

Absence of Arbitrator Duty of Disclosure under the English Arbitration Act 1996

Authors : Qusai Alshahwan

Abstract : The arbitrator's duties of independence and impartiality play a significant role in delivering arbitral awards which legitimate the fundamental of arbitration concepts. For this reason, the international and national arbitration rules require arbitrators to be independent and impartial to solve the arbitration disputes fairly between the parties. However, solving the disputes fairly also requires arbitrators to disclose any existing conflicts of interest with the parties to avoid misunderstanding and late challenges. In contrary with the international and national arbitration rules, the English Arbitration Act 1996 does not include independence as a separate ground for arbitrator's removal, and importantly the English Arbitration Act 1996 is deliberately silent to the arbitrator duty of disclosure. The absence of arbitrator duty of disclosure is an issue had generated uncertainty and concerns for the arbitration community under the English jurisdiction, particularly when the English courts rejected the IBA guidelines of arbitrator conflict of interest such as in case of Halliburton v Chubb for example. This article is highlighting on the legal consequences of the absence of arbitrator duty of disclosure under the English Arbitration Act 1996 and the arbitrator's contractual obligations.

Keywords : arbitration, impartiality, independence, duty of disclosure, English Arbitration Act 1996

Conference Title : ICPLSJ 2020 : International Conference on Private Law and Social Justice

Conference Location : London, United Kingdom

Conference Dates : November 19-20, 2020