

TORONTO COMMERCIAL ARBITRATION SOCIETY
Final Report of the Arbitration Act Reform Committee dated February 12, 2021
Summary of Major Recommendations

The Final Report of the Arbitration Act Reform Committee dated February 12, 2021, including its detailed appendices, (the “Report”) may be found at:

<https://torontocommercialarbitrationsociety.com/arbitration-act-reform-committee/>

Major recommendations are:

1. Existing Arbitration Act to remain in place without amendments for all non-commercial arbitrations (family, labour, statutory) but would no longer apply to commercial arbitrations as currently defined in the International Commercial Arbitration Act (“ICAA”).
2. ICAA would be replaced by the Commercial Arbitration Act (“CAA”) which would apply to all commercial arbitration conducted in Ontario. See Appendix B for reasons for a single Act. See illustration draft CAA at Appendix E to the Report.
3. All elements of ICAA applicable to international arbitrations would remain in place, but would be supplemented by provisions to facilitate all commercial arbitrations conducted in Ontario.
4. The CAA would make international standards relating to the conduct of arbitrations and the role of the courts (as set out in the Model Law on Commercial Arbitration and the New York Convention) applicable to all commercial arbitrations conducted in Ontario.
5. The CAA would make some distinctions between international and non-international arbitration where appropriate, for example a single arbitrator would be the default for non-international commercial arbitrations, as opposed to three for international arbitrations.
6. As recommended by the Uniform Law Conference of Canada, appeals from awards would be available only by express agreement and only on questions of law (Canadian, provincial or territorial).
7. As recommended by the Uniform Law Conference of Canada, appeals would be directly to the Court of Appeal. Although the Report does not provide for leave to appeal, it is recognized that the preference of the Court of Appeal in that regard would determine that issue.
8. The CAA would contain no particular provisions regarding standard of review as applicable to appeals, jurisdictional questions or applications to enforce or set aside awards, other than the general provisions that international standards should be applied. (See Appendix E s. 2 and s. 8.)
9. See pages 9 to 14 of the Report for other detailed recommendations.