

Rules of Procedure of the Insurance Arbitration Board

Section I. Introductory Rules

Scope of Application

Article 1

These Rules shall govern arbitration procedures of the Insurance Arbitration Board (the Board) except that where any of these Rules is in conflict with a provision of the law as stated in the Arbitration Act Chapter 7:03 that provision shall prevail.

Notice, Calculation of Periods of Time,

Article 2

1 For the purposes of these Rules, any notice, including a notification, communication or proposal, is deemed to have been received if it is physically delivered to the addressee or if it is delivered at his habitual residence, place of business or mailing address, or, if none of these can be found after making reasonable inquiry, then at the addressee's last known residence or place of business. Notice shall be deemed to have been received on the day it is so delivered.

2 For the purposes of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a notice, notification, communication or proposal is received. If the last day of such period is an official holiday or a non-business day at the residence or place of business of the addressee, the period is extended until the first business day which follows. Official holidays or non-business days occurring during the running of the period of time are included in calculating the period.

Initiation of Proceedings

Article 3

An arbitration proceeding under these Rules shall be instituted by the party initiating recourse to arbitration (hereinafter called the "claimant") who shall file with Board a [Submission Agreement](#), a Statement of Claim (as referred to in Article 11), of the controversy in dispute, together with the documents in support of the Claim. Sufficient additional copies of the Submission Agreement and the Statement of Claim and supporting documents (including the Insurance Policy or contract out of which the dispute arises), shall be provided to the Board for each party and each arbitrator. The Statement of Claim shall specify the relevant facts and the remedies sought.

Notice of Arbitration

Notice of Arbitration

Article 4

1. Upon receipt of a Submission Agreement by the claimant, the Board shall give to the other party (hereinafter called the "respondent") a notice of arbitration.
2. The notice of arbitration shall include the following:
 - a. A notice that the dispute has been referred to arbitration;
 - b. The names and addresses of the parties;
 - c. A reference to the Insurance Policy or contract out of or in relation to which the dispute arises;
 - d. The general nature of the claim and an indication of the amount involved, if any;
 - e. The relief or remedy sought;
3. The notice of arbitration shall also include a statement of claim as referred to in Article 11.

Representation and Assistance

Article 5

The parties may be represented or assisted by persons of their choice. The names and addresses of such persons must be communicated in writing to the other party; such communication must specify whether the appointment is being made for purposes of representation or assistance.

Section II. Composition of the Board

Number of Arbitrators

Article 6

There shall be three (3) arbitrators, as specified in section 11 (1) of the Insurance Act, No. 20 of 1998.

Replacement of an Arbitrator

Article 7

- 1 In the event of the death or resignation of an arbitrator during the course of the arbitral proceedings, a substitute arbitrator shall be appointed or chosen pursuant to the provisions of section 11 (1) of the Insurance Act, No. 20 of 1998.
- 2 In the event that an arbitrator fails to act or in the event of the de jure or de facto impossibility of his performing his functions, the procedure in respect of the replacement of an arbitrator provided in the preceding article shall apply.

Repetition of Hearings in the Event of the Replacement of an Arbitrator

Article 8

If under Article 6 an arbitrator is replaced, any prior hearings may be repeated at the discretion of the Board.

Section III. Arbitral Proceedings

General Provisions

Article 9

- 1 Subject to these Rules, the Board may conduct the arbitration in such manner as it considers appropriate, provided that the parties are treated with equality and that at any stage of the proceedings each party is given a full opportunity of presenting his case.
- 2 If either party so requests at any stage of the proceedings, the Board shall hold hearings for the presentation of evidence by witnesses, including expert witnesses, or for oral argument. In the absence of such a request, the Board shall decide whether to hold such hearings or whether the proceedings shall be conducted on the basis of documents and other materials.
- 3 All documents or information supplied to the Board by one party shall at the same time be communicated by that party to the other party.

Place of Arbitration

Article 10

- 1 The place where the arbitration is to be held shall be determined by the Board, having regard to the circumstances of the arbitration.
- 2 The Board may determine the locale of the arbitration and may hear witnesses and hold meetings for consultation among its members at any place it deems appropriate, having regard to the circumstances of the arbitration.
- 3 The Board may meet at any place it deems appropriate for the inspection of goods, other property or documents. The parties shall be given sufficient notice to enable them to be present at such inspection.
- 4 The award shall be made at the place of arbitration.

Statement of Claim

Article 11

1. The statement of claim shall include the following particulars:
 - a. The names and addresses of the parties;
 - b. A statement of the facts supporting the claim;
 - c. The points at issue;
 - d. The relief or remedy sought.
2. The claimant may annex to his statement of claim all documents he deems relevant or may add a reference to the documents or other evidence he will submit.

Statement of Defence

Article 12

- 1 Within a period of time to be determined by the Board, the respondent shall communicate his statement of defence in writing to the claimant and to each of the arbitrators.
- 2 The statement of defence shall reply to the particulars (b), (c) and (d) of the statement of claim (Article 11 para. 2). The respondent may annex to his statement the documents on which he relies for his defence or may add a reference to the documents or other evidence he will submit.

- 3 In his statement of defence, or at a later stage in the arbitral proceedings if the Board decides that the delay was justified under the circumstances, the respondent may make a counterclaim arising out of the same contract or rely on a claim arising out of the same contract for the purpose of a set-off.
- 4 The provisions of Article 11, para. 2 shall apply to a counter-claim and a claim relied on for the purpose of a set-off.

Amendments to the Claim or Defence

Article 13

During the course of arbitral proceedings either party may amend or supplement his claim or defence unless the Board considers it inappropriate to allow such amendment having regard to the delay in making it or prejudice to the other party or any other circumstances. However, a claim may not be amended in such a manner that the amended claim creates a completely new claim than that formerly presented.

Further Written Statements

Article 14

The Board shall decide which further written statements, in addition to the statement of claim and the statement of defence, shall be required from the parties or may be presented by them and shall fix the periods of time for communicating such statements.

Periods of Time

Article 15

The periods of time fixed by the Board for the communication of written statements (including the statement of claim and statement of defence) should not exceed twenty one (21) days. However, the Board may extend the time limits if it concludes that an extension is justified.

Evidence and Hearings (Articles 15 and 16)

Article 16

- 1 Each party shall have the burden of proving the facts relied on to support his claim or defence.
- 2 The Board may, if it considers it appropriate, require a party to deliver to it and to the other party, within such a period of time as the Board shall decide, a summary of the documents and other evidence which that party intends to present in support of the facts in issue set out in his statement of claim or statement of defence.

- 3 At any time during the arbitral proceedings the Board may require the parties to produce documents, exhibits or other evidence within such a period of time as it shall determine.

Article 17

- 1 In the event of an oral hearing, the Board shall give the parties adequate advance notice of the date, time and place thereof.
- 2 If witnesses are to be heard, at least seven (7) days before the hearing each party shall communicate to the Board and to the other party the names and addresses of the witnesses he intends to present, and the subject upon which such witnesses will give their testimony.
- 3 Hearings shall be held in camera. The Board may require the retirement of any witness or witnesses during the testimony of other witnesses. The Board is free to determine the manner in which witnesses are examined.
- 4 Evidence of witnesses may also be presented in the form of written statements signed by them.
- 5 The Board shall determine the admissibility, relevance, materiality and weight of the evidence offered.

Experts

Article 18

- 1 The Board may appoint one or more experts to report to it, in writing, on specific issues to be determined by it. A copy of the expert's terms of reference, established by the Board, shall be communicated to the parties.
- 2 The parties shall give the expert any relevant information or produce for his inspection any relevant documents or goods that he may require of them. Any dispute between a party and such expert as to the relevance of the required information or production shall be referred to the Board for decision.
- 3 Upon receipt of the expert's report, the Board shall communicate a copy of the report to the parties who shall be given the opportunity to express, in writing, their opinion on the report. A party shall be entitled to examine any document on which the expert has relied in his report.
- 4 At the request of either party the expert, after delivery of the report, may be heard at a hearing where the parties shall have the opportunity to be present and to interrogate the expert. At this hearing either party may present expert witnesses in order to testify on the points at issue. The provisions of Article 16 shall be applicable to such proceedings.

Default

Article 19

- 1 If, within the period of time fixed by the Board, the claimant has failed to communicate his claim without showing sufficient cause for such failure, the Board shall issue an order for the termination of the arbitral proceedings. If, within the period of time fixed by the Board, the respondent has failed to communicate his statement of defence without showing sufficient cause for such failure, the Board shall order that the proceedings continue.
- 2 If one of the parties, duly notified under these Rules, fails to appear at a hearing, without showing sufficient cause for such failure, the Board may proceed with the arbitration.
- 3 If one of the parties, duly invited to produce documentary evidence, fails to do so within the established period of time, without showing sufficient cause for such failure, the Board may make the award on the evidence before it.

Closure of Hearings

Article 20

- 1 The Board may inquire of the parties if they have any further proofs to offer or witnesses to be heard or submissions to make and, if there are none, it may declare the hearings closed.
- 2 The Board may, if it considers it necessary owing to exceptional circumstances, decide, on its own motion or upon application of a party, to reopen the hearings at any time before the award is made.

Waiver of Rules

Article 21

A party who knows that any provision of, or requirement under, these Rules has not been complied with and yet proceeds with the arbitration without promptly stating his objection to such non-compliance, shall be deemed to have waived his right to object.

Section IV. The Award

Decisions

Article 22

Any award or other decision of the Board shall be made by a majority of the arbitrators.

Form and Effect of the Award

Article 23

- 1 The award shall be made in writing and shall be final and binding on the parties. The parties shall carry out the award without delay.
- 2 The Board shall state the reasons upon which the award is based, unless the parties have agreed that no reasons are to be given.
- 3 An award shall be signed by the arbitrators and it shall contain the date on which and the place where the award was made. If one of the arbitrators fails to sign, the award shall state the reason for the absence of the signature.
- 4 Copies of the award signed by the arbitrators shall be communicated to the parties by the Board.

Settlement or Other Grounds for Termination

Article 24

- 1 If, before the award is made, the parties agree on a settlement of the dispute, the Board shall either issue an order for the termination of the arbitral proceedings or, if requested by both parties and accepted by the Board, record the settlement in the form of an arbitral award on agreed terms. The Board is not obliged to give reasons for such an award.
- 2 If, before the award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason not mentioned in paragraph 1, the Board shall inform the parties of its intention to issue an order for the termination of the proceedings. The Board shall have the power to issue such an order unless a party raises justifiable grounds for objection.
- 3 Copies of the order for termination of the arbitral proceedings or of the arbitral award on agreed terms, signed by the arbitrators, shall be communicated by the Board to the parties. Where an arbitral award on agreed terms is made, the provisions of Article 23, paragraphs 2 and 4 to 6, shall apply.

Interpretation of the Award

Article 25

- 1 Within ten (10) days after the receipt of the award, either party, with notice to the other party, may request that the Board give an interpretation of the award.
- 2 The interpretation shall be given in writing within thirty (30) days after the receipt of the request. The interpretation shall form part of the award and the provisions of Article 23, paragraphs 2 to 6, shall apply.

Correction of the Award

Article 26

- 1 Within thirty days after the receipt of the award, either party, with notice to the other party, may request the Board to correct in the award any errors in computation, any clerical or typographical errors, or any errors of similar nature. The Board may within thirty (30) days after the communication of the award make such corrections on its own initiative.
- 2 Such corrections shall be in writing, and the provisions of Article 23, paragraphs 2 to 6, shall apply.