

CHINESE

中英文对照法律类编

# 仲裁法

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ARBITRATION LAW

中国法制出版社

ENGLISH

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### 仲 裁 法

### Arbitration Law

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# 中华人民共和国仲裁法

(1994年8月31日第八届全国人民代表大会常务委员会第九次会议通过 1994年8月31日中华人民共和国主席令  
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## 第一章 总 则

**第一条** 为保证公正、及时地仲裁经济纠纷，保护当事人的合法权益，保障社会主义市场经济健康发展，制定本法。

**第二条** 平等主体的公民、法人和其他组织之间发生的合同纠纷和其他财产权益纠纷，可以仲裁。

**第三条** 下列纠纷不能仲裁：

- (一) 婚姻、收养、监护、扶养、继承纠纷；
- (二) 依法应当由行政机关处理的行政争议。

# **Arbitration Law of the People's Republic of China**

(Adopted at the Ninth Meeting of the Standing Committee of the Eighth National People's Congress on August 31, 1994, promulgated by Order No.31 of the President of the People's Republic of China on August 31, 1994, and effective as of September 1, 1995)

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## **Chapter I General Provisions**

**Article 1** This Law is formulated in order to ensure the impartial and prompt arbitration of economic disputes, to protect the legitimate rights and interests of the parties and to safeguard the sound development of the socialist market economy.

**Article 2** Contractual disputes and other disputes over rights and interests in property between citizens, legal persons and other organizations that are equal subjects may be arbitrated.

**Article 3** The following disputes may not be arbitrated:

- (1) marital, adoption, guardianship, support and succession disputes;
- (2) administrative disputes that shall be handled by administrative organs as

**第四条** 当事人采用仲裁方式解决纠纷，应当双方自愿，达成仲裁协议。没有仲裁协议，一方申请仲裁的，仲裁委员会不予受理。

**第五条** 当事人达成仲裁协议，一方向人民法院起诉的，人民法院不予受理，但仲裁协议无效的除外。

**第六条** 仲裁委员会应当由当事人协议选定。

仲裁不实行级别管辖和地域管辖。

**第七条** 仲裁应当根据事实，符合法律规定，公平合理地解决纠纷。

**第八条** 仲裁依法独立进行，不受行政机关、社会团体和个人的干涉。

**第九条** 仲裁实行一裁终局的制度。裁决作出后，当事人就同一纠纷再申请仲裁或者向人民法院起诉的，仲裁委员会或者人民法院不予受理。

裁决被人民法院依法裁定撤销或者不予执行的，当事人就该纠纷可以根据双方重新达成的仲裁协议申请仲裁，也可以向人民法院起诉。

## **第二章 仲裁委员会和仲裁协会**

**第十条** 仲裁委员会可以在直辖市和省、自治区人民政府所在地的市设立，也可以根据需要在其他设区的市设立，不按行政区划层层设立。

仲裁委员会由前款规定的市的人民政府组织有关部门和商会统一组建。

prescribed by law.

**Article 4** The parties' submission to arbitration to resolve their dispute shall be on the basis of both parties' free will and an arbitration agreement reached between them. If a party applies for arbitration in the absence of an arbitration agreement, the arbitration commission shall not accept the case.

**Article 5** If the parties have concluded an arbitration agreement and one party institutes an action in a people's court, the people's court shall not accept the case, unless the arbitration agreement is null and void.

**Article 6** The arbitration commission shall be selected by the parties through agreement. In arbitration, there shall be no jurisdiction by level and no territorial jurisdiction.

**Article 7** In arbitration, disputes shall be resolved on the basis of facts, in compliance with the law and in an equitable and reasonable manner.

**Article 8** Arbitration shall be carried out independently according to law and shall be free from interference of administrative organs, social organizations or individuals.

**Article 9** A system of a single and final award shall be practised for arbitration. If a party applies for arbitration to an arbitration commission or institutes an action in a people's court regarding the same dispute after an arbitration award has been made, the arbitration commission or the people's court shall not accept the case.

If an arbitration award is set aside or its enforcement is disallowed by the people's court in accordance with the law, a party may apply for arbitration on the basis of a new arbitration agreement reached between the parties, or institute an action in the people's court, regarding the same dispute.

## **Chapter II Arbitration Commissions and the Arbitration Association**

**Article 10** Arbitration commissions may be established in municipalities directly under the Central Government and in cities that are the seats of the people's governments of provinces or autonomous regions. They may also be established in other cities divided into districts, according to need. Arbitration commissions shall not be established at each level of the administrative divisions.

People's governments of the cities referred to in the preceding paragraph shall arrange for the relevant departments and chambers of commerce to organize arbitration commissions in a unified manner.

设立仲裁委员会，应当经省、自治区、直辖市的司法行政部门登记。

**第十一条** 仲裁委员会应当具备下列条件：

- (一) 有自己的名称、住所和章程；
- (二) 有必要的财产；
- (三) 有该委员会的组成人员；
- (四) 有聘任的仲裁员。

仲裁委员会的章程应当依照本法制定。

**第十二条** 仲裁委员会由主任 1 人、副主任 2 至 4 人和委员 7 至 11 人组成。

仲裁委员会的主任、副主任和委员由法律、经济贸易专家和有实际工作经验的人员担任。仲裁委员会的组成人员中，法律、经济贸易专家不得少于三分之二。

**第十三条** 仲裁委员会应当从公道正派的人员中聘任仲裁员。

仲裁员应当符合下列条件之一：

- (一) 从事仲裁工作满 8 年的；
- (二) 从事律师工作满 8 年的；
- (三) 曾任审判员满 8 年的；
- (四) 从事法律研究、教学工作并具有高级职称的；
- (五) 具有法律知识、从事经济贸易等专业工作并具有高级职称或者具有同等专业水平的。

仲裁委员会按照不同专业设仲裁员名册。

**第十四条** 仲裁委员会独立于行政机关，与行政机关没有隶属关系。仲裁委员会之间也没有隶属关系。

**第十五条** 中国仲裁协会是社会团体法人。仲裁委员会是中国

The establishment of an arbitration commission shall be registered with the administrative department of justice of the relevant province, autonomous region or municipality directly under the Central Government.

**Article 11** An arbitration commission shall meet the conditions set forth below:

- (1) To have its own name, domicile and charter;
- (2) To have the necessary property;
- (3) To have the personnel that are to form the commission; and
- (4) To have appointed arbitrators.

The charter of an arbitration commission shall be formulated in accordance with this Law.

**Article 12** An arbitration commission shall be composed of one chairman, two to four vice chairmen and seven to eleven members.

The offices of chairman, vice chairman and members of an arbitration commission shall be held by experts in the field of law, economy and trade and persons with practical working experience. Experts in the field of law, economy and trade shall account for at least two thirds of the people forming an arbitration commission.

**Article 13** An arbitration commission shall appoint its arbitrators from among righteous and upright persons.

An arbitrator shall meet one of the conditions set forth below:

- (1) To have been engaged in arbitration work for at least eight years;
- (2) To have worked as a lawyer for at least eight years;
- (3) To have served as a judge for at least eight years;
- (4) To have been engaged in legal research or legal education, possessing a senior professional title; or
- (5) To have acquired the knowledge of law, engaged in the professional work in the field of economy and trade, etc. possessing a senior professional title or having an equivalent professional level.

An arbitration commission shall have a register of arbitrators in different specializations.

**Article 14** Arbitration commissions shall be independent from administrative organs and there shall be no subordinate relationships between arbitration commissions and administrative organs. There shall also be no subordinate relationships between arbitration commissions.

**Article 15** China Arbitration Association is a social organization with the status of a legal person. Arbitration commissions are members of China Arbitration

仲裁协会的会员。中国仲裁协会的章程由全国会员大会制定。

中国仲裁协会是仲裁委员会的自律性组织，根据章程对仲裁委员会及其组成人员、仲裁员的违纪行为进行监督。

中国仲裁协会依照本法和民事诉讼法的有关规定制定仲裁规则。

### 第三章 仲裁协议

**第十六条** 仲裁协议包括合同中订立的仲裁条款和以其他书面方式在纠纷发生前或者纠纷发生后达成的请求仲裁的协议。

仲裁协议应当具有下列内容：

- （一）请求仲裁的意思表示；
- （二）仲裁事项；
- （三）选定的仲裁委员会。

**第十七条** 有下列情形之一的，仲裁协议无效：

- （一）约定的仲裁事项超出法律规定的仲裁范围的；
- （二）无民事行为能力人或者限制民事行为能力人订立的仲裁协议；
- （三）一方采取胁迫手段，迫使对方订立仲裁协议的。

**第十八条** 仲裁协议对仲裁事项或者仲裁委员会没有约定或者约定不明确的，当事人可以补充协议；达不成补充协议的，仲裁协议无效。

**第十九条** 仲裁协议独立存在，合同的变更、解除、终止或者无效，不影响仲裁协议的效力。

仲裁庭有权确认合同的效力。

**第二十条** 当事人对仲裁协议的效力有异议的，可以请求仲裁委员会作出决定或者请求人民法院作出裁定。一方请求仲裁委员会

Association. The charter of China Arbitration Association shall be formulated by its national congress of members.

China Arbitration Association is a self-disciplined organization of arbitration commissions. It shall, in accordance with its charter, supervise arbitration commissions and their members and arbitrators as to whether or not they breach discipline.

China Arbitration Association shall formulate rules of arbitration in accordance with this Law and the relevant provisions of the Civil Procedure Law.

### **Chapter III Arbitration Agreement**

**Article 16** An arbitration agreement shall include arbitration clauses stipulated in the contract and agreements of submission to arbitration that are concluded in other written forms before or after disputes arise.

An arbitration agreement shall contain the following particulars:

- (1) an expression of intention to apply for arbitration;
- (2) matters for arbitration; and
- (3) a designated arbitration commission.

**Article 17** An arbitration agreement shall be null and void under one of the following circumstances:

- (1) The agreed matters for arbitration exceed the range of arbitrable matters as specified by law;
- (2) One party that concluded the arbitration agreement has no capacity for civil conducts or has limited capacity for civil conducts; or
- (3) One party coerced the other party into concluding the arbitration agreement.

**Article 18** If an arbitration agreement contains no or unclear provisions concerning the matters for arbitration or the arbitration commission, the parties may reach a supplementary agreement. If no such supplementary agreement can be reached, the arbitration agreement shall be null and void.

**Article 19** An arbitration agreement shall exist independently. The amendment, rescission, termination or invalidity of a contract shall not affect the validity of the arbitration agreement.

The arbitration tribunal shall have the power to affirm the validity of a contract.

**Article 20** If a party challenges the validity of the arbitration agreement, he may request the arbitration commission to make a decision or apply to the people's court for a ruling. If one party requests the arbitration commission to

作出决定，另一方请求人民法院作出裁定的，由人民法院裁定。

当事人对仲裁协议的效力有异议，应当在仲裁庭首次开庭前提出。

## **第四章 仲裁程序**

### **第一节 申请和受理**

**第二十一条** 当事人申请仲裁应当符合下列条件：

- (一) 有仲裁协议；
- (二) 有具体的仲裁请求和事实、理由；
- (三) 属于仲裁委员会的受理范围。

**第二十二条** 当事人申请仲裁，应当向仲裁委员会递交仲裁协议、仲裁申请书及副本。

**第二十三条** 仲裁申请书应当载明下列事项：

- (一) 当事人的姓名、性别、年龄、职业、工作单位和住所，法人或者其他组织的名称、住所和法定代表人或者主要负责人的姓名、职务；
- (二) 仲裁请求和所根据的事实、理由；
- (三) 证据和证据来源、证人姓名和住所。

**第二十四条** 仲裁委员会收到仲裁申请书之日起5日内，认为符合受理条件的，应当受理，并通知当事人；认为不符合受理条件的，应当书面通知当事人不予受理，并说明理由。

**第二十五条** 仲裁委员会受理仲裁申请后，应当在仲裁规则规定的期限内将仲裁规则和仲裁员名册送达申请人，并将仲裁申请书

make a decision and the other party applies to the people's court for a ruling, the people's court shall give a ruling.

A party's challenge of the validity of the arbitration agreement shall be raised prior to the arbitration tribunal's first hearing.

## **Chapter IV Arbitration Proceedings**

### **Section 1 Application and Acceptance**

**Article 21** A party's application for arbitration shall meet the following requirements:

- (1) There is an arbitration agreement;
- (2) There is a specific arbitration claim and there are facts and reasons therefor; and
- (3) The application is within the scope of the arbitration commission's acceptability.

**Article 22** To apply for arbitration, a party shall submit to the arbitration commission the written arbitration agreement and a written application for arbitration together with copies thereof.

**Article 23** A written application for arbitration shall specify the following particulars:

- (1) the name, sex, age, occupation, work unit and domicile of each party, or the name and domicile of legal persons or other organizations and the names and positions of their legal representatives or chief responsible persons;
- (2) the arbitration claim and the facts and reasons on which it is based; and
- (3) the evidence, the source of the evidence and the names and domiciles of witnesses.

**Article 24** When an arbitration commission receives a written application for arbitration and considers that the application complies with the conditions for acceptance, it shall accept the application and notify the party within five days from the date of receipt. If the arbitration commission considers that the application does not comply with the conditions for acceptance, it shall inform the party in writing of its rejection of the application and explain the reasons for rejection within five days from the date of receipt.

**Article 25** After an arbitration commission accepts an application for arbitration, it shall, within the time limit specified in the rules of arbitration, deliver a copy of the rules of arbitration and the register of arbitrators to the