

Emergency Arbitrator Appointment Form



This form applies to applications made under Appendix I of the CI Arb Arbitration Rules for emergency measures in cases of extraordinary urgency.

The emergency arbitrator rules shall not apply if either: (i) the parties have concluded their arbitration agreement before 1 December 2015 and the parties have not agreed in writing to 'opt in' to the emergency arbitrator rules; or (ii) the parties have agreed in writing at any time to 'opt out' of the emergency arbitrator rules.

No emergency arbitrator may be appointed after the arbitral tribunal has been constituted.

Please refer to the Guidance Notes which accompany this form at Appendix I.

In the matter of a dispute between the following:

Claimant/First Party*

Address:

Postcode/Zip:

Country:

Telephone:

Email address:

Represented by*

Address:

Postcode/Zip:

Country:

Telephone:

Email address:

Respondent/Second Party*

Address:

Postcode/Zip:

Country:

Telephone:

Email address:

Represented by*

Address:

Postcode/Zip:

Country:

Telephone:

Email address:

*Delete as applicable or add, if necessary, names of other parties or representatives.

DAS Case Reference
(if applicable)

Please provide a statement certifying that all other parties to the arbitration have been notified of this application, or an explanation of the steps taken to notify such parties:

Please provide a description of the parties' dispute, including any currently known claims or counterclaims for the relief:

Amount of claim
(if applicable)

Amount of counterclaim
(if applicable)

Applicant's Preference for the Emergency Arbitration

Place of the emergency proceedings (if any)

Procedural or substantive laws pertaining to the proceedings (if any)

Language of the proceedings (if any)

Please provide a statement as to why the request for emergency relief cannot await the constitution of the arbitral tribunal:

Please provide a statement regarding whether, and if so, why, harm not adequately reparable by an award of damages is likely to result if the measure is not ordered, and such harm substantially outweighs the harm likely to result to the party against whom the measure is directed:

Please provide a statement regarding whether, and if so, why, there is a reasonable possibility that the applicant will succeed on the merits of the claim:

Preference for the Emergency Arbitrator's background and skills

Knowledge/Profession

Experience required as arbitrators (if any)

Professional specialist expertise (if any)

Your application is accepted on the basis that the information you provide is both accurate and complete. The liability of CI Arb and the appointed arbitrator in relation to the appointment may be restricted if the information provided is inaccurate or incomplete.

I, the Applicant, confirm the following:

- An agreement between the parties dated _____ allows for or includes the provision that in the event of a dispute, the CI Arb Arbitration Rules shall apply.
- A copy of the parties' arbitration agreement is attached.
- A copy of the Notice of Arbitration is attached.
- The Notice of Arbitration has been received by the Respondent.
- Any additional information or documents that may contribute to an efficient and fair consideration of the application are attached.
- Any condition precedent to the right of either party to make a unilateral application for the appointment of an emergency arbitrator has been satisfied and particulars of this, if any, are attached.

It is further agreed as a condition of such an appointment:

- To pay the reasonable fees and expenses of the emergency arbitrator;
- To make payment towards such fees and expenses to the bank account, and within the timeframe, directed by the emergency arbitrator;
- To inform the emergency arbitrator and the CI Arb promptly in the event of the settlement of the dispute before any decision is rendered by the emergency arbitrator; and
- That it is acknowledged that the Chartered Institute of Arbitrators is not liable, by reason of having appointed or nominated the emergency arbitrator, for anything done or omitted to be done by the emergency arbitrator in the discharge or purported discharge of his/her functions.

Name:

Date:

Signature:

Capacity:

Fee payment (£1,250 + VAT)

Debit/Credit Card

Please debit my: Visa/Visa Debit MasterCard American Express

Amount:

Issue Number:

Valid From (mm/yy):

Expiry Date (mm/yy):

Name on Card:

Card Number:

Security Number (last three or four digits of number in signature strip on back of card)

Signature:

Date:

Cheque/Bank Draft

Please find enclosed a cheque/bank draft made payable to 'CIArb' for the amount of: £

Bank Transfer

I completed a bank transfer on (dd/mm/yy) for £ (Please attach a copy)

The bank transfer should be made payable to the CIArb, HSBC Bank, 31 Holborn, London EC1N 2HR, England.
Sort code: 40 05 03, Account number: 31288784, International Bank, Account number (IBAN): GB75HBUK40050331288784,
Branch identifier code: HBUKGB4B.

When making payment, please use your surname and member number as the reference code for identification purposes. If this fee is being paid by an individual or company registered in the European Union – including the UK – please state:

Company name:

BusinessVAT number:

Checklist

Please check to ensure the following have been carried out before the form is sent to CIArb:

All sections of the form have been completed.

The correct fee is enclosed (£1,250 + VAT)

You have provided the relevant supporting documentation.

You have signed and dated the form.

Please return the completed form with all the supporting documentation by email, fax or post to:

DAS, CIArb, 12 Bloomsbury Square, London, WCI 2LP, UK

T: +44 (0) 20 7421 7444 | F: +44 (0) (0)20 7900 2899 | E: das@ciarb.org

Appendix I: Guidance Notes on Emergency Arbitrator Applications

1. The procedure to appoint emergency arbitrators has been introduced under the CIArb Arbitration Rules 2015 (the Rules). Pursuant to Article I of Appendix I of the Rules, any party can apply for the appointment of an emergency arbitrator in circumstances of extraordinary urgency, pending the constitution of the tribunal.
2. An emergency arbitrator is a temporary sole arbitrator appointed to deal with an application for emergency relief in circumstances of extraordinary urgency which cannot await the constitution of the arbitral tribunal. An emergency arbitrator's power is limited to decisions on emergency measures and does not extend to any decisions on the merits of the case. It is important to note that the availability of emergency arbitrator provisions under the Rules does not prevent a party from seeking urgent interim relief from the courts.
3. The emergency arbitrator provisions apply automatically to arbitrations where the arbitration agreement was entered into on or after 1 December 2015, unless the parties expressly opt out. If the parties' arbitration agreement has been concluded before 1 December 2015, emergency arbitrator provisions apply only where the parties have agreed in writing to "opt" in to the emergency arbitrator rules.
4. The purpose of these Guidance Notes is to provide guidance to the parties, and to their representatives, on how to apply for the appointment of an emergency arbitrator.
5. Any party requesting an appointment of an emergency arbitrator shall complete the 'Emergency Arbitrator Appointment Form' to which these Guidance Notes are attached.
6. Before an application can be made for the appointment of an emergency arbitrator, the applicant should ensure that:
 - (a) if the parties' arbitration agreement has been entered into before 1 December 2015, the parties have agreed in writing to "opt in" to the emergency arbitrator rules;
 - (b) if the parties' arbitration agreement has been entered into after 1 December 2015, the parties have not agreed in writing at any time to "opt out" of the emergency arbitrator rules;
 - (c) the arbitral tribunal has not yet been constituted;
 - (d) the notice of arbitration has been received by the respondent(s); and
 - (e) circumstances of extraordinary urgency exist that cannot await the constitution of the tribunal.
7. The applicant should ensure that its application to CIArb for the appointment of an emergency arbitrator satisfies all of the requirements of Article I.3 of Appendix I of the Rules before submission.
8. The applicant's completed application form should be sent to CIArb's Dispute Appointment Service (DAS) in duplicate, using any of the means specified on page 4 of the form, together with the appointment fee. If the appointment fee is not paid upon making said application, CIArb shall dismiss the application for emergency relief and inform the parties accordingly. The appointment fee is not refundable.
9. A copy of the completed application form should also be sent to all other parties to the arbitration. The applicant should certify on the application form that all parties have been notified of the application, or should provide an explanation of the steps taken to notify such parties.
10. Upon receipt of the completed application form and the appointment fee, CIArb shall register the case, send an acknowledgement letter to the parties, and take steps to appoint the emergency arbitrator as promptly as possible. DAS shall refer the application, with copies of the notice of arbitration, the arbitration agreement, and any accompanying documents, to the President of CIArb for a decision as to whether the applicant has satisfied the criteria applicable for the appointment of an emergency arbitrator. DAS shall, at the same time, suggest to the President, in no particular order, the names of 3-5 suitable candidates from the Emergency Arbitrator Panel who could fulfil the role of emergency arbitrator if the application is successful, together with copies of those candidates' CVs or online profiles.
11. The candidates put forward to the President as prospective emergency arbitrators will be selected by DAS from a specialist Emergency Arbitrator Panel. The Emergency Arbitrator Panel is comprised of a pool of senior and experienced practitioners, all of whom are trained arbitrators and are listed on CIArb's Presidential Panel of Arbitrators. All individuals who are members of the Emergency Arbitrator Panel will have demonstrated to CIArb that they have a suitable level of knowledge, skills and experience in their discipline, together with a commitment to ongoing personal professional development and to following high ethical and professional standards of conduct.

12. In the event that the President of CI Arb is unable to make a decision on whether an emergency arbitrator should be appointed, or is conflicted, a decision will be made by the Deputy President of CI Arb.

13. DAS shall notify the parties of the President's decision as to whether an emergency arbitrator should or should not be appointed, once his decision has been made. The President is not obliged to give reasons for his decision.

14. An emergency arbitrator shall not be appointed if the application fails to demonstrate that the parties have agreed to adopt the emergency arbitrator rules to their dispute, or if the applicant fails to demonstrate that an emergency arbitrator should be appointed.

15. If the application is successful, the President of CI Arb shall rank the list of prospective candidates identified by DAS, in order of preference, removing any candidates to which he objects. The President may also suggest candidates of his own accord, although this is uncommon in practice.

16. DAS shall approach all of the candidates on the President's ranked list simultaneously, to establish whether they would be willing and able to accept appointment, and are conflict free. The candidates will be sent a dossier of the case, containing a copy of the application, the notice of arbitration, and any relevant accompanying documents.

17. If a candidate can accept the appointment, they are required to sign and return to DAS a written declaration confirming inter alia their independence and impartiality, and that they are conflict free.

18. A candidate must disclose in their declaration any circumstance that might be of such a nature as to call into question their independence in the eyes of any of the parties or give rise to reasonable doubts as to their impartiality. Any doubt must be resolved in favour of disclosure. Furthermore, if the candidate or their firm has or has had any involvement, interest or relationship with either party to the dispute, this must be disclosed in their declaration.

19. A disclosure does not necessarily imply the existence of a conflict and may not automatically be an impediment to that candidate's appointment. A candidate who makes a disclosure may still consider themselves to be impartial and independent, notwithstanding the disclosed facts. Any disclosure made by a candidate may be referred to CI Arb's President for consideration before appointment, if warranted in the circumstances.

20. The duty to disclose is ongoing and will therefore also apply after the emergency arbitrator has been appointed.

21. The highest ranked candidate on the President's list to return their signed declaration to DAS, confirming inter alia that they are willing and able to accept the appointment, and are conflict free, will be appointed.

22. CI Arb shall endeavour to appoint the emergency arbitrator within 2 business days of receipt of the application and the appointment fee. Once the formalities for the appointment of the emergency arbitrator have been completed, the parties will be notified of the appointment by DAS. DAS shall provide to the parties a copy of the emergency arbitrator's contact details, CV, and a copy of their written declaration of independence and impartiality. DAS shall also contemporaneously provide to the emergency arbitrator and to the other parties complete copies of the applicant's application for emergency relief and the notice of arbitration, to the extent that such notice has not been communicated to those parties.

23. The parties have 1 business day from their receipt of the emergency arbitrator's written declaration of independence and impartiality and/or any disclosures, in which to challenge the appointment of the emergency arbitrator. Any such challenge shall be made with reference to Article 12 of the Rules, which sets out the basis upon which a challenge may be made, and in accordance with Article 3 of Appendix I of the Rules and the Guidance Notes found in Appendix I of CI Arb's 'Challenge Application form'.

24. Upon the appointment of an emergency arbitrator:

(a) the emergency arbitrator shall inform the applicant as to how they propose to determine their fees and expenses, including any rates they intend to apply. The emergency arbitrator shall also specify a payment on a bank account to be made by the applicant, with an explanation as to the basis upon which this amount has been calculated, and shall indicate the period of time within which the payment should be made. If such a payment is not made in full and within the specified period of time the emergency arbitrator may dismiss the emergency proceedings;

(b) the applicant shall forthwith communicate with the remaining parties for the purpose of attempting to reach an agreement regarding the emergency application, and the parties shall jointly report to the emergency arbitrator the results of any such communications between or among the parties.

25. The emergency arbitrator, if possible in cooperation with the parties, shall, as soon as possible and preferably within 2 days of being appointed, establish a schedule for the conduct of the emergency proceedings. The proceedings will be conducted in any manner the emergency arbitrator determines to be appropriate under the circumstances, including through a hearing by telephonic or electronic communication.

26. The emergency arbitrator shall endeavour to decide the issues raised in the application as soon as possible and preferably no later than 15 days following the emergency arbitrator's appointment (unless this deadline is extended in exceptional circumstances or by the written agreement of all parties). The decision shall be given with reasons.

27. If the arbitral tribunal is constituted at any time before the emergency arbitrator's decision is rendered, the emergency arbitrator's power to act shall cease immediately.

28. At the end of the proceedings, the emergency arbitrator shall render an accounting of the fees and expenses incurred, and return any unexpended balance to the applicant.

29. Liability for the costs associated with the application for emergency relief and the emergency proceedings will be decided by the emergency arbitrator in his order or award, subject to the authority of the arbitral tribunal to make a final determination and apportionment of such costs.

30. Any order or award issued by the emergency arbitrator, including an award of costs, may be modified or confirmed by the arbitral tribunal, and, in the absence of such a modification or confirmation, shall automatically expire and no longer be in effect 15 days following the constitution of the arbitral tribunal. Such an order or award also shall also immediately expire if any of the circumstances set out in Article 6.9 of Appendix I of the Rules apply.

31. Should the parties have any questions regarding the procedure relating to the appointment of an emergency arbitrator, they may contact the DAS team by email to das@ciarb.org or by phone on +44 (0)20 7421 7444/7455. Please note, however, that the DAS team is unable to engage in any unilateral correspondence or conversations with parties about issues of substance, or provide any party with legal advice.