



# CRITERIA AND PROCEDURE FOR ADMISSION TO THE PANEL OF ABITRATORS

## 1. Introduction

Bylaw 10 provides for each panel to “contain the names of members considered in terms of these By- Laws to be suitably qualified and experienced to serve on that panel”.

Bylaw 10.3 states: “The basic criteria for admission to a Panel shall be those specified in the Guidelines for Panel Membership and Review specified in Schedule 6 to these By-Laws.”

Membership itself involves being “in all respects a fit and proper person”, and the need to avoid “dishonourable practice or conduct which in the opinion of the Council is or could be discreditable to the Institute”.

Those admitted to the Panel are held out by AMINZ to have knowledge, experience, the personal qualities and qualifications to serve on the appropriate Panel.

The Rules envisage that those admitted to a Panel have attributes over and above those expected of ordinary membership.

Section 13 of the Arbitration Act 1996 provides immunity for arbitrators. This statutory protection emphasises the importance for AMINZ to ensure that those nominated from the Panel have the necessary attributes to do the job to a professional standard.

The applicant must satisfy the Panel Admission Assessors and the Council that the admission criteria are met such that the Institute can have confidence in the applicant acting as arbitrator forthwith.

There is no qualified acceptance to the Panel.

## 2. Admission Requirements

To qualify for admission to a Panel, the applicant must:

- (a) be a current fully paid up member of AMINZ
- (b) be qualified as an Associate or Fellow
- (c) be a member in good standing
- (d) have completed a current CPD return which satisfied the continuing professional development requirements at the time
- (e) have acted as arbitrator in at least 3 arbitrations
- (f) provide two referees in support of the application
- (g) have the necessary personal qualities and qualifications to act as arbitrator
- (h) have the relevant knowledge and experience
- (i) have knowledge of and affirm a commitment to compliance with the AMINZ Code of Ethics
- (j) have been interviewed by a Panel Admission Assessor who has made a recommendation to the Council regarding the applicant's suitability for admission to the Panel and

- (k) be a person who in the opinion of the Council having regard for (a) to (j) above and all their relevant factors is suitable for admission to the Panel.

### **3. Guidelines**

The following guidelines are intended to encourage consistency and reliability in making an assessment of the applicant's suitability for admission to the Panel. They need not be applied rigorously when there are compelling reasons in favour of the applicant's admission to the Panel. However, any departure from them should be highlighted in the application and in the report of the Assessors.

#### **3.1 Training and Qualifications**

A significantly important qualification, although not a prerequisite, is the AMINZ Fellowship (Arbitration).

Other appropriate training or qualification includes:

- training courses (basic, advanced, specialised), workshops, etc
- AMINZ arbitration seminars
- Massey dispute resolution practicum (153.310)
- university papers on arbitration topics
- an applicant should be able to demonstrate awareness of relevant study and reference materials and a commitment to continuing professional development through both education and skills improvement by personal study and attendance at advanced or specialised training.

#### **3.2 Knowledge**

Applicants are expected to have:

- (a) a basic understanding of our legal system, the principles of natural justice, the law of evidence, torts and contract
- (b) a working knowledge of the Arbitration Act 1996
- (c) an understanding of general arbitration law, its practice and pitfalls
- (d) a knowledge of the AMINZ Code of Ethics and an understanding of how it should be applied in practice
- (e) a knowledge of the High Court Rules as to matters such as those referred to in s 12 and in clause 3 of the Second Schedule to the Arbitration Act 1996, and how by analogy such matters should be dealt with by an arbitrator
- (f) a knowledge of the fundamental requirements for writing an Award.

#### **3.3 Experience**

Although not an exhaustive list, experience can be gained through the following:

- (a) as an arbitrator
- (c) as a Judge
- (d) as counsel appearing before a Court and more particularly appearing in an arbitration
- (e) as an expert witness before a Court or before an Arbitrator
- (f) attending a Massey University 153.310 Dispute Resolution Practicum or
- (h) as a member of a tribunal.

In assessing whether or not the "experience" criterion is met it is essential to look at the totality of experience, not just isolated parts of an applicant's experience.

### **3.4 Personal Qualities**

In addition to the qualities required for general membership, the judicial character and demeanour including the following attributes, should be taken into account:

- being a good listener and communicator
- having clarity of thought and expression – both verbal and written
- having the administration/management skills needed to control an arbitration
- being patient
- being aware of cultural and gender differences
- being courteous
- being flexible.

### **4. Protocols**

The applicant must be familiar with the AMINZ Arbitration Protocol and Guide to Arbitration and be able to discuss coherently the arbitrator's role and responsibilities.

### **5. Competence**

It is up to the applicant to demonstrate his or her competence as an arbitrator by providing supporting documentation such as (optionally):

- certificates from appropriate training programmes
- copies of arbitration awards
- testimonials or assessments from counsel, or parties involved in arbitration carried out by the applicant as arbitrator
- reflective report on arbitrations conducted
- areas of expertise and experience.

In summary, the applicant must demonstrate and be assessed as being suitable to act as an arbitrator now; ie: to be a person that AMINZ can properly include in its Panel which is available to the public and from which he or she may with confidence be appointed as arbitrator.

### **6. Admission Procedures**

- 6.1 Applications must be completed in the prescribed form (MFP) and submitted to the Executive Director of the Arbitrators' and Mediators' Institute of New Zealand Inc.
- 6.2 Applications must be accompanied by the relevant information and supporting documentation.
- 6.3 Applications are required to have two referees in support of the application. (Assessors are to follow up with the Referees.)
- 6.4 Applicants are required to undergo a Panel Admission interview with one Panel Admission Assessor who will provide written notes of the interview and make a recommendation to the Council.
- 6.5 Every application for inclusion on the Panel shall be referred to the Council for approval.
- 6.6 The Council is not obliged to furnish any reasons for refusing to admit the applicant to the Panel.
- 6.7 The Council shall be the final arbiter for each and every application for admission to the Panel.

## **7. Subscriptions Payable**

- 7.1 Members who are admitted to the Panel are required to pay the panel subscription (The full annual subscription for panel members as at 1 April 2022 being \$886.00 including GST).
- 7.2 Regardless of how many panels or lists the member is admitted to, one panel fee only is payable.
- 7.3 Failure to pay the annual panel subscription may result in the member being removed from the Panel and removed from the membership register.

## **8. Continuing Requirements**

- 8.1 Continuing Professional Development (CPD) is mandatory for Panel members.
- 8.2 Failure to submit an annual CPD return and to satisfy the CPD requirements may result in the member being removed from the Panel.

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