



VICTORIAN BAR

INFORMATION SHEET

COMMERCIAL ARBITRATION APPOINTMENT SERVICE

THE SERVICE

The Victorian Bar offers a service to the legal profession and the public for the independent appointment of barristers as commercial arbitrators.

Upon the request of a party or parties to a dispute, an appointment will be made by the President for the time being of the Victorian Bar Council (President) or his or her delegate of a Member of the Victorian Bar who is experienced in the field of commercial arbitration. In making such appointment, regard will be had to the particular subject matter of the arbitration and the nature and complexity of the dispute. In circumstances where the President has or reasonably believes he or she may have a conflict of interest, the President will appoint a delegate who will perform the appointment function. The President will decline to act as appointor if he or she considers the matter is not a commercial dispute.

For the purposes of making an appointment under this Commercial Arbitration Appointment Service, the President shall have regard to whether a Member of the Victorian Bar has qualifications in the field of commercial arbitration as a member and graded arbitrator pursuant to the rules of the Institute of Arbitrators & Mediators Australia or a Fellow or Chartered Arbitrator pursuant to the rules of the Chartered Institute of Arbitrators. Notwithstanding the above, the President shall retain an overriding discretion to appoint any Member of the Victorian Bar who, in the opinion of the President, has relevant experience, whether or not he or she holds the above qualifications.

A list of Members of the Victorian Bar holding the qualifications, referred to above, is available on the Victorian Bar website. In exercising his or her overriding discretion, the President may appoint a Member who is not on this list.

Unless otherwise agreed by the parties, the service is not intended to prevent the direct engagement by the parties of a Member of the Victorian Bar in any capacity in any form of ADR, including as arbitrator.



MODEL APPOINTMENT CLAUSE

Parties may include in their arbitration agreement a clause that provides for an appointment to be made by the President. A model appointment clause is contained in the Schedule.

AD HOC APPOINTMENT WHERE DISPUTE HAS ALREADY ARISEN

If a dispute has already arisen under a contract where the parties agree that resolution of the dispute shall be by arbitration, the parties may agree that the existing dispute be determined by an arbitrator to be appointed by the President.

REQUEST FOR APPOINTMENT

A request for appointment may be made by application sent by mail (including by email) addressed to the President of the Victorian Bar Council, Owen Dixon Chambers East, 205 William Street, Melbourne 3000. The request should be in letter form and contain the following:

- a) the names, addresses, telephone numbers, fax numbers and email addresses of all parties and their legal advisors (if any);
- b) a copy of the arbitration agreement (or clause if part of a larger contract);
- c) a brief statement of the nature and circumstances of the dispute sufficient to inform the President of the appropriate Members of the Victorian Bar;
- d) the name(s) of any persons on the list of Members of the Victorian Bar from which the appointment will be made who have had prior involvement in the dispute between the parties or grounds which may otherwise disqualify them from accepting the appointment, together with a brief statement of the alleged involvement or grounds; and
- e) a statement that a copy of the request for the appointment has been sent at the same time to all other parties to the dispute

There is no administration fee charged for the appointment service.

A copy of the request must be sent to all other parties to the dispute at the same time as sent to the President.



Enquiries about the Service should be addressed to vicbar@vicbar.com.au

DISCLAIMER

The President, the President's delegate, the Victorian Bar Council, any officer, member, servant or agent thereof, shall not be liable to any party or appointed arbitrator for any act or omission in connection with or liability arising in relation to any appointment or subsequent appointment of an arbitrator.

SCHEDULE

Arbitrator appointment clause

Failing agreement within 14 days after either party has given to the other a written request to agree in the appointment of an arbitrator, upon the application of a party, the dispute shall be determined by an arbitrator to be appointed by the President for the time being of the Victorian Bar Council.