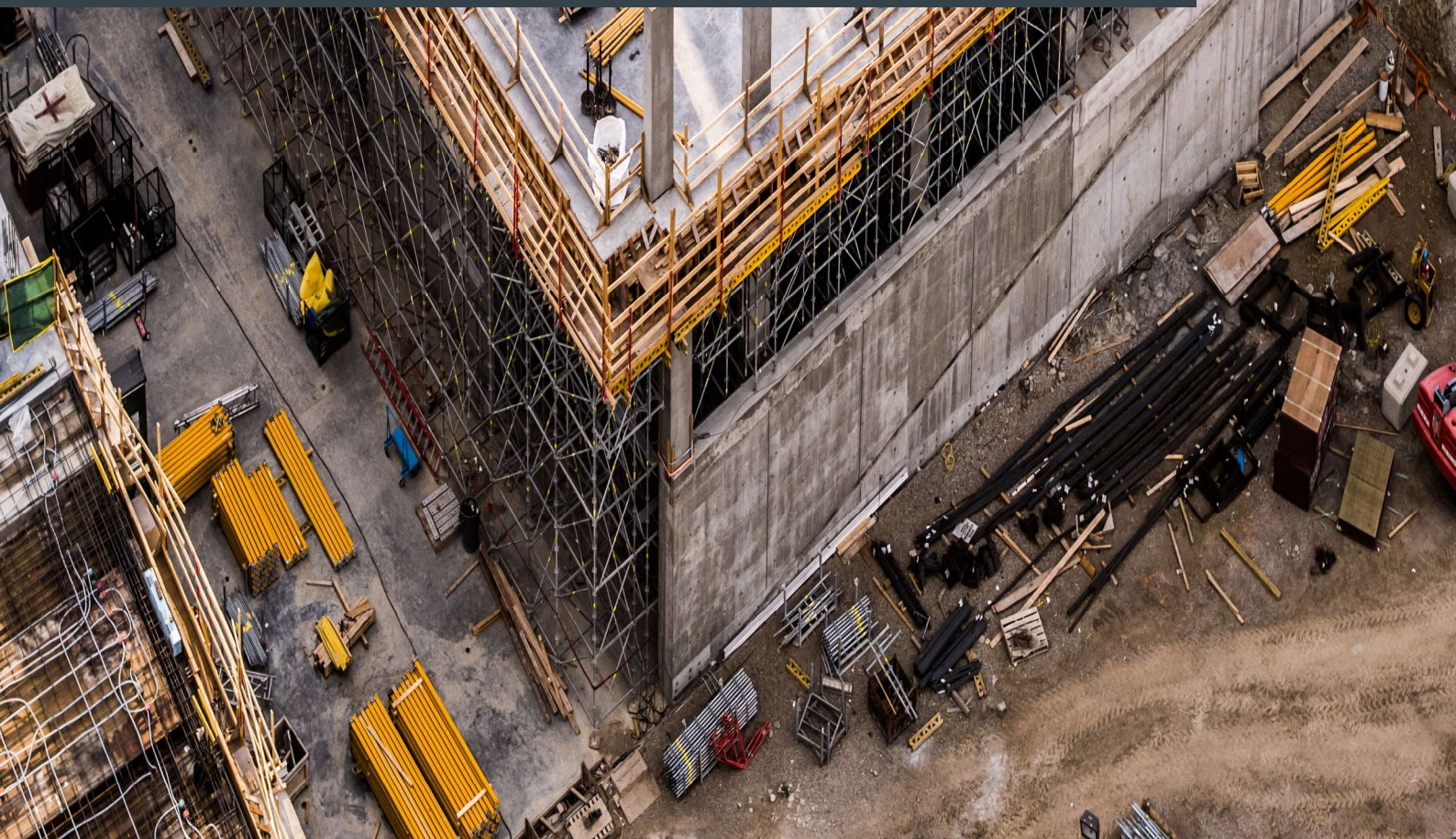


DISPUTE RESOLUTION SERVICE



# India Arbitration Service



# Introduction and history

RICS was founded in 1868. It is an international professional Royal Charter Institution which regulates its members across a wide range of sectors including construction, infrastructure, and the built environment.

The RICS Dispute Resolution Service (DRS) is the world's oldest and largest provider of alternative dispute resolution services in the land, property and construction industries, with over 45 years' experience in appointing high calibre arbitrators, adjudicators, independent experts, mediators and other dispute resolvers.

RICS arbitrators are renowned for their quality, impartiality, independence, practicality, and market expertise. They are trained and assessed in the law and practice of arbitration and how to discharge the role of arbitrator to the highest professional standard. They are also subject to a regular and rigorous reassessments regime which ensures their delivery of arbitration services to the highest international standards.



## Development of the RICS India Arbitration Service

India has amended its arbitration legislation to provide an extraordinary and unique opportunity for professionals working in the construction, infrastructure, engineering, and built environment sectors to take arbitration back to what it was originally intended to be - a relatively **quick, cost effective** and **sector-specific** mechanism for resolving disputes within the construction industry.

This allows for arbitration to be driven and provided by eminent practitioners in the industry who have been fully trained to act as an arbitrator. This addresses serious concerns in India and around the world that arbitration has become the sole preserve of the legal profession which is at odds with why arbitration was developed internationally in the first place.

RICS, in partnership with [Link Legal Legal Services](#), has developed an arbitration service specifically for the India construction and infrastructure sector which, in addition to bringing real sector-specific expertise and experience to the process, embraces the three primary principles of arbitration:

- i. fairness, impartiality and the avoidance of unnecessary delay or expense,
- ii. the promotion of party autonomy to resolve disputes as they see fit, and
- iii. limits on court intervention in the arbitral process

## RICS India Arbitration Service Panel

RICS has established a panel of qualified arbitrators made up of senior professionals drawn from the upper echelons of the Indian property, construction, and the built environment sectors. They have been joined by several retired judges from the Indian High Court and elite arbitrators from the RICS International Panel of Arbitrators. Altogether the RICS India Arbitration Service Panel brings to India an unparalleled blend of local and international construction sector and legal experience and expertise.

## RICS India Arbitration Service Appointments

Upon application, RICS will appoint one or more arbitrators to deal with a dispute.

RICS has appointed arbitrators exclusively to cases in the built environment for nearly fifty years, making a quarter of a million appointments in that time. RICS employs a long-established and robust administrative process for appointing arbitrators. Our priority is to identify the most appropriate person/s to deal with the particular case, i.e., an arbitrator who is suitable qualified, is free from conflicts of interest, has appropriate PI insurance, and, critically, has the right skills, knowledge and experience to deal with the matter in dispute.

All RICS appointments are made formally by the President of the Royal Institution of Chartered Surveyors whose powers are delegated to the RICS Dispute Resolution Service (DRS) by its Governing Council. The DRS international appointments team is based at the RICS Head Office in the UK.

When making appointments, DRS considers a wide range of factors: including the parties to the case, the subject project or property, the nature of the dispute and its complexity, and the amount of monies at issue. RICS will also take into consideration the geographical location of the project, business or subject property and of the parties, as well as language preferences and/or other specific requests or matters raised by the parties.



## RICS India Arbitration Service Law and Rules

RICS intends this service to be used primarily for domestic arbitrations where both parties are domiciled in India, but international arbitrations can also be accommodated.

Unless the parties request otherwise, RICS arbitrations are conducted in accordance with the Indian Arbitration Act 1996 as amended. Where necessary, the Act will be supplemented by the [UK Construction Industry Model Arbitration Rules \(CIMAR Rules\)](#), amended appropriately to reference the Indian Arbitration Act, and underpinned by the latest [RICS Guidance Note Surveyors Acting as Arbitrators in Construction Disputes](#).

# Choice of Procedure

RICS offers a simple, easy to access arbitration service. Parties can choose from three forms of arbitration procedure, underpinned by the internationally recognised CIMAR Rules:

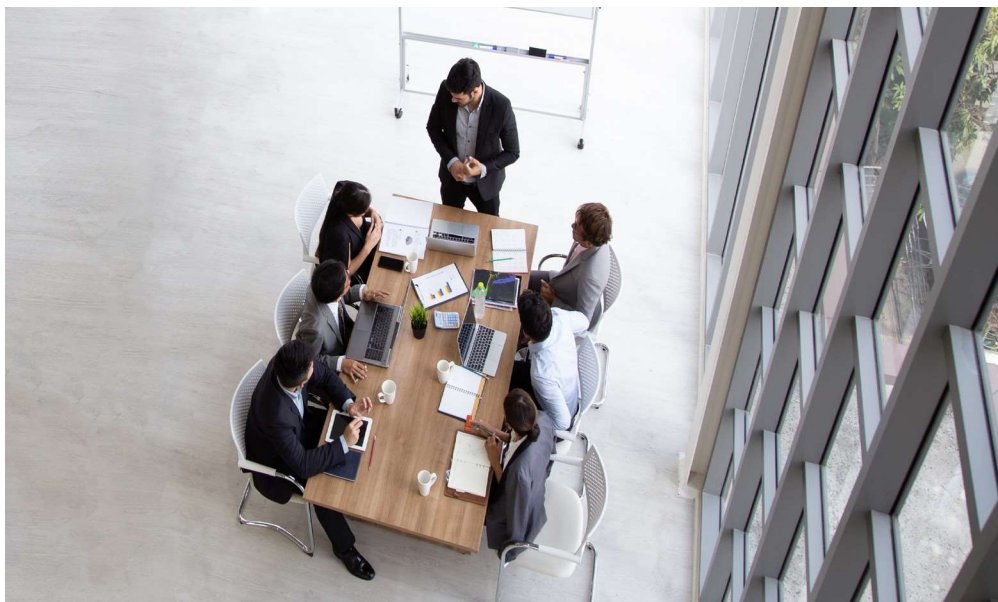
1. Short hearing
2. Documents only procedure
3. Full procedure

## 1. Short hearing

This procedure is for use when the matters in dispute are to be determined principally by the arbitrator inspecting the relevant work and then forming an opinion.

- Parties exchange statements of case (the facts on which they seek to rely), and submit documents and witness statements (this may include expert evidence, but this will be at parties' own expense unless the arbitrator says otherwise).
- The arbitrator carries out an inspection – this can be before or after the hearing, or in combination with the hearing.
- The arbitrator holds a short hearing (less than one day, unless parties agree otherwise).
- The arbitrator's award is due within one month of the hearing, unless extended by agreement of the parties.
- The arbitrator can determine recoverable costs and can impose limits on this (i.e. legal costs may be capped).

Relevant sections of the 1996 Arbitration and Conciliation Act: section 31A on costs





## 2. Documents only procedure

This procedure is an alternative short procedure involving documents only, used when no hearing is necessary because the issues do not require oral evidence, or the sums in issue do not warrant the cost of a hearing

- Parties exchange statements of case. These statements should provide an account of the relevant facts, include documents relied on, witness statements (expert evidence as well as factual evidence) and set out the relief sought.
- Each party may submit a statement of reply to the other.
- The arbitrator may put questions to the parties or request a further written statement.
- The arbitrator may direct the questioning to take place at a hearing (of less than one day), where questions are put to the parties or witnesses.
- The arbitrator's award is due within one month of the last step unless the parties agree to extend this.
- The arbitrator can determine recoverable costs and can impose limits on them.

Relevant sections of the 1996 Arbitration and Conciliation Act: section 31A on costs

### 3. Full procedure

This procedure is a full arbitration procedure, including a full hearing. Parties should choose this procedure only if it is inappropriate to adopt the 'short hearing' or 'documents only' procedure.

The arbitrator may at the commencement of proceedings explore this aspect with the parties, and if appropriate issue cost-saving directions to bring the arbitration in line with either a paper only or short hearing procedure. If the full procedure is adopted, the arbitrator will issue detailed directions for the preparation and conduct of the case, including the hearing.

- Parties exchange detailed statements of claim and defence. The arbitrator may permit either party to amend its case to identify the key issues in dispute.
- The arbitrators will give detailed directions on:
  - exchange of further statements
  - disclosure and production of documents
  - service of witness statements
  - the number of permitted experts, meetings between them and exchange of their reports.
- The arbitrator will determine the length of any hearing and the time each party will be allowed to present its case.



# Fee schedule

The fee scale below is based upon the full procedure.

Amount in dispute	Arbitrator fee	RICS appointment fee
Up to Rs. 5,00,000	Rs. 45,000	Rs. 20,000/- for a single arbitrator
Above Rs. 5,00,000 and up to Rs. 20,00,000	Rs. 45,000 plus 3.5 per cent. of the claim amount over and above Rs. 5,00,000	Rs. 30,000/- for two arbitrators
Above Rs. 20,00,000 and up to Rs. 1,00,00,000	Rs. 97,500 plus 3 per cent. of the claim amount over and above Rs. 20,00,000	Rs. 50,000/- for three arbitrators
Above Rs. 1,00,00,000 and up to Rs. 10,00,00,000	Rs. 3,37,500 plus 1 per cent. of the claim amount over and above Rs. 1,00,00,000	Rs. 30,000/- for a single arbitrator
Above Rs. 10,00,00,000 and up to Rs. 20,00,00,000	Rs. 12,37,500 plus 0.75 per cent. of the claim amount over and above Rs. 1,00,00,000	Rs. 40,000/- for two arbitrators
Above Rs. 20,00,00,000	Rs. 19,87,500 plus 0.5 per cent. of the claim amount over and above Rs. 20,00,00,000 with a ceiling of Rs. 30,00,000	Rs. 60,000/- for three arbitrators

The fee scale for a short hearing or documents only procedure can be made available on application.



# Standard arbitration clause

This sample arbitration clause is based on the clause developed by the Indian Dispute Resolution Centre.

The parties agree:

1. Any dispute arising from or associated with this contract shall be referred to arbitration for resolution.
2. The arbitration shall be conducted under the UK Construction Industry Model Arbitration Rules (adapted as necessary to refer to the Indian Arbitration and Conciliation Act 1996.)
3. The seat of the arbitration shall be India.
4. The number of arbitrators shall be one or three, (to be decided by the parties or, in the absence of agreement, by the Royal Institution of Chartered Surveyors (RICS))
5. The Arbitrator(s) shall be appointed by RICS.
6. The arbitration award shall be final and binding on them.
7. The arbitration shall be governed by the Indian Arbitration and Conciliation Act 1996.
8. The substantive law of the arbitration shall be the law of India / the jurisdiction agreed by the parties.
9. The arbitration proceedings shall be conducted in English / the language agreed by the parties.

## Contact us

Please contact [drs@rics.org](mailto:drs@rics.org) if you have any questions or would like further information.



## Delivering confidence

We are RICS. Everything we do is designed to effect positive change in the built and natural environments. Through our respected global standards, leading professional progression and our trusted data and insight, we promote and enforce the highest professional standards in the development and management of land, real estate, construction and infrastructure. Our work with others provides a foundation for confident markets, pioneers better places to live and work and is a force for positive social impact.

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