

**SINGAPORE INTERNATIONAL ARBITRATION CENTRE
PROMOTING CONFIDENCE AND TRANSPARENCY IN
MONEY MATTERS
PRACTICE NOTES ON ARBITRATORS' FEES
PN – 02 / 06 (1 March 2006)**

Introduction : SIAC's Financial Management of Arbitration

1. An important function of the SIAC as an institution administering arbitration is its management of the financial aspects of the process. These include:
 - (a) fixing of arbitrators' fees and other terms of appointment;
 - (b) regular rendering of accounts;
 - (c) collecting deposits towards the Tribunal's fees and expenses; and
 - (d) processing the Tribunal's bills for fees and expenses.

Object of Practice Notes

2. The object of these Practice Notes is to promote confidence and transparency in the matter of arbitrators' fees and related matters. Especially in an international case, with participants from a diversity of cultural backgrounds, habits and traditions, and where shared expectations cannot always be assumed, we believe that common institutional guidelines can contribute to maintaining a friendly and dignified relationship between the Tribunal and the parties, free of extraneous concerns over potentially sensitive monetary matters.

Salient Features of Practice Notes

3. These Practice Notes provide for, among other things, a means of accounting for time spent by the Tribunal on a case. They also provide for an opportunity for the parties to make comments on the Tribunal's fees, and to do so in circumstances conducive to making comments freely but on no other considerations than that of the merit of the bill itself.

Terms of Appointment Fixed by SIAC

4. SIAC fixes the terms of remuneration of all arbitrators it appoints. This relieves the parties of the need to negotiate terms of appointment with the person who may sit in judgment over their case. As SIAC has access to a large number of

arbitrators in almost any area of commercial dispute, it is able to secure for the parties the right arbitrator for the right case at the right fees.

Hourly Rate of Remuneration

5. SIAC arbitrators' fees are currently fixed on the basis of hourly rates. In appropriate cases, fees may be capped at a certain amount. Capping of fees is at an early stage of development, and will be refined with experience.
6. The hourly rate basis of remuneration is currently under review. The procedures set out in these Practice Notes are intended to ensure the viability and fairness of this system of remuneration.

Tracking of Time Spent on a Case

7. To help the hourly rate system work to the benefit of all parties, SIAC encourages all arbitrators to keep a contemporaneous running record of the time expended and the work performed. Keeping detailed records helps arbitrators to:
 - (a) help SIAC in the collection of deposits towards their fees;
 - (b) raise bills promptly and with ease, particularly at the end of the arbitration, when the final bill must be submitted with the final award (see below);
 - (c) avoid difficulties over bills; and
 - (d) help SIAC to resolve any difficulty that may arise.

Collection of Deposits

8. SIAC collects deposits from the parties towards the Tribunal's fees as well as SIAC's fees and charges. The deposits are topped up from time to time as the case proceeds.

Periodical Rendering of Statements of Account

9. At regular intervals, SIAC will render to the parties and the Tribunal a statement of account of the deposits and disbursements.

Periodical Submission of Time Information by Tribunal

10. To assist SIAC in ensuring that there is enough money in the deposit account to meet the Tribunal's fees, arbitrators will be asked to submit to us periodically when we send them statements of account:
 - (a) updated information of the amount of time expended on the case;
 - (b) a note on the present status of the arbitration, and what further major steps are required to bring the arbitration to conclusion (e.g. discovery, exchange of evidence statements, hearing); and
 - (c) as best as they can, a fair estimate of the amount of time which may be required up to the conclusion of the case.
11. The information will be used for the purpose of topping up the deposits, if necessary.

Time Record in Pending Cases

12. Arbitrators in cases pending at the date of these Practice Notes who have not been keeping a time record are encouraged to start keeping one. This, together with an indication of how much time they have spent on the case to date, will help them to provide the information required in the periodical returns described above.

Tribunal Not to Make Directions Concerning Fees and Deposits

13. As SIAC manages all financial aspects of an arbitration, it is unnecessary, and inappropriate, for the Tribunal to make directions on matters concerning its own fees and deposits. Fees are raised by way of invoices, rather than by Tribunal's directions and orders.

Cancellation Fees

14. Unless his terms of appointment provide otherwise, an arbitrator may claim cancellation fees according to the following scale:
 - (a) if the hearing dates are vacated less than 2 weeks before the date of commencement - 20% of the fees for the whole period set aside; and
 - (b) if the hearing dates are vacated at or after the commencement of hearing - 40% of the fees for the days set aside and not used.

15. Other scales may be provided in individual cases. However, in all cases, the proviso in the following paragraph applies.

Cancellation Fees: A Proviso

16. Hearing dates are often set at an early stage of the arbitration. Arbitrators appointed by the SIAC are encouraged to set a timetable for the progress of the arbitration to include tentative dates of the substantive hearing. But, often, the hearing dates have to be adjusted as the case progresses. For the purpose of cancellation fees claims, if circumstances arise which make it reasonably likely that a hearing will not take place, the date when the Tribunal becomes aware, or has reason to be aware, of such circumstances will be taken as the date on which the cancellation takes place.
17. This proviso has generally no application to cases of cancellation after a hearing has started.

Claim for Cancellation Fees

18. A claim for cancellation fees may be made by an interim bill or, as appropriate, be included as part of the final bill sent with the final award upon the settlement or conclusion of the case (see paragraph 25 below). A statement explaining the circumstances giving rise to the charge must accompany a claim for cancellation fees.

Claim for Reimbursement of Necessary Expenses

19. Arbitrators are entitled to claim expenses reasonably and necessarily incurred for the conduct of the arbitration, including, by way of examples only, (a) business-class airfare, (b) hotel bills, (c) land transport expenses, (d) courier charges etc.
20. A claim for reimbursement of such reasonable and necessary expenses may be made together with an interim bill or, as appropriate, be included as an attachment to the final bill sent with the final award upon the settlement or conclusion of the case (see paragraph 25 below). All claims for reimbursement of such expenses must be supported by receipts or other evidence of payment.

Interim Bills

21. An arbitrator is appointed to conduct and complete a case as a whole. Although in a system based on hourly rates an arbitrator's remuneration theoretically accrues from hour to hour, he should in principle be paid for the whole case only

at the end of the case. However, where a case goes on for a long time and a substantial amount of work has been done, it is obviously fair to allow progress payments to be claimed as the case proceeds. Such progress claims should be made by interim bills.

22. The bill for such interim payments should be in round figures not exceeding half (1/2) of the amount based on the actual time worked to date of the bill. The bill should be accompanied by a time record, or a summary breakdown of the time expended to date (see paragraph 26 below).
23. SIAC will pay the interim bills without reference to the parties, but will inform the parties of such payments through an updated statement of account.

Issue of Award

24. All awards, including interim awards, must be issued through SIAC. The arbitrator should send to the Registrar enough signed originals for the parties, with one extra copy for SIAC.

Rendering of Final Bill with Final Award

25. When the arbitrator submits his final award (which means in this context an award that disposes of all issues in the arbitration, including any ancillary issues like interest and costs) for issuance, he must send his final bill with the award to SIAC. The final bill will contain a summarised breakdown of the information mentioned in the paragraph below for the entire case from the beginning, deducting any advances paid on interim bills. If the arbitrator has been keeping a time record in accordance with these Practice Notes, he should be able to do this quite easily.

Contents of the Final Bill and Time Record

26. SIAC leaves it to individual arbitrators to decide whether to submit their time record with their final bill. If no time record is submitted, the final bill should contain a breakdown of the amount of time by categories of work, such as, by way of examples only, (a) preliminary meetings, (b) drafting and finalising directions, (c) correspondence, (d) reading and perusals, (e) hearing and (f) drafting and finalising award etc. A one-sentence description is unlikely to be sufficient for this purpose in most cases.
27. Detailed time records, if not produced with the final bill, must be retained by the arbitrator concerned to meet any queries that might arise on his bill.

Comments / Clearance of Bills

28. The Registrar may comment on the arbitrator's bills or may send the final bill to the parties for comments, without releasing the final award or disclosing any part of its contents to the parties. Each party will be given up to 7 days to make comments in writing to SIAC. Upon the expiry of the 7-day period or the earlier acceptance of the final bill by all parties, as the case may be, SIAC will release the final award to the parties if there are sufficient funds in the deposit accounts to meet the arbitrator's bill. If any difficulty should arise on the final bill, the Registrar will resolve it after considering the comments of the parties raised within the 7-day period as well as the response of the arbitrator, if any. If no adverse comments are received within the 7-day period, the bill will be presumed to be correct, and SIAC will act accordingly.

Legal Liability for Arbitrators' Fees

29. Although SIAC collects deposits towards the arbitrator's fees, the ultimate legal liability for such fees is that of the parties, jointly and severally. SIAC acts as agent of the Tribunal in collecting these deposits, but is not legally liable to the Tribunal or the parties except to account for the deposits so collected.

Transitional Provisions

30. For the sake of uniformity in the management of cases, these Practice Notes apply to all cases whether commenced before or after the date of their adoption. We do not expect arbitrators and parties in cases commenced before that date to have difficulties complying with these Practice Notes inasmuch as or in so far as they relate essentially to matters of implementation rather than substance. However, if any part of these Practice Notes should be considered as adversely affecting a party or an arbitrator in any substantive way (as opposed to being merely a matter of implementation), we shall be glad to be informed and we shall attempt to resolve the matter with appropriate consultations.
31. These Practice Notes supersede the earlier Practice Notes on Arbitrators' Fees (PN – 01/02, 3 July 2002).

**Issued by Registrar, SIAC
Dated 1 March 2006**