

COMMENTARY ON THE LMAA SMALL CLAIMS PROCEDURE

Generally: Having regard to the limits on costs and fees and the nature of this Procedure, it is not appropriate for partial final awards which leave aspects of disputes unresolved. Therefore any award made under this Procedure should, save in the most exceptional cases, finally dispose of all issues referred, including costs (as to which see the commentary below on paragraph 8).

1. *Paragraph 1(b)*: The wording has been amended to make clear that, where an arbitrator retains jurisdiction, in circumstances in which a demand is made for a claim and counterclaim to be dealt with under the Terms or the Intermediate Claims Procedure rather than under this Procedure, the arbitrator is to continue as a sole arbitrator.
2. *Paragraph 3(b)*: There has been some uncertainty in the past as to the effect of a party failing to pay the Small Claims fee within the time limit specified in Paragraph 2(a). The revised wording makes it clear that the proceedings may not be continued until the fee is paid.
3. *Paragraph 3(d)*: This paragraph has been revised in order to clarify the circumstances in which an arbitrator may retain an amount from the Small Claims fee, to compensate for services rendered, when an award is not produced.
4. *Paragraph 5(g)*: This paragraph clarifies the regime as to the granting of extensions of time under the Small Claims Procedure. The wording has also been revised to indicate that, in a situation where the tribunal is proceeding following a default by one of the parties, the tribunal has a discretion to permit or require the party not in default to provide further material to the tribunal.
5. *Paragraph 7*: There have been differences of view in the past as to whether, under the Small Claims Procedure, arbitrators should be producing awards containing reasons. The revised wording makes clear that reasoned awards should be produced (unless the parties agree otherwise), but that the exclusion of the right of appeal, provided by paragraph 4 of the Small Claims Procedure, remains applicable to all such awards. As a matter of practice, it is suggested that tribunal should, within the award, state expressly that, pursuant to paragraph 4 of the Procedure, rights of appeal have been excluded. Provision has also now been made for the correction of awards produced under the Small Claims Procedure.
6. *Paragraph 8*: Arbitrators and parties have adopted different practices in the past under the Small Claims Procedure as to submissions on costs, and as to whether a costs award should be issued following the main award. Wherever possible, there should be one award under the Procedure, which deals with any relevant rulings as to costs, rather than a separate, second costs award. With this point in mind, the wording of paragraph 8 has been revised so as to provide for any breakdowns or explanations regarding costs (limited to 500 words) to be provided within 7 days of service of the last submission under the Procedure.

7. *Paragraph 9(a)*: Provisions incorporated from the LMAA Terms have been revised, to take account of the point that reasoned awards are to be produced under the Small Claims Procedure.
8. *Paragraphs 9(b) - (d)*: The wording has been modified to clarify that, where an arbitrator retains jurisdiction under these paragraphs, the arbitrator continues to act as a sole arbitrator.