

THE SOCIETY OF SINGAPORE

COST DISPUTE RESOLVE

The Rules

Where any dispute relating to party and party costs or solicitor and client costs is referred by consenting parties to the Society for mediation and arbitration under the Society's **Cost Dispute Resolve** scheme, the parties shall be deemed to have agreed to the following Rules subject to such modifications as the parties may agree in writing.

Rule 1: Commencement of Process

- 1.1 Parties referring a dispute on costs to the Society shall commence the reference by sending an application to the Society in the form as set out in **Schedule 1**.
- 1.2 Each party shall pay half the prescribed fees as set out in **Schedule 2** to the Society. Upon receipt of the prescribed fees, the Society shall appoint a single mediator/arbitrator and notify the parties and the appointed mediator/arbitrator in writing of the same.
- 1.3 The Society shall be entitled to delegate the appointing of the mediator/arbitrator to the Director of Practice Standards, a committee or sub-committee as it deems fit.
- 1.4 The parties shall sign an Agreement in the form as set out in **Schedule 3** before the commencement of the mediation hearing.

Rule 2: Objection to Mediator/Arbitrator

- 2.1 The parties shall have 7 days to object to the appointed mediator/arbitrator, after which the parties shall be deemed to have agreed to the appointment, and the mediator/arbitrator shall proceed with the reference.
- 2.2 Any objection shall be in writing substantially in the form as set out in **Schedule 4** and addressed to the Society and copied to the appointed mediator/arbitrator and the other party. The written objection shall briefly set out the reasons for the objection.
- 2.3 The Society upon receipt of an objection shall have the discretion to appoint a replacement mediator/arbitrator, or confirm the existing mediator/arbitrator. This shall be communicated to the parties in writing within 7 days from the date of receipt of such rejection.

Rule 3: Submission of Papers

- 3.1 The mediator/arbitrator shall, upon there being no receipt of a written objection, or upon the appointment being confirmed by the Society notwithstanding the objection, issue directions for the submission and exchange of documents by each party.

- 3.2 The documents to be submitted to the mediator/arbitrator, and exchanged with the other party (where necessary and if relevant) are as follows:
- (1) Bundle of Pleadings for trial.
 - (2) Closing submissions filed in the matter by both parties, or in the absence of such closing submissions, opening statements by both parties.
 - (3) A list of the authorities referred to in the course of the proceedings.
 - (4) A copy of the index to the bundle of documents filed by either party at trial.
 - (5) A list of affidavits filed, setting out the length of the text (in pages), the number of exhibits, and the overall number of pages comprising the affidavit.
 - (6) A brief list of the relevant major issues of law and fact at the trial.
 - (7) An estimate of the costs that the claimant is entitled to with brief reasons set out.
 - (8) A list and cost breakdown of disbursements incurred.
 - (9) In the case of a solicitor and client bill, a list of the significant work carried out, and the estimated time taken and time sheets, if any.
- 3.3 The mediator/arbitrator shall be entitled to issue further directions for any other documents required and in any event be entitled to determine the documents required to be submitted.
- 3.4 Should either party fail to comply with the mediator/arbitrator's directions within the stipulated time, the mediator/arbitrator shall be in any event entitled to proceed with the reference. If the mediator/arbitrator does not state a time period for the submission of documents, it shall be 7 days from the issue of the directions.

Rule 4: The Mediation Hearing

- 4.1 The mediator/arbitrator shall upon consultation with the parties, arrange a time and location for the mediation hearing.
- 4.2 In default of any agreement, the mediator/arbitrator shall be entitled to fix a time and location for the mediation hearing. The mediation hearing shall, in the absence of any agreement to the contrary be conducted at the premises of the Society, and rental shall be payable by the parties to the Society at the prevailing rate charged by the Society as set out in **Schedule 5**.
- 4.3 The mediation shall be conducted in confidence, and no formal record or audio-visual recordings shall be made. Only the mediator, the parties and/or their solicitors will be allowed to attend the proceedings.

- 4.4 The mediator/arbitrator shall during the mediation hearing, be entitled to conduct caucuses/private sessions with each party in turn in furtherance of the mediation process.
- 4.5 If a settlement is reached during the mediation hearing, the mediator, parties and/or their solicitors shall reduce the settlement terms into writing, sign the same and file a copy of the Settlement Agreement (substantially in the form as set out in **Schedule 6**) with the Society at the conclusion of the mediation hearing.
- 4.6 If no settlement is reached within a time frame stipulated by the mediator/arbitrator, or at the request of the parties, the mediation hearing shall cease and the mediator/arbitrator will subject to Rule 5 below, continue the proceedings as an arbitrator.

Rule 5: Withdrawal of Mediator

- 5.1 If the mediator/arbitrator is of the view that due to information made available to him in the course of the mediation, there is a real risk that he will not be able to adjudicate the dispute impartially as an arbitrator, he shall be entitled to withdraw from the proceedings and the Society shall appoint a replacement arbitrator to continue with the proceedings as arbitrator.
- 5.2 If no settlement is reached at the mediation hearing, and if one or more of the parties objects to the mediator/arbitrator continuing to act as arbitrator, the provisions of Rules 2.2 and 2.3 shall apply to any such objection. The Society may appoint a replacement arbitrator, if it thinks fit.
- 5.3 Rule 2 shall apply to the appointment of any person appointed as a replacement arbitrator under Rules 5.1 and/or 5.2 above.
- 5.4 Upon the mediator/arbitrator ceasing to act as arbitrator under the provisions of Rules 5.1 or 5.2 above, the mediator/arbitrator shall be entitled to retain 50% of the prescribed fees. The replacement arbitrator shall be entitled to payment of the remaining 50% of the prescribed fees.
- 5.5 Where a replacement arbitrator is appointed pursuant to Rules 5.1 or 5.2 above, Rules 3, 4.1, 4.2, 4.3, 6, 7 and 8 shall, *mutatis mutandis*, apply and the arbitration hearing shall be convened as soon as possible after the appointment.

Rule 6: Arbitration Hearing

- 6.1 Subject to Rule 6.6 below, the reference under Rule 1, if not resolved by mediation, shall continue immediately as an arbitration upon the mediation hearing being terminated. If the arbitrator acted as the mediator who conducted the preceding mediation hearing, the arbitrator shall treat any admissions or concessions or offers made in the course of the mediation hearing as having being made "without prejudice" and shall not take the same or any part thereof into consideration when making an award.
- 6.2 The party claiming costs shall give a statement of the merits of their claim for costs.

- 6.3 The other party shall be entitled to respond to the claimant's statement.
- 6.4 The claimant shall be entitled to reply to the respondent's statement.
- 6.5 The arbitrator shall be entitled to direct that each party confine its statements to a time limit, as well as grant leave for any further responses from either party.
- 6.6 The parties may at anytime before the award is made, mutually agree to terminate the mediation/arbitration, in which event, the mediator/arbitrator shall be entitled to retain 100% of the prescribed fees as well as any additional fees payable.
- 6.7 The parties shall endeavour to complete the hearing of the mediation /arbitration during one sitting not exceeding three (3) hours but may mutually agree to adjourn the hearing to another date and time. In the event that the hearing is adjourned and/or exceeds three (3) hours in duration, the mediator/arbitrator shall be entitled to payment of additional fees (Schedule 2) to be borne equally by the parties.

Rule 7: The Award

- 7.1 The arbitrator shall upon the close of the statements either render an award immediately or within 7 days. This award shall be in writing and signed by the arbitrator. The award shall be in the Form set out at Schedule 7.
- 7.2 The arbitrator shall be entitled to award either a lump sum figure including costs, disbursements, interest, Goods & Services Tax (GST), or award a specific figure in respect of costs, disbursements, interest and GST.
- 7.3 The arbitrator shall be entitled to decide which party should bear the prescribed fees of the arbitration (being fees payable to the Society and to the arbitrator), as well as any additional fees, ancillary costs and disbursements.
- 7.4 The arbitrator shall not be obliged to furnish any reasons (written or otherwise) for the award.
- 7.5 By agreeing to arbitration under these Rules, the parties undertake to carry out the award without delay. Awards shall be final and binding on the parties from the date they are made. Parties agree that the Award shall not be subject to appeal or review to the Courts of the Republic of Singapore or any other body provided always that the arbitrator shall be empowered to correct any clerical and/or computational errors even after the award has been made and perfected.
- 7.6 A copy of the award shall be filed with the Society.

Rule 8: Exclusion of Liability

The mediator/ arbitrator and the Society, including any member of Council or the Secretariat or any committee/sub-committee to whom any power or authority to administer any mediation and/or arbitration under these Rules has been delegated, shall not be liable to the parties for any act or omission in connection with any mediation or arbitration conducted under these Rules.

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