

Insights

COURT-ORDERED MEASURES IN SUPPORT OF ARBITRATION

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This article discusses the applicability of court-ordered measures in support of arbitration under section 44 of the English Arbitration Act 1996 to third parties to arbitration.

In, “Section 44 of the English Arbitration Act 1996 and third parties to arbitration”, we argue that the English courts’ power to order measures under section 44 (in relation to the taking and gathering of evidence, the appointment of a receiver, the granting of interim injunctions, etc.) should be interpreted purposively and in line with the policy objectives behind the Arbitration Act, meaning that the full range of measures in support of arbitration should be available against third parties to arbitration as much as to the disputing parties themselves. In support of our argument, we discuss and analyse recent English case law in detail with reference to the international approach under the UNCITRAL Model Law on International Commercial Arbitration and the approach in Hong Kong SAR under section 45 of the Hong Kong Arbitration Ordinance (CAP. 609).

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