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Interim Construction Adjudication Takes Effect in October 2019

Bryce Dillon and Keith MacLaren

The Ministry of the Attorney General recently appointed ADR Chambers as the Authorized Nominating Authority (the “Authority”) responsible for qualifying, appointing, and training construction adjudicators under Ontario’s new interim adjudication system. The Authority indicated that it is on track to launch the adjudication system on October 1, 2019.

Under recent amendments to the Ontario Construction Act, parties involved in construction projects will be able to resolve any disputes that arise during a project through interim adjudication. This process will be available for contracts entered into after October 1, 2019, or for contracts where the procurement process was commenced after that date, as applicable.

Once a party initiates adjudication, there will be a limited number of days for the parties to appoint an adjudicator from a roster maintained by the Authority. If the parties are unable to agree on an adjudicator, the Authority must appoint one within 7 days of receiving a request.

Individuals are eligible to become adjudicators if they meet several criteria. An adjudicator must complete the relevant training and possess at least 10 years of relevant construction experience. Examples of professions with relevant experience may include accountants, architects, engineers, quantity surveyors, project managers, arbitrators, or lawyers.

The parties to the dispute are required to pay the adjudicator’s fees, which are to be split equally between them. Costs can only be awarded to a party in exceptional circumstances, when the other party’s conduct is frivolous, vexatious, an abuse of process, or bad faith.

After the parties have provided all of their documents to be relied upon in the adjudication, a decision is to be rendered within 30 days. The decision is binding and enforceable on an interim basis until the dispute is decided on a final basis by a court or arbitrator.

Adjudication has been described as “rough justice”, as it does not give parties a lot of time to marshal their cases. However, resolving disputes in six weeks, while the details are fresh, is an attractive alternative to spending years in court.

Although decisions reached through interim adjudication can be revisited later, if the UK experience is any indication, courts will enforce adjudication decisions robustly.

The Authority is responsible for creating a website, where it will publish a registry of adjudicators, a schedule of fees, and educational materials. If everything goes according to plan, the website should be active in the coming weeks. For further information about interim adjudication, please see our previous article.



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The new interim adjudication system has the potential to transform construction dispute resolution. Parties must be prepared to react quickly to tight timelines. The Litigation, Real Estate, and Corporate Groups at Perley-Robertson, Hill & McDougall LLP/s.r.l. can assist companies and individuals navigate their rights and obligations as they adapt to the new legislative environment.

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