agreement.

The RUAA also specifically allows a court to order provisional remedies during the course of an arbitration before an arbitrator is selected. The UAA has no such provision. This prevents parties from delaying the selection of an arbitrator in order to delay proceedings and dissipate the effect of an arbitration award. An arbitrator, when selected, also has the express power to order provisional remedies, a power not expressly given in the UAA. An arbitrator has the same powers a court has in a judicial proceeding.

The original UAA allows an award to be vacated because of an arbitrator's partiality. It does not specifically require disclosure of any interest that may give rise to a question of neutrality. The RUAA specifically addresses disclosure of known facts that give rise to questions of neutrality. Such facts include a financial or personal interest in the outcome of the arbitration proceeding or an existing or past relationship with a party. The lack of disclosure itself may be a ground for vacating an award, and there is a presumption of partiality when non-disclosure occurs. Upon disclosure, a party has the opportunity to object to the appointment of an arbitrator intended to be neutral. If there is no objection, that may affect the ability to raise partiality as a ground for vacating an award. These provisions aim to protect parties to an arbitration proceeding.

The RUAA provides arbitrators with immunity from civil liability "to the same extent as a judge of a court of this State acting in a judicial capacity." Immunity from civil liability was not included in the original UAA.

An arbitrator under the RUAA may conduct the arbitration in such manner as the arbitrator considers appropriate for a fair and expeditious disposition of the proceeding. This express authority does not appear in the UAA. The UAA only provides for subpoena of witnesses, and for depositions. Under the RUAA, an arbitrator also has the express power to make summary dispositions of claims or issues under appropriate procedures, to hold pre-arbitration proceeding meetings, or to use any other discovery process (any process that adduces relevant evidence for the proceeding) applicable to resolution of the dispute. These provisions put arbitrators on the same level as judges in a judicial proceeding with respect to discovery of evidence.

The RUAA expressly permits an arbitrator to give punitive damages or other exemplary relief, “if such an award is authorized by law in a civil action involving the same claim.” Attorney’s fees may be awarded under the same standard. The UAA does not expressly address either issue, but the case law has established the power to award punitive damages in most jurisdictions. The Federal Arbitration Act decisions also provide for punitive damages and some states have amended the original UAA to include attorney’s fees. These new provisions put arbitrators on the same footing as judges in a court of law, and reflect the expansion of arbitration into disputes traditionally resolved in courts of law.

Finally, the RUAA allows consolidation of separate arbitration proceedings, a matter that was never contemplated in the UAA.

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