



## Quiz

### Commercial Arbitration : Setting aside arbitral Awards

1. What was the position of Jackson J of the Supreme Court of Queensland as to what happens if an arbitral law is set aside?
  - a. The decision is sent back to the arbitrator with a view to having it re-determined to deal with a lack of procedural fairness
  - b. Once an arbitral award is set aside, the arbitrator is functus and as such it cannot be sent back to the arbitrator for re-determination
  - c. It becomes the role of the Court to assess the matter for re-determination
  - d. Arbitral laws cannot be set aside, only appealed
2. What was the basis on which the applicant in appealed the decision to the Queensland Court of Appeal?
  - a. The dispute as determined by the arbitrator was not in the confines of that which was submitted to arbitration
  - b. Procedural fairness and contrary to the public policy of the State
  - c. Procedural fairness
  - d. Both a. and b.
3. What was the decision of the Court of Appeal?

- a. The applicant had time to present its case and therefore there was no denial of natural justice
  - b. The applicant had time to present its case but the delay meant that there was a 'real practical injustice' and therefore there was a denial of natural justice
  - c. The dispute as determined by the arbitrator was not in the confines of that which was submitted to arbitration, and therefore the award should be set aside
  - d. The dispute as determined by the arbitrator was contrary to the public policy of the State
4. What does the case reflect about the role of arbitrators?
- a. Arbitrators must determine a matter in accordance with the way in which it has been laid out by the parties
  - b. Arbitrators must act within the same parameters as a judge in a court
  - c. Arbitrators can determine their own procedure to resolve a dispute, so long as the parties are made aware of the procedure
  - d. Arbitrators can determine their own procedure to resolve a dispute and do not have to tell the parties, so long as it does not constitute a real practical injustice
5. What should practitioners take away from the case?
- a. It is not easy to challenge arbitral awards in Australia
  - b. The court tends to take a restrictive approach to setting aside awards in accordance with s 34 of the *Commercial Arbitration Act 2013* (Qld) and the corresponding Art 34 of the *UNCITRAL Model Law*
  - c. Courts support arbitration as a means of dispute resolution in Australia
  - d. All of the above

Answers:

1. b 2. b 3. a 4. c 5. d