

## Commentary on the LMAA Terms 2012

This new revision of the LMAA Terms, the LMAA Terms 2012, applies to all references commenced on or after 1 January 2012. It is designed to meet needs which have become apparent since the Terms were last revised in 2006.

Paragraph 8(a) introduces a provision that the tribunal will be deemed to be a three person tribunal if the arbitration agreement is silent as to the number and method of appointment of arbitrators. This will avoid the need to apply to court for the appointment of an arbitrator in such cases avoiding wasted time and cost.

Paragraph 10 now explicitly reserves to the arbitrators the discretion as to how to deal with new issues raised after commencement of the proceedings. This is intended to deal particularly with cases where parties seek to introduce new issues at a late stage in the reference. This should be distinguished from a new “dispute” which cannot be disallowed provided it is within the jurisdiction of the tribunal (although the tribunal can postpone the resolution of the new dispute to avoid a delay to the resolution of the dispute(s) first raised).

Paragraph 12(a) makes it clear that the tribunal will be the arbiter in deciding on the procedure for the arbitration, although the provisions of the second schedule provide guidance as to the usual procedure which will be followed.

Paragraph 20 includes a non-mandatory provision whereby arbitrators should seek to give an estimate of the time expected to produce an award when requested to do so at the end of a hearing.

Paragraph 28 required final submissions as to costs to be made not later than 3 months after the end of an award.

Under paragraph (B) of the first schedule a party may request an arbitrator to render an account of his fees at intervals (not however more frequently than every 3 months).

The procedure in the second schedule has been revised and renumbered. The most significant revisions are:

- The requirement for permission of the tribunal for service of formal pleadings has been deleted;
- Normally claim submissions should be served within 28 days of a notice of arbitration being given;
- Parties and their lawyers should refrain from copying to the tribunal routine correspondence between them.

Paragraph 10 of the questionnaire requires the parties to give consideration to the limiting of experts' reports. Paragraph 17 requires a statement of any orders sought from the tribunal.

The checklist formerly set out in the third Schedule has been removed but will be published on the LMAA website in revised form as an advisory document, focussing on the most effective way of presenting the case to the tribunal.