



# **VICTORIAN BUILDING INDUSTRY DISPUTES PANEL**

## **CHARTER**

## **1.0 Building Industry Disputes Panel – Introduction**

- 1.1 The Victorian Building Industry Disputes Panel (the Disputes Panel) as referred to in relevant Enterprise Bargaining Agreements, is established by the Building Industry Consultative Council (BICC) through this Charter, as agreed by the BICC from time to time.
- 1.2 The BICC expects that the parties to Enterprise Agreements will agree that close consultation and co-operation both directly and through the effective operation of dispute prevention and settlement procedures of the Enterprise Agreements shall prevail and that they will be committed to the resolution of matters in accordance with the relevant Dispute settling process and, as appropriate, through the Disputes Panel processes set out in this Charter.
- 1.3 The Disputes Panel shall hear and determine all matters referred to it in accordance with the disputes procedure of the applicable Enterprise Agreement and to this Charter.
- 1.4 Matters may be referred to the Disputes Panel by an employee, or the employee's Union or other representative, the Employer, or the Employer's representative organisation or agent, where a relevant Enterprise Agreement has application.
- 1.5 In the first instance, the Chairperson or other Panel Members, as determined by the Chairperson, will try to resolve the matter by conciliation or by consent arbitration by way of Conference of the parties. Ordinarily the Disputes Panel will conduct its Conferences with all members of the Disputes Panel in attendance unless otherwise agreed by the parties. However, at any time either party may request the matter be dealt with by the full Disputes Panel and by formal Hearing.
- 1.6 In the exercise of its functions, the Disputes Panel shall do such things as are necessary to ensure:
  - 1.6.1 that matters are set down for Conference or Hearing as soon as expeditiously possible;
  - 1.6.2 that it applies the rules of natural justice and procedural fairness, and compliance with relevant legislation;
  - 1.6.3 that it has regard for the operating arrangements which apply at the project site, the relevant award, relevant enterprise agreements; and
  - 1.6.4 that the hearing of a matter is concluded as soon as is reasonably possible.
- 1.7 The Disputes Panel's decision in a matter will be accepted as final and binding by all parties subject to any right of either party to refer the dispute to the Fair Work Commission (FWC) with 14 days of the Panel's decision.

## **2.0 Functions of Disputes Panel**

- 2.1 The Disputes Panel shall determine matters arising from the application of the provisions of the Enterprise Agreement and such other matters as agreed between the parties.
- 2.2 The Chairperson and the Disputes Panel may also conduct Conferences or inspections as agreed between the parties.
- 2.3 The Chairperson and members of the Disputes Panel may also be available to facilitate discussions with industry stakeholders and participants in order to promote constructive dialogue and to provide assistance to the industry on industrial relations matters at the discretion of the Chairperson.
- 2.4 Matters may be referred to the Disputes Panel by any party or their representative organisations or agents or other representatives if requested.
- 2.5 The principal purpose of the Disputes Panel shall be to hear and determine all matters referred to it arising out of, and having regard to, the disputes procedures in the Enterprise Agreement.
- 2.6 Nothing in this Charter empowers the Disputes Panel to determine the payment of wages for periods during which an employee is engaged in industrial action except when it is proven that the lost time was due to genuine occupational health and safety grounds.

## **3.0 Constitution of the Disputes Panel**

- 3.1 The Disputes Panel shall consist of three (3) independent persons, comprising an impartial independent Chairperson and two (2) other autonomous members.
- 3.2 The Chairperson and members (and their alternates) of the Disputes Panel will be nominated through, and endorsed by the Building Industry Consultative Council. The BICC will satisfy itself that nominees are 'fit and proper persons' for the role.
- 3.3 The Chairperson and members (and their alternates) of the Disputes Panel will be appointed for a period of three (3) years.
- 3.4 The Chairperson and members (and their alternates) of the Disputes Panel may only be removed by the Building Industry Consultative Council.

## **4.0 Functions of the Chairperson**

- 4.1 The Chairperson shall perform functions as follows:
- 4.2 Manage and administer the activities of the Disputes Panel, including the procedures as required by the Charter.
- 4.3 Maintain a Register of dispute notifications, and list and schedule Conferences and Hearings of the Disputes Panel, through the Dispute Panel office. Ensure that the dates for each Conference or Hearing are set as soon as practicable but within seven (7) days of receipt of the notification.
- 4.4 Ensure all parties to the dispute are notified of the Conference or Hearing date, and are given sufficient time to prepare and present their case.
- 4.5 Chair proceedings of the Disputes Panel.
- 4.6 Report to the Building Industry Consultative Committee, through Industrial Relations Victoria or its equivalent, on a regular basis at its quarterly meeting, on the operation of the Disputes Panel and any matters or issues which, in the opinion of the Chairperson, impact upon the effective operation of the Charter or the industrial relations stability of the industry.
- 4.7 Conciliate matters or facilitate discussions on matters concerning the industry by chairing conferences between the employer(s) and union(s) and other parties involved, subject to the agreement of the parties.
- 4.8 Carry out site inspections as agreed by the parties, or as determined by the Chairperson except that, in the case of a dispute, such inspections may be carried out by the Disputes Panel or may, at the discretion of the Chairperson, be carried out by one or both other members of the Panel.

## **5.0 Dispute Notification**

- 5.1 A dispute shall not be notified to the Disputes Panel before the parties have taken all reasonable steps to resolve the dispute in accordance with the dispute procedure in the applicable Enterprise Agreement.
- 5.2 Matters may be referred to the Disputes Panel by an employee or the employee's Union or other representative, the Employer, or the Employer's representative organisation or agent, pursuant to the Enterprise Agreement.
- 5.3 Dispute notifications to the Disputes Panel shall be in the prescribed form provided at Appendix 1 to this Charter.

## **6.0 Procedures of the Dispute Panel**

- 6.1 In the first instance the Chairperson or a member of the Disputes Panel designated by the Chairperson, or the Disputes Panel with all members in attendance, will try to resolve the matter by conciliation or by consent arbitration by Conference of the parties. Ordinarily the Disputes Panel will conduct its Conferences with all members of the Panel in attendance unless otherwise agreed by the parties. However, at any time either party may request the matter be dealt with by the full Panel or for formal Hearing.
- 6.2 The Disputes Panel, or a Member or Members of the Disputes Panel at the nomination of the Chairperson, may conduct inquiries, prepare reports and perform other tasks as required, to reach a fair and proper decision on issues raised before the Panel.
- 6.3 The Disputes Panel will, within forty eight (48) hours of lodgement of a dispute or as soon as practicable, list a matter for Conference or Hearing.
- 6.4 Conferences and Hearings of the Disputes Panel shall be as informal as possible, and shall be undertaken with all possible expedition. Conferences and Hearings will be completed as soon as practicable.
- 6.5 The Disputes Panel is not bound by the rules or practices as to evidence and may inform itself on any matter in such manner as it thinks fit.
- 6.6 The parties to a dispute will present submissions in full when Hearings take place. If any party is not ready to present a full submission when the dispute comes before the Disputes Panel for Hearing, the party concerned may seek a brief adjournment to a date when submission can be made in full. The granting of such adjournment will be entirely at the discretion of the Disputes Panel.
- 6.7 The Parties shall have full, unrestricted access to relevant information, except where the Disputes Panel determines that access to material is inappropriate for legal, privacy or confidentiality reasons.
- 6.8 The Disputes Panel shall not inform itself on, or take into consideration, any matter which has not been disclosed at the Conference or Hearing or in submissions, if the matter is one which ought, in the interests of justice, to be available for a challenge or testing by the parties.

- 6.9 Where the Disputes Panel conducts a Conference of the parties and where a formal Decision or Determination is not required, it will issue a Statement as to the actions arising from the Conference for the record of the parties and the Panel.

### **7.0 Decisions of the Disputes Panel**

- 7.1 At a sitting of the Disputes Panel, each member of the Panel shall have one vote.
- 7.2 Decisions of the Disputes Panel will be by majority.
- 7.3 The Disputes Panel will communicate to all parties its Decision and/or Determination as practicable following the Hearing, which normally shall be within forty eight (48) hours of the Hearing. A copy of the Decision or Determination shall be suitably displayed at the affected site(s).
- 7.4 Decisions of the Disputes Panel will be final and binding on all parties, subject to the parties' rights as prescribed by the provisions of the Dispute Resolution Procedure.
- 7.5 No decision shall be regarded as a precedent.
- 7.6 Notwithstanding any other term, if any party or parties to a dispute consider that for some exceptional reason, pertaining to the discovery of new evidence, the Disputes Panel should reconsider a Decision or Determination, an application may be made to the Disputes Panel to this effect in accordance with the following subclause.
- 7.7 A notice of application for review by the Disputes Panel must be lodged with the Disputes Panel office within fourteen (14) days of the Panel's Decision or Determination. An application for review must specify the nature and relevance of the new evidence. If the Disputes Panel is satisfied that grounds for review exist, then the Chairperson shall make arrangements for a further Hearing. The grounds for reconsidering the Decision or Determination are to be communicated in writing to all interested parties as least three (3) working days before the further Hearing. If the Disputes Panel does not consider grounds for a review exist it will issue it reasons in writing.
- 7.8 The Disputes Panel's Decision in a matter will be accepted as final and binding by all parties subject to any right of either party to refer the dispute to the Fair Work Commission (FWC) within 14 days of the Panel's decision.

**8.0 Withdrawal of Notification**

- 8.1 The notifier of a dispute may withdraw their notification to the Disputes Panel at any time prior to the commencement of the Conference or Hearing.
- 8.2 Any such notice of withdrawal of a dispute shall be in writing and the Chairperson shall cause this to be communicated to each and every party to the dispute.

By resolution of the BICC 10 December 2019.



## APPENDIX 1

# NOTIFICATION DISPUTE FORM





## NOTIFICATION OF DISPUTE FORM

PHONE: 03 9348 2613 EMAIL: [dboard@vbidb.org.au](mailto:dboard@vbidb.org.au)

***PLEASE NOTE THAT ALL SECTIONS AND DETAILS MUST BE COMPLETED***

**NOTIFIER OF DISPUTE:**

NAME:

**FULL CONTACT DETAILS OF NOTIFIER:**

NAME:

UNION/COMPANY:

EMAIL:

MOBILE:

LANDLINE:

**FULL CONTACT DETAILS OF EMPLOYER:**

NAME:

COMPANY:

EMAIL:

MOBILE:

LANDLINE:

**PROJECT NAME AND LOCATION, IF APPLICABLE, AND NUMBER OF EMPLOYEES INVOLVED:**



## NOTIFICATION OF DISPUTE FORM

PHONE: 03 9348 2613 EMAIL: [dboard@vbidb.org.au](mailto:dboard@vbidb.org.au)

**EMPLOYER REPRESENTATIVES / UNION REPRESENTATIVES AND ANY OTHERS WHO ARE TO RECEIVE A COPY OF NOTIFICATION.**

NAME: EMAIL: MOBILE:

NAME: EMAIL: MOBILE:

NAME: EMAIL: MOBILE:

NAME: EMAIL: MOBILE:

**UNIONS INVOLVED IN THE DISPUTE:** ( x ) PLEASE SELECT UNIONS INVOLVED

ALL UNIONS:

CFMMEU:

CEPU (PPTEU):

**ENTERPRISE AGREEMENT ID  
NUMBER(S):**

**FULL TITLE OF ENTERPRISE AGREEMENT(S)**



## NOTIFICATION OF DISPUTE FORM

PHONE: 03 9348 2613 EMAIL: [dboard@vbidb.org.au](mailto:dboard@vbidb.org.au)

**SPECIFIC ISSUES IN CONTENTION: PLEASE SUMMARISE THE SPECIFIC MATTERS THAT ARE ALLEGED TO BE IN DISPUTE:**

**CURRENT STATUS OF THE DISPUTE: IS WORK PROCEEDING AS NORMAL?**

**(X) PLEASE SELECT**

**YES:**

**NO:**

**IF NO, PLEASE PROVIDE DETAILS:**

**PROVIDE A BRIEF HISTORY OF THE DISPUTE AND EXPLANATION OF THE STEPS TAKEN IN ACCORDANCE WITH THE DISPUTES PROCEDURE TO ENDEAVOUR TO RESOLVE THE DISPUTE. [PLEASE ATTACH ALL RELEVANT CORRESPONDENCE BETWEEN THE PARTIES AND/OR RELEVANT DOCUMENTATION]:**



## NOTIFICATION OF DISPUTE FORM

PHONE: 03 9348 2613 EMAIL: [dboard@vbidb.org.au](mailto:dboard@vbidb.org.au)

<b>DATE(S) OF MEETING(S)</b>	<b>NAME AND POSITION OF EMPLOYER REPRESENTATIVE IN ATTENDANCE</b>	<b>NAME AND POSITION OF EMPLOYEE REPRESENTATIVE IN ATTENDANCE</b>

**( x ) PLEASE SELECT WHICH OF THE PANEL'S SERVICES ARE REQUESTED:**

CONFERENCE WITH PANEL:

HEARING BY PANEL:

CONFERENCE WITH CHAIRPERSON:

SITE INSPECTION:

**SIGNATURE OF NOTIFIER:**

**DATE:**

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