



ADJUDICATION CONVERSION COURSE

Course Description

BACKGROUND

The Construction Contracts Act 2013 was signed into law by the President on 29 July 2013 and is likely to come into effect in 2014/2015. This Act provides for statutory adjudication of construction payment disputes and is thus very likely to bring about significant change in how construction disputes are dealt with in this country.

While Section 6 of the Act provides some detail of how adjudication is to be carried out Section 9 of the same Act provides for the publication of a Code of Practice governing adjudications. It is understood the Minister has prepared such a document essentially to provide a detailed procedure to be followed in adjudications. In addition Section 8 of the Act says the Minister will select a Panel of Adjudicators based on *“their experience and expertise in dispute resolution procedures under Construction Contracts.”*

The professional bodies listed above engaged in the production of a joint proposal to the Minister on the Code of Practice and they are also involved in submissions on the selection and organisation of the Ministerial Panel of Adjudicators. In addition some of the bodies have engaged with a number of academic institutions in order to provide for postgraduate training in adjudication starting in 2014.

CONVERSION COURSE

There is very little experience of adjudication in this country where for some twenty years the standard approach has been conciliation followed by arbitration with some recent growth in mediation. This means that, although there are few experienced adjudicators in this country, there are persons with training and significant experience of dealing with construction disputes either as arbitrators/conciliators or as party legal representatives, who should, with appropriate training, be able to conduct adjudications.

The purpose of this conversion course, which includes an assessment, is to provide those who already have training and significant experience of dealing with construction disputes as set out above with intensive training to prepare them to act as adjudicators when the new Act comes into effect. The course must be seen as running in parallel with postgraduate academic training in adjudication geared towards persons without the requisite training in and experience of arbitration/conciliation. The first such conversion course was run in December 2013 to February 2014 and it is now proposed to repeat that course starting in September 2014.

Participants who are successful in the conversion course assessments and who are already qualified as FCI Arb will receive a CI Arb certificate awarding them the title *“Accredited Adjudicator (Republic of Ireland)”*. It is also intended that all participants who successfully

pass the course should be suitable for inclusion in the Ministerial Panel of Adjudicators as provided for in Section 8 of the Construction Contracts Act 2013. However, since the criteria for inclusion in the ministerial panel have not yet been established, successful completion of this conversion course is no guarantee of inclusion on such a panel; equally the Ministerial criteria may not require successful attendance at such a course.

ADMISSION TO COURSE

Admission to the conversion course will be limited to those applicants who satisfy the following criteria:

- Satisfy the requirements of section 8(6) of the Act.
- Have a minimum of ten years' experience, after admission to one of the section 8(6) professional bodies, in dealing with Construction Contracts.
- Have a good working knowledge of the Forms of Contract used in the Irish Construction Industry, including the Suite of Public Works Contracts published by the Department of Public Expenditure & Reform.
- Have a postgraduate qualification in Legal Studies, preferably related to Dispute Resolution, and including the Law of Contract, Tort and Evidence. (The Diploma in Arbitration awarded by UCD and Diploma Course in Construction Law and Contract Administration awarded by TCD are examples of such recognised postgraduate qualifications). Qualified Barristers and Solicitors will be deemed to satisfy this requirement.
- Be FCI Arb, or as an alternative, satisfy all the requirements for that qualification or be a practising Solicitor or Barrister with significant experience of construction disputes.
- Be able to demonstrate a capacity to deal with and manage construction disputes referred to arbitration/conciliation and to produce clearly written reasoned determinations which are compelling and cogent. It is for applicants to establish this and in order to do so will forward with their application samples of such determinations made by them (all suitably redacted to protect the parties) for consideration by the Course Admittance Panel. Construction lawyers may establish this by the provision, in redacted form, of appropriate submissions or pleadings drafted by them.

Applicants to attend the course will be assessed by a panel comprised of Peter Aeberli, the Course Director, Tim Bouchier-Hayes, the Assistant Course Director, Ciaran Fahy, the Chairman of the Dispute Resolution Board at Engineers Ireland and former Chairman of the CI Arb Irish Branch, and Mark Sanfey SC, Chairman of the Construction Bar Association. Applications will be assessed on a merit basis and applicants who do not meet the required criteria will not be admitted as they would be unlikely to benefit from the course and pass the assessments. An unsuccessful applicant may appeal, subject to payment of a fee of €200 refundable in the event of success. That appeal will be decided by Anthony Hussey who is a member of the ADR Committee of the Law Society and of the Dispute Resolution Board at Engineers Ireland.

RUNNING OF THE COURSE

Details of the course content, structure and programme as prepared by the Course Director are provided to applicants via a link at the end of this document. The conversion course will run over four weekends with the first two allocated to training while the final one will be an assessment, comprising three components: a written assessment, a workshop assessment and

a decision writing assessment. In addition the third weekend will comprise a Saturday dedicated to the writing of determinations. The course will be run at the premises of Engineers Ireland, 22 Clyde Road, Ballsbridge, Dublin 4 and will take place on:

- **Friday/Saturday 19/20 September 2014**
- **Friday/Saturday 10/11 October 2014**
- **Saturday 8 November 2014**
- **Friday/Saturday 12/13 December 2014**

It is intended that the maximum number attending the course will be 25 persons.

ASSESSMENT

At the end of the course the assessment will be carried out by members of the faculty but will be subject to review by an external moderator, Mr Chris Dancaster, who has been appointed by the CI Arb after consultation with the course steering group and the Course Director.

A candidate who fails to pass one or more of the assessment components will be permitted to repeat the component once only. There will be a non-refundable fee of €1,000 to cover the costs associated with the organisation of repeat assessments.

An unsuccessful candidate will be able to seek either an administrative check or an appeal which will be handled directly by CI Arb in accordance with its Appeals Procedures. The cost of an appeal is currently £375 sterling plus VAT.

COST OF COURSE

The cost of the course is €2,650 to cover tuition, course documentation, refreshments and meals. This fee is payable with the application and will be returned immediately to unsuccessful applicants.

In the event of cancellation by a successful applicant 50% of the fee will be refunded for cancellations advised up to seven days before the start of the course; thereafter no refund will be made.

APPLICATION FOR THE COURSE

Application for the course should be made using the following [application form](#) and should be submitted with all backup documentation electronically to the Course Administrator, Sandra Campbell c/o RIAI, 8 Merrion Square, Dublin 2 and at scampbell@riai.ie no later than 5:00pm on Friday 1st August 2014

FULL COURSE DESCRIPTION AND PROGRAMME

Download the [Adjudication Conversion Course Introduction for Participants and Course Programme](#) as prepared by the Course Director, Peter Aeberli.