

ARBITRATORS' AND MEDIATORS' INSTITUTE OF NEW ZEALAND INC ("AMINZ")

AMINZ Court of Arbitration and Arbitration Appeal Tribunal

SCHEDULE OF FEES, COSTS AND EXPENSES

Adopted
AMINZ Council
27 May 2009



SCHEDULE OF FEES, COSTS AND EXPENSES

1 APPOINTMENT FEE

- 1.1 As per Appendix A to this Schedule (non-refundable and payable with notice of appeal).
- 1.2 The appointment fee is payable for all time spent by the Registrar and the Secretariat in the appointment of the Arbitration Appeal Tribunal (“the Tribunal”).

2 MANAGEMENT FEE

- 2.1 As per Appendix B to this Schedule (payable within 14 days of receipt of tax invoice).
- 2.2 The management fee is payable for all time spent by the Registrar, the Secretariat and the AMINZ Court in the management and administration of the appeal including:
 - Management of all the financial aspects of the appeal including the collection of deposits, the monitoring of time spent by the Tribunal on the case, the processing of the Tribunal’s tax invoices, and generally keeping the accounts between the parties and the Tribunal;
 - Monitoring, managing and supervising the progress of the case;
 - Performing all the duties and functions which the AMINZ Court is required by the AMINZ Arbitration Appeal Rules to perform in the course of the case including scrutiny of the award;
 - Arranging the logistics, facilities and services for the hearing;
 - Attending to all other clerical and administrative services, including the release of the award.
- 2.3 The parties shall be jointly and severally liable to AMINZ for the management fee.

3 EXPENSES AND DISBURSEMENTS

- 3.1 The usage costs of facilities and support services for and in connection with the hearing (for example, hearing rooms and equipment, transcription and interpretation services, etc).
- 3.2 Disbursements and out-of-pocket expenses for items such as toll calls, facsimile charges, postage, photocopying, etc.
- 3.3 Any dispute regarding expenses and disbursements shall be determined by the AMINZ Court. The parties shall be jointly and severally liable to AMINZ for all expenses and disbursements.

4 FEES AND EXPENSES OF THE TRIBUNAL

- 4.1 The Tribunal's fees will be calculated by reference to work done by its members in connection with the appeal and will be charged at rates appropriate to the particular circumstances of the case, including its complexity and any special qualifications of the arbitrators.
- 4.2 The Tribunal shall agree in writing upon fee rates conforming to this Schedule prior to its appointment by the AMINZ Court. The rates will be advised by the Registrar to the parties at the time of the appointment of the Tribunal.
- 4.3 The fee rate shall be within the range from \$200 to \$500 per hour. However, in exceptional cases, the rate may be higher or lower, provided that, in such cases, (a) the fees of the Tribunal shall be fixed by the AMINZ Court on the recommendation of the Registrar, following consultations with the members of the Tribunal and (b) the fees shall be agreed expressly by all parties.
- 4.4 The Tribunal's fees may include a charge for time spent travelling.
- 4.5 The Tribunal's fees may also include a charge for time reserved but not used as a result of late postponement or cancellation, provided that the basis for such charge shall be advised in writing to, and approved by, the AMINZ Court.

- 4.6 The Tribunal may also recover such expenses as are reasonably incurred in connection with the appeal, and as are in a reasonable amount, provided that claims for expenses should be supported by invoices or receipts.
- 4.7 In the event of the revocation of the appointment of any member of the Tribunal , pursuant to the provisions of Rule 7 of the AMINZ Arbitration Appeal Rules , the AMINZ Court shall decide upon the amount of fees and expenses to be paid for the former member's services (if any) as it may consider appropriate in all the circumstances.
- 4.8 Any request by a member of the Tribunal for payment on account of his or her fees shall be supported by a fee note which shall include, or be accompanied by, details of the time spent at the rates that have been advised to the parties by the AMINZ Court.
- 4.9 Any dispute regarding the fees and expenses of any member of the Tribunal shall be determined by the AMINZ Court. The parties shall be jointly and severally liable to the Tribunal and AMINZ for the fees and expenses of the Tribunal.

5. APPEAL AND LEGAL COSTS

- 5.1 The costs of the appeal (other than the legal or other costs incurred by the parties themselves) shall be determined by the AMINZ Court in accordance with this Schedule. The parties shall be jointly and severally liable to the Tribunal and AMINZ for the costs of the appeal.
- 5.2 The Tribunal shall specify in the award the total amount of the costs of the appeal as determined by the AMINZ Court. Unless the parties agree otherwise in writing, the Tribunal shall determine the proportions in which the parties shall bear all or part of such appeal costs. If the Tribunal has determined that all or any part of the appeal costs shall be borne by a party other than a party which has already paid them to AMINZ, the latter party shall have the right to recover the appropriate amount from the former party.
- 5.3 The Tribunal shall also have the power to order in its award that all or part of the legal or other costs incurred by a party be paid by another party, unless no party claims costs or the parties agree otherwise in writing. The Tribunal shall determine and fix

the amount of each item comprising such costs on such reasonable basis as it thinks fit.

- 5.4 Unless the parties otherwise agree in writing, the Tribunal shall make its order on both appeal and legal costs on the general principle that costs should reflect the parties' relative success in the appeal and failure in the appeal, except where it appears to the Tribunal that in the particular circumstances this general approach is inappropriate. Any order for costs shall be made with reasons in the award containing such order.
- 5.5 If the appeal is abandoned, suspended or concluded, by agreement or otherwise, before the final award is made, the parties shall remain jointly and severally liable to pay to AMINZ and the Tribunal the costs of the appeal as determined by the AMINZ Court in accordance with this Schedule of Fees and Costs. In the event that such appeal costs are less than the deposits made by the parties, there shall be a refund by AMINZ in such proportion as the parties may agree in writing, or failing such agreement, in the same proportions as the deposits were made by the parties to AMINZ.

6 DEPOSITS AND FEES PAID IN ADVANCE

- 6.1 The AMINZ Court may direct the parties, in such proportions as it thinks appropriate, to make one or several interim or final payments on account of the costs of the appeal.
- 6.2 All such payments shall be made to AMINZ and deposited on an interest-bearing basis in the AMINZ Trust Account. As the appeal progresses, such deposits may be released by the Registrar to the Tribunal and AMINZ as directed by the AMINZ Court.
- 6.3 The Tribunal shall not proceed with the appeal without ascertaining at all times from the Registrar that AMINZ is in requisite funds.
- 6.4 In the event that an appellant fails or refuses to provide any deposit as directed by the AMINZ Tribunal, the AMINZ Tribunal may direct the other party or parties to effect a substitute payment to allow the appeal to proceed (subject to any award on costs). In such circumstances, the party paying the substitute payment shall be entitled to

recover that amount as a sum certain and a debt immediately due from the defaulting party.

- 6.5 Failure by an appellant to provide promptly and in full the required deposit may be treated by the AMINZ Court and the Tribunal as a withdrawal of the appeal.
- 6.6 Should any balance of such deposits remain in the AMINZ Trust Account at the conclusion of the appeal after payment of all costs of the appeal, then such balance shall be paid out by the Registrar as directed by the AMINZ Court.

AMINZ
P O Box 1477
Wellington 6140
New Zealand
www.aminz.org.nz

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APPENDIX A

Appointment Fees for Domestic Appeals

Amount in issue	1 Arbitrator	3 Arbitrators
Up to \$250,000	\$500	\$750
\$250,001 - \$1,000,000	\$750	\$1,000
\$1,000,001 - \$5,000,000	\$1,000	\$1,500
\$5,000,001 and above	\$1,500	\$2,000

Appointment Fees for International Appeals

Amount in issue	1 Arbitrator	3 Arbitrators
Up to \$250,000	\$1,000	\$1,500
\$250,001 - \$1,000,000	\$1,500	\$2,000
\$1,000,001 - \$5,000,000	\$2,000	\$3,000
\$5,000,001 and above	\$3,000	\$5,000

Appointment fees are liable for Goods and Services Tax (currently 12.5%).

APPENDIX B

Management Fees for Domestic Appeals

Amount in issue	Management fees
Minimum	\$1,750
Up to \$250,000	\$1,750
\$250,001 - \$1,000,000	\$1,750 + 0.2% of excess over \$250,000
\$1,000,001 - \$5,000,000	\$3,350 + 0.1% of excess over \$1,000,000
\$5,000,001 and above	\$7,350 + 0.05% of excess over \$5,000,000
Maximum	\$12,500

Management Fees for International Appeals

Amount in issue	Management fees
Minimum	\$2,500
Up to \$250,000	\$2,500
\$250,001 - \$1,000,000	\$2,500 + 0.4% of excess over \$250,000
\$1,000,001 - \$5,000,000	\$5,700 + 0.2% of excess over \$1,000,000
\$5,000,001 and above	\$13,700 + 0.1% of excess over \$5,000,000
Maximum	\$25,000

Management fees are liable for Goods and Services Tax (currently 12.5%).