



Rules for informal dispute assessment

Adopted by the Arbitration Board on 31 August 2015

The rules for informal dispute assessment can be used in all phases of a building and construction project to obtain a speedy, informed and impartial assessment of any type of dispute, thus avoiding escalation of the dispute and ensuring that the work progresses. Application of the rules may either be laid down in the building and construction contract or agreed after the dispute has arisen. The rules may be applied both before and after the handover of the contract work.

1(1) If the parties agree to apply the Arbitration Board rules for informal dispute assessment, a party to a construction contract may ask the Arbitration Board to appoint an assessor to express an opinion about technical, financial, administrative or legal issues to be resolved between the parties.

2(1) The Arbitration Board can appoint a person whose professional and educational background and high professional standards, combined with experience obtained through work as a legal arbitrator, technical arbitrator, expert, appraiser or similar for the Arbitration Board and other bodies qualifies him or her to act as assessor.

(2) The assessor may not be appointed arbitrator, conciliator or mediator in a subsequent case about the same issues, unless the parties agree to request that this be done.

3(1) The parties must send their request to the Arbitration Board by email together with a reference to the contractual basis and a brief account of the issues to be assessed. Each party may submit its own account, but no supporting documents, etc are to be submitted.

(2) In addition the names, addresses, telephone numbers and email addresses of the parties must be stated.

4(1) The Arbitration Board will appoint a suitable assessor within five working days after receipt of the request and inform the parties of the qualifications of the assessor. In this connection the parties will be informed about the applicable rules, the fee payable to the Arbitration Board, the hourly rate that will be applied to determine the assessor's fee and the preliminary estimate of the time the assessor is likely to spend on the matter.

(2) More than one assessor may be appointed if the parties give their consent to it. An assessor may involve experts in relation to individual matters if needed to avoid appointment of more than one assessor.

(3) The Arbitration Board will decide whether objections to the appointed assessor's qualifications and impartiality are allowable.

5(1) The parties will be obliged to provide security for all costs that are likely to be incurred in connection with the assessment, including the fee and service charge payable to the Arbitration Board to cover its expenses in relation to the assessment. The Arbitration Board will decide the amount of security to be paid. The parties will usually be requested to provide the same amount of security. They must do so immediately.

6(1) The assessor will investigate the issues raised in such a way and to such an extent as he or she – in consultation with the parties – finds necessary. The assessor will determine whether any documentation or other material is needed, which the parties will be obliged to submit, and the form in which such documentation or other material is requested.



(2) The assessor will determine whether an inspection or a meeting is needed or whether the case can be determined on the basis of the information available. At this stage of the process, the assessor will inform the parties when the assessment is expected to be available, which in principle should be within twenty working days after the appointment of the assessor.

7(1) The assessor will assess the issues based on his or her best knowledge and belief concerning what is correct based on applicable rules and agreements made. The assessor must not seek to mediate between the parties and must not present any mediation proposal.

8(1) The assessor will end his or her assessment by presenting a verbal opinion at a meeting where the parties are represented. The parties may ask for a brief written opinion without any statement of facts, etc. Such an opinion should generally be available within five working days.

(2) Depending on the circumstances, the assessor's opinion may be that it was not possible to resolve the issues or that they should be referred for a judicial ruling.

9(1) The assessment as set out in Rule 8(1) will not be binding on the parties.

(2) The assessment will not have any significance for any subsequent judicial rulings, including decisions in arbitration cases, nor for the legal position of the parties in other respects.

10(1) The Arbitration Board will determine the fee to be paid for the assessment on the basis of time spent and other costs relating to the case. Based on the assessor's recommendation, the Arbitration Board will also decide how the costs are to be distributed between the parties. The parties will be jointly and severally liable for total costs irrespective of the distribution decided by the Arbitration Board, or of whether the amount exceeds the security provided. If one party has to pay for the other party, the paying party will have recourse against the non-paying party.

These rules apply from 1 October 2015