

Rules for Arbitration: A Survey of the National Association for Dispute Resolution (NADR)

1. Introduction

Arbitration has become a widely accepted method of alternative dispute resolution (ADR), offering parties a private, efficient, and flexible mechanism for resolving disputes outside traditional court systems. The National Association for Dispute Resolution (NADR) plays a significant role in shaping arbitration practices by establishing procedural rules, ethical standards, and administrative frameworks.

This document provides a comprehensive survey of the arbitration rules under NADR, focusing on their structure, key provisions, and practical implications.

2. Overview of NADR

The National Association for Dispute Resolution (NADR) is an organization dedicated to promoting effective dispute resolution through arbitration, mediation, and other ADR mechanisms. NADR develops standardized rules to ensure fairness, efficiency, and neutrality in arbitration proceedings.

Objectives of NADR Rules

- Ensure impartial and independent arbitration
- Promote efficiency and cost-effectiveness
- Provide flexibility in procedure
- Safeguard due process

3. Commencement of Arbitration

Arbitration under NADR rules typically begins with the filing of a Notice of Arbitration.

Key Elements

- Identification of parties
- Description of dispute
- Relief sought
- Reference to arbitration agreement

The respondent is required to submit a Response within a specified timeframe, acknowledging or contesting the claims.

4. Appointment of Arbitrators

NADR rules provide structured procedures for appointing arbitrators.

Methods of Appointment

- Sole arbitrator by mutual agreement
- Panel of three arbitrators
- Appointment by NADR if parties fail to agree

Qualifications and Independence

Arbitrators must:

- Be impartial and independent
- Disclose any conflicts of interest
- Possess relevant expertise

5. Jurisdiction of the Tribunal

The arbitral tribunal has the authority to determine its own jurisdiction, including objections related to the existence or validity of the arbitration agreement.

Principle of Competence-Competence

This principle allows the tribunal to rule on its jurisdiction without immediate court intervention.

6. Conduct of Proceedings

NADR emphasizes procedural flexibility while maintaining fairness.

General Principles

- Equal treatment of parties
- Opportunity to present case
- Efficient case management

Hearings

- May be conducted in person or virtually
- Tribunal determines format

- Parties may present evidence and witnesses

7. Evidence and Discovery

NADR rules typically adopt a balanced approach to evidence.

Key Features

- Limited discovery compared to litigation
- Admissibility determined by tribunal
- Flexibility in evidentiary standards

8. Interim Measures

The tribunal may grant interim relief to preserve assets or evidence.

Examples

- Injunctions
- Asset preservation orders
- Security for costs

9. Confidentiality

Confidentiality is a cornerstone of NADR arbitration.

Scope

- Proceedings are private
- Documents and awards are confidential
- Exceptions may apply (e.g., legal requirements)

10. Awards

The arbitration concludes with a final award issued by the tribunal.

Characteristics

- Binding on parties
- Must be reasoned (unless waived)
- Enforceable under applicable law

Types of Awards

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- Final award
- Partial award
- Interim award

11. Costs and Fees

NADR rules address allocation of arbitration costs.

Components

- Arbitrator fees
- Administrative fees
- Legal costs

Allocation

Costs are typically borne by the losing party, unless otherwise decided by the tribunal.

12. Challenges and Removal of Arbitrators

Parties may challenge arbitrators based on:

- Bias or lack of independence
- Failure to disclose conflicts

NADR provides procedures for resolving such challenges.

13. Enforcement of Awards

Arbitral awards under NADR rules are generally enforceable in courts, subject to applicable national and international frameworks.

14. Advantages of NADR Arbitration

- Flexibility in procedure
- Confidentiality
- Expertise of arbitrators
- Faster resolution compared to courts

15. Challenges and Criticisms

- Potential costs in complex cases

- Limited appeal options
- Variability in arbitrator quality

16. Conclusion

The NADR arbitration rules provide a structured yet flexible framework for resolving disputes efficiently and fairly. By emphasizing neutrality, confidentiality, and procedural adaptability, NADR contributes significantly to the evolution of modern arbitration practices.

17. References (Suggested)

- NADR Arbitration Rules (official publication)
- UNCITRAL Model Law on International Commercial Arbitration
- New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards
- Scholarly articles on ADR and arbitration practices