



GRAIN TRADE AUSTRALIA

GTA Arbitrator – Q & A

Do I need to be a trained arbitrator to nominate?

No – however you must be able to make the following declaration.

I declare that I:

- (a) *am well versed in the practices and customs of the grain trade;*
- (b) *have an understanding of the GTA Trade Rules, Contracts and Dispute Resolution Rules;*
- (c) *have at least five years experience in the grain trade or grain related industry, OR are a professional arbitrator;*
- (d) *am not a bankrupt, insolvent, or in receivership;*
- (e) *have not been convicted of a felony; and*
- (f) *will comply with GTA Arbitrator training requirements.*

Can I be personally liable if the panel's decision is shown by subsequent appeal to have been wrong?

No – Section 51 of the Commercial Arbitration Act states:

“An arbitrator or umpire is not liable for negligence in respect of anything done or omitted to be done by the arbitrator or umpire in the capacity of arbitrator or umpire but is liable for fraud in respect of anything done or omitted to be done in that capacity.”

What are an arbitrator's duties?

An arbitrator has to ensure that the arbitration is conducted in accordance with the principle of natural justice and procedural fairness. That is that both parties are treated fairly, equally and the arbitration is transparent. Arbitrators are also required to give reasons for any decision made.

Do I have to travel to participate in an arbitration hearing?

No (generally) – all arbitrations are document based with the arbitration panel meeting via teleconference. However, a party to an arbitration is entitled to an oral hearing. If this is to occur travel will be required. In the last four years this right has not been exercised by any party. In the case of an oral hearing all your travel and accommodation expenses would be covered.

How much time is required as an arbitrator in hearing a dispute?

Time varies according to the complexity of the case, but as a general guideline the following would apply:

- There is approximately 5 to 10 hours preparation time;
- The arbitration hearing typically consists of one, possibly two teleconferences of approximately 1 hour duration. Teleconferences are paid by GTA.

Does an Arbitration Award have to be unanimous?

No – you can have an award that has a dissenting opinion.

How long does an arbitration take to be settled?

Again this depends on the complexity of the matter, as a general rule an arbitration can take between 12 to 16 weeks.

What if I don't understand a legal issue? Do I have access to legal advice?

Yes – GTA's legal counsel is available to provide advice in relation to legal issues. However, legal counsel will not make a direction as to how the arbitrator should, or should not, use this information. This is the responsibility of the arbitrator.

Do I get paid?

No – GTA arbitrators participate in arbitrations for the benefit of the industry as it provides a dispute resolution method for the grain industry. Many arbitrators feel that it is their way to “put back” to the industry, whilst others participate as it hones their business skills.

Do GTA Arbitration Awards have a basis in law?

Yes - All arbitrations are conducted pursuant to the GTA Trade Rules and GTA Dispute Resolution Rules and the laws of the applicable jurisdiction, including the relevant *Commercial Arbitration Act*.

Do I represent the organisation that nominated me?

No – as an arbitrator you act independently of the nominating party. Your decisions are based on the submissions lodged by the parties. This may or may not be favourable to the organisation that nominated you as an arbitrator.

Can I make my own enquiries independent of the arbitration process?

No – if you have any questions relating to the Process they must be addressed via the GTA CEO.

Is all documentation shared to all the parties?

Yes – copies of all the documents tendered to the Arbitration Committee are forwarded to the respective parties, the members of the Arbitration Committee and the GTA Legal Counsel. An arbitration process must be transparent to all involved.

Am I able to talk about the Arbitration with other members of the industry?

No – you have been selected as an arbitrator for your technical skills. If you require legal advice, that is available via the GTA Legal Counsel who will issue advice to the Arbitration Committee as a whole. This is to ensure that all Arbitration Committee members have access to exactly the same information.

