

SCHEDULES

SCHEDULE 14

Article 39

ARBITRATION RULES

Primary objective

1.—(1) The primary objective of these Arbitration Rules is to achieve a fair, impartial, final and binding award on the substantive difference between the parties (save as to costs) within 4 months from the date the arbitrator is appointed pursuant to article 39 of the Order.

(2) The parties shall first use their reasonable endeavours to settle a dispute amicably through negotiations undertaken in good faith by the senior management of the parties. Any dispute which is not resolved amicably by the senior management of the parties within twenty (20) working days of the dispute arising, or such longer period as agreed in writing by the parties, shall be subject to arbitration in accordance with the terms of this Schedule.

(3) The Arbitration will be deemed to have commenced when a party (“the Claimant”) serves a written notice of arbitration on the other party (“the Respondent”).

Commencement Information

I1 Sch. 14 para. 1 in force at 3.8.2023, see [art. 1](#)

Time periods

2.—(1) All time periods in these Arbitration Rules are measured in working days and this will exclude weekends, bank holidays and public holidays.

- (2) Time periods are calculated from the day after the arbitrator is appointed which is either—
- (a) the date the arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or
 - (b) the date the arbitrator is appointed by the Secretary of State.

Commencement Information

I2 Sch. 14 para. 2 in force at 3.8.2023, see [art. 1](#)

Timetable

3.—(1) The timetable for the arbitration is set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 15 days of the arbitrator being appointed, the Claimant must provide both the Respondent and the arbitrator with—

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- (a) a written Statement of Claim which describes the nature of the difference between the parties, the legal and factual issues, the Claimant's contentions as to those issues, and the remedy it is seeking; and
 - (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.
- (3) Within 15 days of receipt of the Claimant's statements under sub-paragraph (2) by the arbitrator and Respondent, the Respondent must provide the Claimant and the arbitrator with—
- (a) a written Statement of Defence responding to the Claimant's Statement of Claim, its statement in respect of the nature of the difference, the legal and factual issues in the Claimant's claim, its acceptance of any element(s) of the Claimant's claim, its contentions as to those elements of the Claimant's claim it does not accept;
 - (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports; and
 - (c) any objections it wishes to make to the Claimant's statements, comments on the Claimant's expert report(s) (if submitted by the Claimant) and explanations for the objections.
- (4) Within 5 days of the Respondent serving its statements sub-paragraph (3), the Claimant may make a Statement of Reply by providing both the Respondent and the arbitrator with—
- (a) a written statement responding to the Respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;
 - (b) all statements of evidence and copies of documents in response to the Respondent's submissions;
 - (c) any expert report in response to the Respondent's submissions;
 - (d) any objections to the statements of evidence, expert reports or other documents submitted by the Respondent; and
 - (e) its written submissions in response to the legal and factual issues involved.

Commencement Information

I3 Sch. 14 para. 3 in force at 3.8.2023, see [art. 1](#)

Procedure

4.—(1) The arbitrator must make an award on the substantive difference(s) based solely on the written material submitted by the parties unless the arbitrator decides that a hearing is necessary to explain or resolve any matters.

(2) Either party may, within 2 days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(3) Within 5 days of receiving the last submission, the arbitrator must notify the parties whether a hearing is to be held and the length of that hearing.

(4) Within 10 days of the arbitrator advising the parties that they will hold a hearing, the date and venue for the hearing will be fixed by agreement with the parties, save that if there is no agreement the arbitrator must direct a date and venue which they consider is fair and reasonable in all the circumstances. The date for the hearing must not be less than 35 days from the date of the arbitrator's direction confirming the date and venue of the hearing.

(5) A decision must be made by the arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the arbitrator, then any expert(s) attending the hearing may be asked questions by the arbitrator.

(6) There is no process of examination and cross-examination of experts, but the arbitrator must invite the parties to ask questions of the experts by way of clarification of any answers given by the expert(s) in response to the arbitrator's questions. Prior to the hearing the procedure for the expert(s) is—

- (a) at least 20 days before a hearing, the arbitrator must provide a list of issues to be addressed by the expert(s);
- (b) if more than one expert is called, they are to jointly confer and produce a joint report or reports within 10 days of the issues being provided; and
- (c) the form and content of a joint report must be as directed by the arbitrator and must be provided at least 5 days before the hearing.

(7) Within 10 days of a hearing or a decision by the arbitrator that no hearing is to be held the Parties may by way of exchange provide the arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The arbitrator must take these submissions into account in the award.

(8) The arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within 4 months of the date on which they are appointed, unless both parties otherwise agree to an extension to the date for the award.

(9) If a party fails to comply with the timetable, procedure or any other direction then the arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before them attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure and/or direction.

(10) The arbitrator's award must include reasons. The parties must accept that the extent to which reasons are given will be proportionate to the issues in dispute and the time available to the arbitrator to deliver the award.

Commencement Information

I4 Sch. 14 para. 4 in force at 3.8.2023, see [art. 1](#)

Arbitrator's powers

5.—(1) The arbitrator has all the powers of the Arbitration Act 1996⁽¹⁾, including the non-mandatory sections, save where modified by these Arbitration Rules.

(2) There will be no discovery or disclosure, except that the arbitrator has the power to order the parties to produce such documents as are reasonably requested by another party no later than the Statement of Reply, or by the arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders are to be made by way of a Redfern Schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the arbitrator. In the absence of agreement, the arbitrator may vary the timescales and/or procedure—

- (a) if the arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then;

(1) 1996 c. 23.

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(b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the arbitrator will notify the parties that the award is completed, signed and dated, and that it is to be issued to the parties on receipt of cleared funds for the arbitrator's fees and expenses.

Commencement Information

I5 Sch. 14 para. 5 in force at 3.8.2023, see [art. 1](#)

Costs

6.—(1) The costs of the Arbitration must include the fees and expenses of the arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the Arbitration.

(2) Subject to sub-paragraph (3), the arbitrator must award recoverable costs on the general principle that each party should bear its own costs.

(3) The arbitrator may depart from the general principle in sub-paragraph (2) and make such other costs award as it considers reasonable where a party has behaved unreasonably as set out in the Planning Practice Guidance or such other guidance as may replace it.

Commencement Information

I6 Sch. 14 para. 6 in force at 3.8.2023, see [art. 1](#)

Confidentiality

7.—(1) Subject to sub-paragraphs (2) and (3), any arbitration hearing and documentation shall be open to and accessible by the public.

(2) The arbitrator may direct that the whole or part of a hearing is to be private or any documentation to be confidential where it is necessary in order to protect commercially sensitive information.

(3) Nothing in this paragraph shall prevent any disclosure of a document by a party pursuant to an order of a court in England and Wales or where disclosure is required under any enactment.

Commencement Information

I7 Sch. 14 para. 7 in force at 3.8.2023, see [art. 1](#)

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Changes and effects yet to be applied to :

- Sch. 14 para. 3(4) word inserted by [S.I. 2024/117 Sch.](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 9 Pt. 3A para. 9(4) word substituted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3A para. 3 words substituted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 23(3) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 23(5) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 24(2) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 25(2) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 25(3) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 25(5) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 25(6) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 25(10) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 26(2) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 26(3) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 26(4) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 26(5) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 4 para. 4(1)(r) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 4 para. 12(5) words substituted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 5 para. 1(2) full stop omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 7 para. 4(2)(i) semicolon inserted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 7 para. 4(2)(j) word inserted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 7 para. 4(2)(o) word inserted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 7 para. 4(2)(p) word inserted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 7 para. 4(2)(p) word substituted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 7 para. 4(2)(q) word substituted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 9 para. 8(1)(a) words substituted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 10 para. 2(a) words substituted by [S.I. 2024/117 Sch.](#)
- Sch. 16 para. 10(a)(v)(cc) semicolon inserted by [S.I. 2024/117 Sch.](#)
- Preamble word substituted by [S.I. 2024/117 Sch.](#)
- art. 26(5) inserted by [S.I. 2024/117 Sch.](#)