

100 Day Arbitration Procedure

*Approved by the Dispute Resolution Board of Engineers Ireland,
19 May 2011*



Preamble

This Arbitration Procedure has been prepared by the Board as a companion document to the Engineers Ireland Arbitration Procedure 2011, and is intended to lead to a rapid resolution of disputes which are amenable to such an approach either because the amounts at stake are relatively small or possibly because of lack of complexity in the issues to be decided. This rapid Procedure is intended to respond to suggestions by the business community, both in this country and abroad, that Arbitration as a dispute resolution process has become unacceptably lengthy and expensive. It does so by requiring the Arbitrator to decide on the substantive issues between the parties within 100 calendar Days of taking on the appointment.

The Engineers Ireland Arbitration Procedure 2000, to be used with the Arbitration Acts 1954 to 1998, already provides for a short Procedure contained within that document. In this instance the Board feels that the use of such a shortened Procedure is likely to be increased where it is available as a separate document, and consequently has adopted that approach, although this document must be read in conjunction with the Arbitration Procedure 2011.

This document will not be produced in hard copy; instead, it will be made freely available on the Engineers Ireland website so that it may be downloaded and used by parties involved in Arbitration. A contribution, as set out on the website, to the costs incurred by Engineers Ireland will be sought where the Procedure is used, without a Presidential appointment, by any person on an Engineers Ireland panel.

The document will be reviewed and updated as required and parties using it are advised to check that they are using the current version. Finally, the Board would welcome comments and suggestions from those using the document

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May 2011

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Rule 1 Aims and objectives

- 1.1 The aim of this Procedure, referred to as the '100-Day Procedure', is to facilitate a rapid determination of a dispute where the matters at issue between the parties lend themselves to and warrant a speedy resolution.
- 1.2 The intention of the 100-Day Procedure is to provide for an interim award by the Arbitrator, dealing with all matters raised in the Arbitration other than costs, within 100 Days of completion of the Arbitrator's appointment.
- 1.3 This 100-Day Procedure is to be read in conjunction with the current Engineers Ireland Arbitration Procedure 2011 (the 'Arbitration Procedure') so that it also applies. The 100-Day Procedure has modified some of the Rules in the Arbitration Procedure, and in the event of a conflict between the two documents, the provisions of the 100-Day Procedure shall prevail.

Rule 2 Application

- 2.1 The 100-Day Procedure shall apply where the parties have agreed on its use.
- 2.2 The 100-Day Procedure has been written for use with disputes dealt with by a sole Arbitrator and involving two parties, i.e., a Claimant and a Respondent. It is intended to be suitable for cases involving a Claim and a Counterclaim, and where the amounts in dispute are not particularly large and the issues are relatively straightforward.
- 2.3 Where the 100-Day Procedure is amended by Engineers Ireland, the version current at the date of the completion of the Arbitrator's appointment shall be used.

Rule 3 Timetable

- 3.1 Prior to acceptance of the appointment, the Arbitrator shall confirm to the parties that the Arbitrator can devote the time necessary to conduct the Arbitration diligently, efficiently and in accordance with the time limits in these Rules.
- 3.2 The Arbitrator's appointment shall be completed as provided for in the Arbitration Procedure and, immediately that has been done, the Arbitrator shall, after consultation with the parties, establish a timetable showing the various steps to be followed in the process leading to the making of an interim award, on all matters raised in the Arbitration apart from costs, within a period of 100 Days.
- 3.3 The 100 Days timetable may not be extended by the Arbitrator unless both parties agree; apart from that, the Arbitrator shall have the power to set and modify the time for each element of the process.
- 3.4 A draft timetable is attached in the Appendix, and this may be used or modified as the Arbitrator sees fit.

Rule 4 Statement of Claim; Counterclaim

- 4.1 Within 28 Days of the completion of the Arbitrator's appointment, or such other time period set by the Arbitrator under Rule 3, the Claimant shall deliver a Statement of Claim to the Respondent and the Arbitrator.
- 4.2 In the event of a Counterclaim, the Respondent shall deliver details of this to the Claimant and the Arbitrator, within the same time period as in Rule 4.1.

- 4.3 A Statement of Claim or Counterclaim shall include the following:
- a) the names and contact details of the party;
 - b) a statement of the facts surrounding the claim;
 - c) the points at issue;
 - d) the relief or remedy sought;
 - e) the legal grounds or arguments supporting the Claim; and,
 - f) all documents and other evidence relied upon.

Rule 5 Statement of Defence

- 5.1 Either party making a Statement of Defence, whether to a Claim or Counterclaim, shall communicate this in writing to the other party and the Arbitrator within the time period set out in the timetable by the Arbitrator.
- 5.2 The Statement of Defence shall respond to the issues raised in the Statement of Claim or Counterclaim, and shall include all documents and other evidence relied upon.

Rule 6 Further information/documentation

- 6.1 Either party may seek further information or additional documentation, at any time, which the Arbitrator deems necessary for the party to know the case it must meet. The Arbitrator shall set out the time for the production of such information/documentation while ensuring that the overall 100 Days timetable is adhered to.

Rule 7 Hearing

- 7.1 Having consulted with the parties, the Arbitrator shall decide if there is to be a hearing and may also fix the place and date of such a hearing. The Arbitrator may also fix the duration of the hearing and allocate the time available between the parties.

- 7.2 In order to expedite matters at the hearing, the Arbitrator may:
- a) limit or specify the number of witnesses and/or Experts to be heard;
 - b) conduct the questioning of witnesses; and,
 - c) require two or more witnesses to give their evidence together.

Rule 8 Interim award

- 8.1 Within 100 Days of the completion of the Arbitrator's appointment, the Arbitrator shall determine all matters, other than costs, raised at the Arbitration, by means of an interim award.
- 8.2 Once the interim award has been made, the Arbitrator shall immediately inform the parties; however, the Arbitrator shall be entitled to withhold the delivery of the interim award to the parties until any outstanding fees due to the Arbitrator have been discharged.
- 8.3 If the interim award is not made within 100 Days, either party may terminate the Arbitration immediately by giving notice in writing, under this Rule, to the Arbitrator and the other party. If the Arbitration is terminated in this manner the Arbitrator shall not be entitled to any fees.
- 8.4 Where the interim award is not made within 100 Days, the parties may only exercise the option to terminate the Arbitration, as provided for in Rule 8.3, prior to the Arbitrator notifying the parties that the interim award has been made; if there is no such termination, the interim award made shall have full force and effect, and shall be binding on the parties.

Rule 9 Costs

- 9.1 After rendering the interim award, the Arbitrator shall deal with costs if requested to do so by either party. This shall be done by means of a final award, having given both parties an opportunity to make submissions.

Appendix

Draft timetable

The following draft timetable is included for consideration by the parties and the Arbitrator when using the 100-Day Procedure. The parties are not obliged to follow this and the Arbitrator, in consultation with the parties, may elect to adopt, ignore or modify the draft timetable as the Arbitrator sees fit.

If adopted by the Arbitrator, after consultation with the parties, the following timetable shall apply with all Days and time periods measured from the completion of the Arbitrator's appointment:

- Within 28 Days: the Claimant, and also the Respondent in the event of a Counterclaim, shall submit its Statement of Claim.

- Within 35 Days: either party may submit a request for further information or specific documentation.

- Within 49 Days: the other party shall respond to the request for information or documentation.

- Within 56 Days: the Respondent, and the Claimant in the event of a Counterclaim, shall submit its Statement of Defence.

- Within 70 Days: both parties shall deliver Expert reports as well as statements from witnesses of fact.

- Within 86 Days: the hearing shall have taken place.

- Within 100 Days: the Arbitrator shall make an interim award dealing with all matters other than costs.