

# Amendments to Expedited Arbitration Procedures

## 1. Purposes of the Amendment

One crucial merit for companies to take advantage of arbitration is that they can resolve disputes in a time-efficient and cost-effective manner. For the JCAA-administered arbitration cases concluded in the last decade, the average duration from the constitution of the arbitral tribunal to the rendering of award is approximately 12.7 months. Only 22 out of 139 cases were conducted in expedited arbitration procedures (under the current rules (2019), the expedited arbitration procedures apply, in principle, where the amount in dispute is less than 50 million yen), and their average duration is 3.5 months.

To further streamline the JCAA-administered arbitration procedures as a whole, and with reference to the rules of other arbitral institutions, the upper limit of amount in dispute will be raised to expand the scope of application of expedited arbitration procedures under the Commercial Arbitration Rules and the Interactive Arbitration Rules.

## 2. Comparison among current ordinary procedures, current expedited procedures, and new (draft) expedited procedures (article number is that of the Commercial Arbitration Rules)

	Current ordinary procedures	Current expedited procedures	New expedited procedures	Remarks
a. Amount in dispute	50 million yen or more	Less than 50 million yen	Less than <b>300 million yen</b> (approximately, USD2.73 million)	<ul style="list-style-type: none"> <li>- Amount in dispute under the new expedited arbitration procedures refers to the total amount of the claim, counterclaim and set-off defense.</li> <li>- For JCAA cases concluded from 2011 to 2020, 47.4% had an amount in dispute of less than 300 million yen, 21.43% of which had an amount in dispute of less than 50 million yen (Note 1).</li> </ul>
b. Transfer from		Not stipulated	The JCAA may, after consultation	- Where it is no longer appropriate to

expedited procedures to ordinary procedures			with the arbitral tribunal and the parties, decide to terminate the application of expedited arbitration procedures and transfer it to ordinary procedures.	continue the expedited procedures, having regard to the complexity of the case, the case may be transferred to ordinary procedures.
c. Time limit for counterclaims and set-off defense	<b>Four</b> weeks (Articles 19 and 20) from the Respondent's receipt of the notice of the Request for Arbitration	<b>Two</b> weeks (Article 85) from the Respondent's receipt of the notice of the Request for Arbitration	<b>Four</b> weeks from the Respondent's receipt of the notice of the Request for Arbitration (same as ordinary procedures).	The amendment is made due to the increase in the upper limit of amount in dispute.
d. Amendment to claim, counterclaim, or set-off defense	After the constitution of arbitral tribunal, it is allowed with the permission of the tribunal (Article 21).	Not allowed (Article 86).	After the constitution of arbitral tribunal, it is allowed with the permission of the tribunal (same as ordinary procedures).	The amendment is made due to the increase in the upper limit of amount in dispute.
e. Number of arbitrators	The number of arbitrators shall be one or three. In principle, the number of arbitrators shall be one, when the Parties cannot agree on the number of arbitrators within four weeks from the Respondent's receipt of Request for Arbitration (Article 26).	The number of arbitrators shall be one (Article 87). If the number of arbitrators is three, the expedited procedures shall not apply.	In principle, the number of arbitrators shall be one, but where the parties agrees that the number of arbitrators shall be three, the number shall be three (Provision under paragraph 2 of Article 87 added).	The amendment is made due to the increase in the upper limit of amount in dispute.
f. Method of	The arbitral tribunal	In principle, the	The document-only procedures	The amended provision is the same as the

hearing	shall decide whether to conduct a hearing or to adopt the document-only proceedings. However, a hearing shall be conducted if so requested by either party (Article 50).	document-only proceedings are adopted. The arbitral tribunal may hold a hearing if the tribunal considers it necessary after consultation with the parties (Article 88).	shall be adopted, unless the arbitral tribunal, after consultation with the parties, decides it necessary to conduct a hearing (Article 88 amended).	current one in substance, but it has been clarified.
g. Time limit for rendering award	Efforts shall be made to render the award within <b>nine</b> months from the constitution of the arbitral tribunal (Article 43).	Efforts shall be made to render the award within <b>three</b> months from the constitution of the arbitral tribunal (Article 89).	<ul style="list-style-type: none"> <li>- Efforts shall be made to render the award within <b>six</b> months from the constitution of the arbitral tribunal (Article 89, paragraph 1). However, where the amount in dispute is less than 50 million yen, efforts shall be made to render the award within <b>three</b> months (paragraph 2).</li> <li>- In order to render an arbitral award within 3 months or 6 months, the arbitral tribunal shall consult with the Parties by videoconferencing or other method designated by the arbitral tribunal, prepare a procedural schedule, and send it to Parties and the JCAA, in principle, within two weeks from the date when it</li> </ul>	<ul style="list-style-type: none"> <li>- Different time limits are set depending on the amount in dispute. In the case that the amount is less than 50 million yen, the time limit remains unchanged at three months. In the case that the amount is 50 million yen or more but less than 300 million yen, the time limit is set at six months (the time limit is nine months in ordinary procedure under the Commercial Arbitration Rules (Article 43(1))).</li> <li>- With regard to the preparation and sending of a procedural schedule, in ordinary procedure, it is provided that the schedule shall be prepared and sent "as early as practicable" (Article 43(2)). In expedited procedures, in order to render an arbitral award within a time limit of three or six months, the arbitral tribunal is required in principle to prepare and send a procedural schedule within two</li> </ul>

			<p>is constituted (paragraph 3).</p> <ul style="list-style-type: none"> <li>- Where the arbitral tribunal deems it necessary to extend the time limit for the award due to exceptional circumstances, it shall, <u>in consultation with the JCAA</u>, notify the parties and the JCAA of the revised procedural schedule with the reason for extension and new time limit (paragraph 4).</li> </ul>	<p>weeks from its constitution.</p> <ul style="list-style-type: none"> <li>- In ordinary procedure under the Commercial Arbitration Rules, if it becomes impractical to render an arbitral award within the nine-month time limit, "the arbitral tribunal may amend the Procedural Schedule under Article 43.2 during the course of the arbitral proceedings after giving the Parties an opportunity to comment" (Article 43(3)). In expedited procedures, additional requirements such as "exceptional circumstances", "consultation with the JCAA" and "procedural schedule stating new time limit" are added, in order to urge the tribunal and the parties to comply with the time limit.</li> </ul>
h. Joinder or consolidation	Possible if certain requirements are satisfied (Articles 56 and 57)	Prohibited (Article 90)	Prohibited (Article 90)	No amendments.
i. Supplementary Provisions			The provisions of the amended expedited arbitration procedures shall apply to all cases filed on or after the effective date.	

Note 1: The breakdown for the amount in dispute of the JCAA cases concluded from 2011 to 2020 is as follows:

<b>Amount in dispute</b> (Total amount of the claim and counterclaim)	<b>Number of cases</b>	<b>Percentage</b>
<b>Less than 50 million</b>	<b>33</b>	<b>21.43%</b>
<b>50 million or more- less than 300 million</b>	<b>40</b>	<b>25.97%</b>
300 million or more - less than 500 million	15	9.74%
More than 500 million	43	27.92%
Amount cannot be calculated	23	14.94%
Total	154	100%

### 3. Draft amendments (in the case of the Commercial Arbitration Rules)

The **red** indicates the revised parts.

Article number	Current provisions	New provisions	Remarks
<b>Article 83</b>	<p>1 Part 2 provides particular rules designed to ensuring proceedings are conducted in an expeditious manner.</p> <p>2 To the extent that there is conflict between Part 2 and Part 1, Part 2 shall prevail. However, arbitral proceedings falling within the scope of Part 2 shall also be governed by both Part 2 and, to the extent that Part 2 does not make provision for the item in question, Part 1.</p>	No amendments	
<b>Article 84</b>	<p>1 The provisions of Part 2 shall apply where the amount or economic value of the claimant's claim(s) is not more than JPY50,000,000 (in the case of a foreign currency, the applicable amount shall be converted into Japanese yen at the TTM rate or any other reasonable exchange rate designated by JCAA as of the</p>	<p>1 The provisions of Part 2 shall apply where:</p> <p>(a) <b>the amount in dispute (the total amount of the claim, counterclaim and set-off defense; the amount of any interest, rent, damage, penalty, expense, or cost that is incidental to the principal claim shall be excluded; same below) is less than JPY300,000,000</b> (in the</p>	<ul style="list-style-type: none"> <li>- Instead of setting separate upper limits for amount of claim and counterclaim, the total amount in dispute is adopted.</li> <li>- The provision in current Article 84.4 is integrated into new Article 84.1 (a).</li> </ul>

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	<p>business day immediately preceding the date of filing of the Request for Arbitration; the same applies hereunder) provided, however, that the provisions of Part 1 shall apply, if:</p> <p>(a) the Parties have agreed in an arbitration agreement that the number of arbitrators is three; or</p> <p>(b) a Party notifies the JCAA in writing of the agreement by the Parties not to submit the dispute to expedited arbitration procedures within two weeks from the respondent's receipt of the notice of the Request for Arbitration.</p> <p>2 Even in the case where the amount or economic value of the claimant's claim(s) exceeds JPY50,000,000, the provisions of Part 2 shall apply if a Party notifies the JCAA in writing of the agreement between the Parties to submit the dispute to expedited arbitration procedures within two weeks from the respondent's receipt of</p>	<p>case of a foreign currency, the applicable amount shall be converted into Japanese yen at the TTM rate or any other reasonable exchange rate designated by JCAA as of the business day immediately preceding the date of filing of the Request for Arbitration; the same applies hereunder); or</p> <p>(b) a Party notifies the JCAA in writing of the agreement by the Parties to submit the dispute to expedited arbitration procedures.</p> <p>2 For the application of Part 2, where the JCAA determines that the economic value cannot be calculated, or its calculation is extremely difficult, the amount set forth in Article 84.1(a) shall be deemed to be over JPY300,000,000.</p> <p>3 The provisions of Part 2 shall not apply where a Party notifies the JCAA in writing of the agreement by the Parties not to submit the dispute to expedited arbitration procedures.</p> <p>4 The JCAA shall promptly notify the Parties and the arbitrator on</p>	<p>- For the calculation of the administration fees and the upper limit of arbitrator's remuneration, the amount in dispute is deemed to be JPY 70,000,000. For decision as to whether expedited procedures shall apply, such amount is deemed to over JPY 300,000,000, so that expedited procedures are not applicable.</p> <p>- In order to clarify the timing of the confirmation of the application of expedited</p>

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	<p>the notice of Request for Arbitration.</p> <p>3 Even in the case where the provisions of Part 2 apply at the time of the Request for Arbitration, the arbitral proceedings conducted under the provisions of Part 2 shall be converted to arbitral proceedings under the provisions of Part 1 if a counterclaim or set-off defense is submitted according to Article 85 and the amount or economic value of the submitted claim exceeds JPY50,000,000; provided that the provisions of Part 2 shall still apply if the Parties agree in writing that expedited arbitration procedures shall be conducted.</p> <p>4 The amount of any interest, rent, damage, penalty, expense, or cost that is incidental to the principal claim shall be excluded when calculating the amount or the economic value of the claim, counterclaim, or set-off defense</p>	<p>confirming that the provisions of Part 2 shall apply upon <b>the respondent's submission of counterclaim under Article 19 or set-off defense under Article 20, or after the expiration of the time limit for such submission.</b></p> <p>5 <b>Even where the amount in dispute is JPY 300,000,000 or more due to amendment to claim after the notification set forth in Article 84.4 is given, the provisions of Part 2 shall continue to apply.</b></p> <p>6 <b>After the notification set forth in Article 84.4 is given, the provisions of Part 2 shall discontinue to apply, where:</b>  <b>(a) a Party notifies the JCAA in writing of the agreement by the Parties that the provisions of Part 2 shall discontinue to apply; or</b>  <b>(b) the JCAA, in consultation with the arbitral tribunal and Parties, decides that the provisions of Part 2 shall discontinue to apply.</b></p> <p>7 <b>Where the application of the provisions of Part 2 is discontinued pursuant to Article 84.6, the procedure performed to that point</b></p>	<p>procedures, Articles 19 and 20 are cited.</p> <p>- It makes clear that the expedited procedures shall be discontinued if the Parties so agreed.</p>



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	<p>under Articles 84.1 through 84.3.</p> <p>5 Where the economic value cannot be calculated, or its calculation is extremely difficult, or where there is a dispute between the Parties concerning such economic value, the economic value under Articles 84.1 through 84.3 shall be deemed to exceed JPY50,000,000.</p> <p>6 The JCAA shall promptly notify the Parties and the arbitrator on determining that expedited arbitration procedures shall be conducted under the provisions of Part 2.</p>	<p><b>shall remain in effect.</b></p>	<p>- The phrase "or where there is a dispute between the Parties concerning such economic value" in Article 84.5 of the current rules is removed.</p>
<b>Article 85</b>	Where the provisions of Part 2 apply at the time of the Request for Arbitration, the respondent may submit counterclaim(s) or set-off defense(s) within two weeks from	<b>Removed</b> (Articles 19 and Article 20 apply to counterclaims and set-off defense respectively.)	Same as ordinary procedures

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	the respondent's receipt of the notice of the Request for Arbitration.		
<b>Article 86</b>	Neither the claimant nor the respondent shall amend or supplement its claims, counterclaims or set-off defenses.	<b>Removed</b> (Article 21 applies to amendments to claims)	Same as ordinary procedures
<b>Article 87</b>	<p>1 Expedited arbitration procedures shall be conducted by a sole arbitrator.</p> <p>2 The Parties shall agree upon and appoint an arbitrator and notify the JCAA of such appointment under Article 25.4 within two weeks from their receipt of the notice by the JCAA that the expedited arbitration procedures shall be conducted.</p> <p>3 If the Parties fail to notify the JCAA within the time limit under Article 87.2, the JCAA shall appoint such arbitrator.</p> <p>4 Where the JCAA appoints an arbitrator under Article 87.3, and a Party requests that such</p>	<p>1 The number of arbitrators shall be one.</p> <p>2 <b>Notwithstanding Article 87.1, the number of arbitrators shall be three if the Parties so agree. However, the JCAA may invite the parties to agree to a sole arbitrator, having regard to the amount in dispute, the complexity of the case, and other circumstances.</b></p>	

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	<p>arbitrator be a person of a different nationality from that of any of the Parties, the JCAA shall respect such request.</p> <p>5 The appointment of an arbitrator made by Parties shall be effective only after confirmation by the JCAA. The JCAA, after giving the Parties an opportunity to comment, may refuse to confirm the appointment of the arbitrator without giving reasons if the JCAA finds that the appointment is clearly inappropriate.</p> <p>6 Upon confirming the appointment of the arbitrator, the JCAA shall promptly notify such confirmation to the Parties.</p> <p>7 If the appointment of an arbitrator is not confirmed by the JCAA, the Parties shall appoint another arbitrator within the period fixed by the JCAA.</p>		
<b>Article 88</b>	1 The arbitral tribunal shall, in principle, conduct the arbitral proceedings based only on	<b>1</b> The arbitral tribunal shall conduct the arbitral proceedings on a document-only basis, except in cases where the	Clarification of the provisions

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	<p>documents and other materials.</p> <p>2 If the arbitral tribunal, after giving the Parties an opportunity to comment, considers hearings are necessary to be held, such hearings shall be held in a reasonable manner for the minimum number of days possible.</p>	<p>arbitral tribunal considers it necessary to conduct a hearing after consultation with the Parties.</p> <p>2 In the event of a hearing, the arbitral tribunal shall use videoconferencing or other appropriate method, and the hearing shall be for one day or as short a period as possible.</p>	
<b>Article 89</b>	<p>The arbitrator shall make reasonable efforts to render an arbitral award within three months from his or her confirmation or appointment by the JCAA.</p>	<p>1 The arbitral tribunal shall make reasonable efforts to render an arbitral award within <b>six</b> months from the date when it is constituted.</p> <p>2 Notwithstanding Article 89.1, if the amount in dispute is less than JPY 50,000,000, the arbitral tribunal shall make reasonable efforts to render an arbitral award within three months from the date when it is constituted.</p> <p>3 To implement Articles 89.1 and 89.2, the arbitral tribunal shall consult with the Parties by videoconferencing or other method designated by the arbitral tribunal, prepare a procedural schedule, and send it to the Parties and the JCAA, in principle, within two</p>	<p>- Two separate time limits for rendering an award are set, depending on the amount in dispute.</p>

Article number	Current provisions	New provisions	Remarks
		<p>weeks from the date when it is constituted.</p> <p>4 Where the arbitral tribunal deems it necessary to extend the time limit for rendering an arbitral award under Articles 89.1 and 89.2 due to exceptional circumstances, it shall, in consultation with the JCAA, notify the Parties and the JCAA of the reason for extension and the procedural schedule stating new time limit.</p>	<p>- Instead of having the JCAA to decide whether to extend the time limit for an arbitral award, it is mandatory for the arbitral tribunal, in consultation with the JCAA, to notify the parties and the JCAA of the reasons why the extension is necessary and the new time limit for the award.</p>
<b>Article 90</b>	Articles 56 and 57 shall not apply to proceedings conducted under the provision of Part 2.	No amendments.	
<b>Supplementary Provisions</b>		<p>1 These Rules shall come into effect on July 1, 2021.</p> <p>2 Any arbitral proceedings commenced before these Rules come into effect shall be governed by the former Rules; provided that subsequent proceedings may, upon agreement of the Parties, be conducted pursuant to these Rules. In the event of such an agreement between the Parties, the arbitral proceedings that already have been conducted pursuant to the former</p>	The provisions of the amended expedited arbitration procedure shall apply to all cases filed on or after the effective date.

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		Rules shall remain valid.	