New UAE Federal Arbitration Law

The long-anticipated UAE Federal Arbitration Law is issued by the President of the United Arab Emirates.

Earlier this year it was announced that the UAE Federal National Council had approved a draft UAE Federal Arbitration Law and that the draft law had been submitted to the President of the UAE for approval. In an important and encouraging step forward for the UAE, the President of the UAE has approved and issued this draft law, Federal Law No 6 of 2018 on arbitration (the "New Arbitration Law").

The New Arbitration Law will come into effect one month following the day of its publication in the Federal Gazette, which we understand will happen shortly. The articles of the New Arbitration Law will replace Articles 203 to 218 of UAE Federal Law No. 11 of 1992, the UAE Civil Procedure Code, which currently governs arbitrations in the UAE.

The New Arbitration Law will apply to:

- Any arbitration conducted within the UAE, unless the parties have agreed that another law should apply, provided there is no conflict with public order and morality of the UAE;

- Any international commercial arbitration conducted abroad, if the parties have chosen the New Arbitration Law to govern such arbitration; and

- Any arbitration arising from a dispute in respect of a legal relationship, whether contractual or not, to which the application of UAE law is mandatory, save as excluded by special provision.

As expected the new law is based on the internationally accepted UNCITRAL Model Law. Some of the most significant changes introduced by the new law include:
+ Recognition of arbitration agreements made by electronic communication (i.e. by email);

+ Recognition of the principle of competence-competence (i.e. giving arbitrator’s power to decide upon their own jurisdiction), subject to a 15 day appeal period to the UAE Courts;

+ that provision is made for joinder of parties to arbitral proceedings;

+ permits both arbitral tribunals and courts (through the president of the court) to issue preliminary orders and interim measures relating to potential or ongoing arbitrations;

+ that the content of the arbitral award are confidential unless the parties agree otherwise;

+ permits enforcement of interim and partial awards; and

+ limits a party’s ability to challenge an award, either in its entirety or in part, to a 30 day period from the date of notification of the award to the parties, and ensures that enforcement proceedings are not automatically stayed up the commencement of annulment proceedings.

Whilst the New Arbitration Law will be welcome news to businesses and legal practitioners alike: providing greater certainty of outcome within a recognised international framework and further bolstering the UAE’s reputation as a hub for international arbitration, until the application of the New Arbitration Law is fully understood by the UAE Courts, arbitration centres, arbitrators, legal practitioners and parties to potential and ongoing arbitrations it is bound to create some initial uncertainties.

Beale & Company will be discussing the New Arbitration Law, and what it may mean for your business at our next breakfast seminars on 19 June 2018 in Dubai and 20 June 2018 in Abu Dhabi. Please contact our Marketing Team on marketing@beale-law.com to register your interest.

May 2018

For further information please contact:

Claire Miller
Partner
T: +971 4 356 3905
E: C.Miller@Beale-Law.com

Natalie Ledger
Associate
T: +971 4 356 3909
E: N.Ledger@Beale-Law.com