



**R U ARBITRATION AWARE?
Pennsylvania's Revised Uniform Arbitration Act Takes Effect in July**

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Effective July 1, 2019, Pennsylvania will update its laws governing voluntary arbitration agreements by implementing the Revised Uniform Arbitration Act. The Revised Uniform Arbitration Act introduces major changes to the current version of the Uniform Arbitration Act of 1980 (UAA). The Pennsylvania version of the Revised Uniform Arbitration Act (hereinafter called RUAA)¹ includes some textual variations of the broader statute to best conform to Pennsylvania's circumstances.

Significantly, the RUAA provides greater procedural rights than those found in the UAA adopted by Pennsylvania in 1980. It promotes a clearer set of guidelines to ensure an orderly and more efficient process for parties to contracts who stipulate to arbitration in Pennsylvania to resolve disputes. Recognizing the increased use of arbitration as an alternative for litigation, state lawmakers responded to concerns regarding ambiguities in current arbitration law.

The RUAA represents a progressive and significant departure from the current rules. Specifically, the RUAA eliminates Pennsylvania's "common law" arbitration rules that currently apply unless the terms of an arbitration agreement expressly state that the agreement is to be governed by Pennsylvania's UAA statutory arbitration procedures.

The parties may agree to have the RUAA govern arbitration agreements executed prior to July 1, 2019.² If the parties do not elect to be governed by the new rules, Pennsylvania's UAA statutory arbitration procedures, including applicable common law rules, will continue to apply for agreements executed prior to July 1, 2019.³

Several major changes in Pennsylvania's RUAA are listed below.

Provisional Remedies

Prior to selecting an arbitrator, a court may order provisional remedies to protect the status quo or effectiveness of the

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¹ 42 Pa.C.S.A. §§7321.1-7321.31

² §7321.4(a) & (b)(1)

³ §§7304 & 7321.4(b)(2)

arbitration.⁴ Once authorized, an arbitrator may modify orders issued by the court.⁵

Disclosure

Prior to accepting appointment, the arbitrator must disclose to all parties any known fact that would likely affect impartiality.⁶ This includes any financial and personal interests in the outcome of a proceeding or an existing or past relationship with the parties involved.⁷ Failure to disclose a known material interest may be grounds to vacate the arbitration award.⁸

Notice

The RUAA eliminates requirements for formal written notices of hearings and allows notices to be given in either writing or by electronic record.⁹ The RUAA addresses and allows electronic communications.

Process

The RUAA provides arbitrators with broad discretion to conduct proceedings in whatever manner they deem appropriate for the fair and expeditious disposition of claims.¹⁰ Arbitrators may hold pre-hearing conferences to determine the admissibility, relevance, materiality, and weight of evidence.¹¹ Additionally, procedural rights of due process are conferred should the

arbitrator act on a party's request for summary disposition of a claim.¹² All interested parties must agree or receive notice of the request and be provided with a reasonable opportunity to respond.¹³ If a hearing is held, due process extends to the right to be heard, present evidence, and to cross-examine adverse witnesses.¹⁴

Discovery

The RUAA provides parties with a clear and balanced set of guidelines. Arbitrators can permit discovery from non-parties, decide the conditions under which a deposition is taken, and take action against a noncompliant party to the same extent as a court in a civil action.¹⁵ Arbitrators are also authorized to issue protective orders to prevent disclosure of privileged and confidential information.¹⁶

Consolidation

To reduce time and expense, a court may consolidate separate but related arbitration proceedings.¹⁷

Punitive Damages

The RUAA codifies Pennsylvania case law and makes punitive damages available in arbitration. An arbitrator has wide discretion to order remedies considered just and appropriate under the circumstances.¹⁸ If punitive damages are awarded, the

⁴ §7321.9(a)

⁵ §7321.9(b)(1)

⁶ See §7321.13

⁷ *Id.*

⁸ *Id.*

⁹ §7321.10(a)

¹⁰ §7321.16(a)

¹¹ §7321.16(a)

¹² See §7321.16(a)-(d)

¹³ *Id.*

¹⁴ *Id.*

¹⁵ §7321.18

¹⁶ *Id.*

¹⁷ §7321.11

¹⁸ §7321.22

arbitrator must state the factual and legal basis for the award, as well as the amount.¹⁹

Modifications and Waivers

The RUAA promotes party autonomy by allowing parties to modify certain provisions in the statute.²⁰ Provisions not subject to waiver or modification include: the immunity of arbitrators from civil liability; the right to seek provisional remedies; the power of an arbitrator to issue subpoenas or allow the taking of depositions; and the right to request judicial relief.²¹

The above summaries represent a small selection of the changes resulting from Pennsylvania's adoption of the Revised Uniform Arbitration Act. While the RUAA is designed to facilitate the dispute resolution process, it also addresses a substantial number of issues not found in Pennsylvania's current arbitration laws.

In light of these developments, employers, parties, and individuals deciding to arbitrate their potential disputes should consider adopting and reviewing agreements that include arbitration clauses. It may also be advisable for parties to consider modifications or prescribe guidelines in their agreements relating to notice, discovery, and related provisions. Finally, parties to an arbitration agreement entered into before July 1, 2019 may want to confirm the RUAA will govern any potential dispute.

¹⁹ *Id.*

²⁰ *See* §7321.5

²¹ *Id.*