
Appendix 15

Construction Industry Council (CIC) Model Adjudication Procedure: Third Edition

General Principles

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| 1. The object of adjudication is to reach a fair, rapid and inexpensive decision upon a dispute arising under the Contract and this procedure shall be interpreted accordingly. | Object |
| 2. The Adjudicator shall act impartially. | Impartiality |
| 3. The Adjudicator may take the initiative in ascertaining the facts and the law. He may use his own knowledge and experience. The adjudication shall be neither an arbitration nor an expert determination. | The Adjudicator's role |
| 4. The Adjudicator's decision shall be binding until the dispute is finally determined by legal proceedings, by arbitration (if the contract provides for arbitration or the parties otherwise agree to arbitration) or by agreement. | Decision binding in interim |
| 5. The Parties shall implement the Adjudicator's decision without delay whether or not the dispute is to be referred to legal proceedings or arbitration. | Implementation of the decision |

Application

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| 6. If this procedure is incorporated into the Contract by reference, the reference shall be deemed to be to the edition current at the date of the Notice, unless expressly stated otherwise in the Contract. | Application |
| 7. If a conflict arises between this procedure and the Contract, unless the Contract provides otherwise, this procedure shall prevail. | Conflict |

Appointment of the Adjudicator

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| 8. Either Party may give notice at any time of its intention to refer a dispute arising under the Contract to adjudication by giving a written Notice to the other Party. The Notice shall include a brief statement of the issues or issues which it is desired to refer and the redress sought. The referring Party shall send a copy of the Notice to any adjudicator named in the Contract. | Notice of adjudication |
| 9. The object of the procedure in paragraphs 10-14 is to secure the appointment of the Adjudicator and referral of the dispute to him within 7 days of the giving of the Notice. | Time for appointment and referral |
| 10. If an adjudicator is named in the Contract, he shall within 2 days of receiving the Notice indicate whether or not he is willing to act. If no adjudicator is named, or if | Appointment |

the named adjudicator does not indicate that he is willing to act, the referring Party shall request the body stated in the Contract if any, or if none the Construction Industry Council, to nominate an adjudicator within 5 days of receipt of the request. The request shall be in writing, accompanied by a copy of the Notice and the appropriate fee. Alternatively the Parties may, within 2 days of the giving of the Notice, appoint an adjudicator by agreement.

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| Adjudicator unable to act | 11. If, for any reason, the Adjudicator is unwilling to act, or fails to reach his decision within the time required by this procedure, either Party may request the body stated in the Contract if any, or if none the Construction Industry Council, to nominate a replacement adjudicator. No such request may be made after the Adjudicator has notified the Parties that he has reached his decision. |
| Adjudicator's terms and conditions | 12. Unless the Parties and the Adjudicator otherwise agree, the Adjudicator shall be appointed on the terms and conditions set out in the attached Agreement and shall be entitled to a reasonable fee and expenses. |
| Objection to appointment | 13. If a Party objects to the appointment of a particular person as adjudicator, that objection shall not invalidate the Adjudicator's appointment or any decision he may reach. |

Conduct of the Adjudication

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| Statement of case | 14. The referring Party shall send to the Adjudicator within 7 days of the giving of the Notice (or as soon thereafter as the Adjudicator is appointed), and at the same time copy to the other Party, a statement of its case including a copy of the Notice, the Contract, details of the circumstances giving rise to the dispute, the reasons why it is entitled to the redress sought, and the evidence upon which it relies. The statement of case shall be confined to the issues raised in the Notice. |
| Date of referral | 15. The date of referral shall be the date on which the Adjudicator receives this statement of case. |
| Period for decision | 16. The Adjudicator shall reach his decision within 28 days of the date of referral, or such longer period as is agreed by the Parties after the dispute has been referred. The Adjudicator may extend the period of 28 days by up to 14 days with the consent of the referring Party. |
| Procedure | 17. The Adjudicator shall have complete discretion as to how to conduct the adjudication, and shall establish the procedure and timetable, subject to any limitation there may be in the Contract or the Act. He shall not be required to observe any rule of evidence, procedure or otherwise, of any court or tribunal. Without prejudice to the generality of these powers he may: <ol style="list-style-type: none"> (i) request a written response, further argument or counter argument; (ii) request the production of documents or the attendance of people whom he considers could assist; (iii) visit the site; (iv) meet and question the Parties and their representatives; (v) meet the parties separately; (vi) limit the length or time for submission of any statement, response or argument; (vii) proceed with the adjudication and reach a decision even if a Party fails to comply with a request or direction of the Adjudicator; (viii) issue such further directions as he considers to be appropriate. |

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| 18. The Parties shall comply with any request or direction of the Adjudicator in relation to the adjudication. | Parties to comply |
| 19. The Adjudicator may obtain legal or technical advice, provided that he has notified the Parties of his intention first. He shall provide the Parties with copies of any written advice received. | Obtaining advice |
| 20. The Adjudicator shall decide the matters set out in the Notice, together with any other matters which the Parties and the Adjudicator agree shall be within the scope of the adjudication. | Matters to be determined |
| 21. The Adjudicator shall determine the rights and obligations of the Parties in accordance with the law of the Contract. | Adjudicator to apply the law |
| 22. Any Party may at any time ask that additional parties shall be joined in the adjudication. Joinder of additional parties shall be subject to the agreement of the Adjudicator and the existing and additional parties. An additional party shall have the same rights and obligations as the other Parties, unless otherwise agreed by the Adjudicator and the Parties. | Joining third parties |
| 23. The Adjudicator may resign at any time on giving notice in writing to the Parties. | Resignation |

The Decision

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| 24. The Adjudicator shall reach his decision within the time limits in paragraph 16. He shall be required to give reasons unless both Parties agree at any time that he shall not be required to give reasons. | The decision |
| 25. If the adjudicator fails to reach his decision within the time permitted by this procedure, his decision shall nonetheless be effective if reached before the referral of the dispute to any replacement adjudicator under paragraph 11 but not otherwise. If he fails to reach such an effective decision, he shall not be entitled to any fees or expenses (save for the cost of any legal or technical advice subject to the Parties having received such advice). | Late decisions |
| 26. The Adjudicator may open up, review and revise any certificate, decision, direction, instruction, notice, opinion, requirement or valuation made in relation to the Contract. | Power to open up certificates |
| 27. The Adjudicator may in any decision direct the payment of such simple or compound interest from such dates, at such rates and with such rests, as he considers appropriate. | Interest |
| 28. The Adjudicator may, within 5 days of delivery of the decision to the Parties, correct his decision so as to remove any error arising from an accidental error or omission or to clarify or remove any ambiguity. | Correction of errors |
| 29. The Parties shall bear their own costs and expenses incurred in the adjudication. | Costs |
| 30. The Parties shall be jointly and severally liable for the Adjudicator's fees and expenses, including those of any legal or technical adviser appointed under paragraph 19, but the Adjudicator may direct a Party to pay all or part of the fees and expenses. If he makes no such direction, the Parties shall pay them in equal shares. The Party requesting the adjudication shall be liable for the Adjudicator's fees and expenses if the adjudication does not proceed. | Adjudicator's fees and expenses |

- Enforcement** 31. The Parties shall be entitled to the redress set out in the decision and to seek summary enforcement, whether or not the dispute is to be finally determined by legal proceedings or arbitration. No issue decided by the Adjudicator may subsequently be referred for decision by another adjudicator unless so agreed by the Parties.
- Subsequent decision by arbitration or court** 32. In the event that the dispute is referred to legal proceedings or arbitration, the Adjudicator's decision shall not inhibit the right of the court or arbitrator to determine the Parties' rights or obligations as if no adjudication had taken place.
- Adjudicator not to be appointed arbitrator** 33. Unless the Parties agree, the Adjudicator shall not be appointed arbitrator in any subsequent arbitration between the Parties under the Contract. No Party may call the Adjudicator as a witness in any legal proceedings or arbitration concerning the subject matter of the adjudication.
- Immunity of the Adjudicator** 34. The Adjudicator is not liable for anything done or omitted in the discharge or purported discharge of his functions as adjudicator (whether in negligence or otherwise) unless the act or omission is in bad faith, and any employee or agent of the Adjudicator is similarly protected from liability.
- Reliance** 35. The Adjudicator is appointed to determine the dispute or disputes between the Parties and his decision may not be relied upon by third parties, to whom he shall owe no duty of care.
- Proper law** 36. This procedure shall be interpreted in accordance with the law of England and Wales.

Miscellaneous Provisions

Definitions

'Act' means the Housing Grants, Construction and Regeneration Act 1996.

'Adjudicator' means the person named as such in the Contract or appointed in accordance with this procedure.

'Contract' means the contract between the Parties which contains the provision for adjudication.

'Notice' means the notice given under paragraph 8.

'Party' means a party to the Contract, and any additional parties joined under paragraph 22 and 'referring Party' means the Party who gives notice under paragraph 8.

AGREEMENT

This Agreement is made on the day of 20

Between

- 1.
of
..... (the referring Party)
 - 2.
of
..... (the other Party)
- (together called the Parties) and
- 2.
of
..... (the Adjudicator)

A dispute has arisen between the Parties under a contract between them dated ...
in connection with

which has been referred to adjudication in accordance with the CIC Model Adjudication Procedure (the Procedure) and the Adjudicator has been requested to act.

The Parties and the Adjudicator agree that their rights and obligations shall be as set out in and subject to the terms of this Agreement:

- 1. The adjudication shall be conducted in accordance with the Procedure.
- 2. The Parties shall be jointly and severally liable to pay the Adjudicator’s fees and expenses as set out in the schedule below and in accordance with the Procedure.
- 3. The Adjudicator and the Parties shall keep the adjudication confidential, except so far as is necessary to enable a Party to implement or enforce the Adjudicator’s decision.
- 4. The Adjudicator may destroy all documents received during the course of the adjudication six months after delivering his decision, provided that he shall give the parties 14 days notice of his intention to do so and that he shall return the documents to the Parties if they so request.
- 5. The Adjudicator shall not be liable for anything done or omitted in the discharge or purported discharge of his functions as adjudicator (whether in negligence or otherwise) unless the act or omission is in bad faith, and any employee or agent of the Adjudicator shall be similarly protected from liability.
- 6. This Agreement shall be interpreted in accordance with the law of England and Wales.

Schedule

1. The Adjudicator shall be paid £. per hour in respect of all time spent on the adjudication, including travelling time, with a maximum of £. per day.
2. The Adjudicator shall be reimbursed his reasonable expenses and disbursements in respect of the cost of legal or technical advice obtained in accordance with the Procedure, travelling, hotel and similar expenses, room charges and other extraordinary expenses necessarily incurred.
3. The Adjudicator is / is not * currently registered for VAT (where the Adjudicator is registered for VAT, it shall be payable in accordance with the rates current at the date the work is done).

* delete as applicable.

Signed on behalf of the referring Party

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Signed on behalf of the other Party

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Signed on behalf of the Adjudicator

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