AFSA DOMESTIC ARBITRATION EXPEDITED RULES EXPLAINED

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CHRIS ROOS & ASSOCIATES delivers strategic legal and commercial advice for high-risk projects, assets, and operations in regulated and industrial environments. Partner-led. Discreet. Internationally Credible.

An independent CRA information note on procedure, proportionality, costs and drafting considerations.

The Expedited Rules may support greater speed and cost control, depending on the dispute, the parties' conduct and the procedure adopted by the arbitrator.

EXECUTIVE THESIS

The **AFSA Domestic Arbitration Expedited Rules** establish an institutionally supervised and procedurally flexible route for domestic arbitration. They permit the arbitrator to tailor preparation, evidence and hearing arrangements to the needs of the dispute, guided by fairness, cost-effectiveness and prompt resolution.

The Rules may support speed, proportionality and cost control, but the actual duration, cost and outcome remain dependent on the nature and complexity of the dispute, the parties' conduct, the arbitrator's directions and any extension permitted under the Rules.

NOTE: The Domestic Arbitration Rules for Expedited Arbitration, effective 31 October 1999 and revised 30 October 2013, apply to AFSA and ADRASA arbitrations. Parties should consult the applicable AFSA Schedule of Costs in force at the commencement of the arbitration.

TIMING

Rule 10.1 requires the award within 30 days after finalisation of the proceedings, unless the parties agree otherwise or AFSA permits an extension.

CONTROL

AFSA Secretariat supervision, prompt cooperation and a tribunal empowered to select a written, oral or hybrid procedure.

PROPORTIONALITY

The Rules may assist in containing procedure and cost, but do not guarantee a particular timetable, fee level, saving or outcome.

1. Why the Expedited Rules deserve commercial consideration

The commercial problem. Parties often value arbitration for privacy, expertise and finality, but may be concerned when procedure, hearing time and professional costs become disproportionate to the amount or issues in dispute.

In construction and project matters, a prompt and credible determination can assist parties to close accounts, address cashflow and restore commercial certainty.

The expedited framework. The Rules provide AFSA Secretariat supervision, early settlement encouragement, an appointment mechanism, procedural discretion and a 30-day period for the award after finalisation of the proceedings, subject to agreement or an extension permitted by AFSA.

The necessary qualification. Expedited arbitration is not automatically faster or less expensive in every case. Its effectiveness depends on whether the dispute is suitable for proportionate management and on the procedure ultimately adopted.

2. The Rules in plain English: the procedural sequence

1. AFSA supervision

The Secretariat administers and channels communications.

2. Start and settle

The claimant notifies AFSA and early settlement is encouraged.

3. Arbitrator selected

A party-agreed arbitrator is appointed, or AFSA makes the appointment.

4. Procedure tailored

The procedure may be written, oral, virtual or hybrid, as directed.

5. Award and appeal

Award timing is governed by Rule 10.1 and the appeal position by Rule 10.3.

3. Key features and practical significance

AFSA Secretariat supervision

What the Rule provides

The Secretariat supervises and administers the dispute; parties undertake to cooperate and to respond quickly and constructively.

Practical significance

Institutional administration may reduce procedural drift and provide a channel for procedural communications.

Early settlement procedure

What the Rule provides

The Secretariat takes steps to encourage an amicable and prompt settlement before referral fully proceeds to arbitration where appropriate.

Practical significance

This creates an early opportunity for commercial resolution, without any assurance that settlement will occur.

Selection of arbitrator

What the Rule provides

If the parties have not agreed on an arbitrator, the Secretariat selects and appoints a suitable arbitrator and may appoint a substitute where appropriate.

Practical significance

The Rules provide an institutional appointment mechanism where party agreement is absent.

Procedural discretion

What the Rule provides

The arbitrator decides preparation, hearing arrangements, venue and whether oral evidence is permitted, guided by fairness, cost-effectiveness and speed.

Practical significance

Depending on the dispute, the procedure may be document-led, oral, virtual or hybrid and may be narrowed to what fairness requires.

Wide powers

What the Rule provides

The arbitrator has the widest powers allowed by law to secure a just, expeditious, economical and final determination, including costs.

Practical significance

The tribunal may manage scope, evidence and procedure proportionately, subject to the Arbitration Act and applicable law.

Interlocutory or temporary relief

What the Rule provides

Rule 7 permits a party to apply to the arbitrator for interlocutory orders or temporary relief, subject to the limits of the arbitrator's lawful powers.

Practical significance

This may be relevant where temporary directions or relief are needed during a construction or commercial dispute; court relief remains relevant where the relief cannot lawfully be granted by an arbitrator.

Confidentiality

What the Rule provides

Proceedings, the award and settlement terms are confidential unless the parties agree otherwise in writing.

Practical significance

The Rule protects private dispute information, subject to applicable law and any necessary enforcement or review process.

Default and cost discipline

What the Rule provides

A party in payment or procedural default may risk exclusion from further participation and may face punitive cost consequences in the circumstances stated in Rules 5 and 9.

Practical significance

Non-cooperation may carry procedural and costs risk, but the consequence depends on the Rules, the circumstances and the arbitrator's discretion.

Award timing

What the Rule provides

The award must be given within 30 days after finalisation of the proceedings unless the parties agree otherwise or AFSA permits an extension.

Practical significance

The 30-day period runs from finalisation of the proceedings, not from commencement, referral or appointment.

Appeal position

What the Rule provides

Under Rule 10.3, there is no right of appeal unless the parties instruct the Secretariat otherwise in writing before the final award is given; if they do, Article 22 of the AFSA Rules for Commercial Arbitrations applies.

Practical significance

Parties should decide and record their appeal position before the award. This is distinct from any statutory review or setting-aside remedy that may exist under applicable law.

Taxation of costs

What the Rule provides

At a party's request, the arbitrator may direct the Secretariat to appoint a person from its Legal Costs Panel to tax a bill on the same basis and tariff as a taxing master under Rule 70 of the High Court Rules; the arbitrator directs who pays the taxation fee and the taxed amount may be incorporated into the award.

Practical significance

Rule 11 provides a defined mechanism for quantifying recoverable costs after a costs order, subject to the arbitrator's directions.

4. The Schedule of Costs: what parties should price at the front end

The AFSA Schedule of Costs provides a tariff-based first fee for arbitrations in which a money amount is claimed.

The first fees are quoted excluding VAT and are non-refundable.

After appointment, AFSA fixes the arbitrator's remuneration after consultation with the parties and the nominated arbitrator and recoups that remuneration in advance from the parties in equal shares.

Venue fees, where applicable, are separately quoted.

The figures below are CRA's arithmetic examples only. They are not quotations issued by AFSA, do not include VAT, arbitrator remuneration, venue charges, legal fees, expert fees or other disbursements, and must be checked against the AFSA Schedule of Costs applicable when the arbitration is commenced.

Claim value	Formula used	First fee per party	Both parties combined
R1,000,000	R10,250 + 1% of amount over R500,000	R15,250	R30,500
R2,500,000	R20,250 + 0.5% of amount over R1,500,000	R25,250	R50,500
R5,000,000	R27,750 + 0.125% of amount over R3,000,000	R30,250	R60,500
R20,000,000	R27,750 + 0.125% of amount over R3,000,000	R49,000	R98,000
R50,000,000	R68,500 + 0.0625% of amount over R35,600,000	R77,500	R155,000

The calculations were checked against AFSA's published domestic Schedule of Costs on 15 July 2026.

Calculation notes

- R1,000,000: R10,250 + 1% of R500,000 = R15,250 per party.
- R2,500,000: R20,250 + 0.5% of R1,000,000 = R25,250 per party.
- R5,000,000: R27,750 + 0.125% of R2,000,000 = R30,250 per party.
- R20,000,000: R27,750 + 0.125% of R17,000,000 = R49,000 per party.
- R50,000,000: R68,500 + 0.0625% of R14,400,000 = R77,500 per party.

IMPORTANT COST QUALIFICATION

The first fee is an institutional entry fee only.

Neither the Rules nor this Information Note guarantee that the total arbitration will be cheaper than another procedure.

The actual economics depend on the dispute, the tribunal's directions, hearing and evidence requirements, representation, expert involvement, venue and technology, the parties' conduct and the applicable fee arrangements.

5. Costs and proportionality: what the Expedited Rules may influence

The Expedited Rules create procedural tools that may assist the parties and arbitrator to manage cost and time proportionately.

They do not prescribe a fixed total cost, a fixed hearing duration or a guaranteed saving.

The following matrix identifies the principal cost drivers and the qualifications that should accompany any commercial assessment.

AFSA first fee

How the expedited procedure may affect it

Tariff-based entry fee according to claim value, or Secretariat discretion where not expressed in money.

Qualification

Non-refundable; excludes VAT; must be checked against the applicable Schedule of Costs.

Arbitrator remuneration

How the expedited procedure may affect it

AFSA fixes remuneration after consultation with the parties and nominated arbitrator, and recoups it in advance in equal shares.

Qualification

Not included in the first fee and depends on the procedure, time required and fee determination.

Hearing format and duration

How the expedited procedure may affect it

A written, virtual, oral or hybrid process may reduce or increase sitting time and associated costs.

Qualification

No particular hearing length or saving is guaranteed.

Evidence and experts

How the expedited procedure may affect it

Targeted evidence and defined expert questions may improve proportionality.

Qualification

Complex technical or factual disputes may still require substantial evidence, experts and hearing time.

Legal and professional preparation

How the expedited procedure may affect it

Narrow issues and disciplined bundles may reduce preparation.

Qualification

Actual professional fees depend on complexity, conduct, representation and the agreed fee arrangements.

Venue, transcript and disbursements

How the expedited procedure may affect it

Virtual or document-led processes may reduce these items.

Qualification

Venue fees are separately quoted; transcription, travel and technology may still be incurred.

Default or procedural conduct

How the expedited procedure may affect it

Prompt cooperation may reduce avoidable applications and delay.

Qualification

Default can create additional cost, exclusion risk or punitive cost consequences under the Rules.

Costs recovery and taxation

How the expedited procedure may affect it

A costs order may be followed by taxation under Rule 11 where directed.

Qualification

A costs order does not necessarily produce full recovery of actual expenditure.

NO GUARANTEE OR AFSA QUOTATION

Any comparison between an expedited procedure and a conventional arbitration is necessarily hypothetical unless based on an actual procedural order, agreed professional fee arrangements and a quotation or fee determination for the particular matter.

CRA therefore does not present a percentage saving, projected total cost or expected outcome as an AFSA position.

6. Practical examples: disputes that may be suitable for proportionate management

FINAL ACCOUNT DISPUTE

Problem: A contractor and employer disagree over R2.5 million in variations and delay-related preliminaries. The issues are document-heavy and turn on instructions, notices, valuation and a limited number of factual disputes.

Possible expedited approach: Subject to the arbitrator's directions, the matter might be managed through concise written cases, an agreed chronology, focused witness statements and a limited virtual or oral hearing. The first-fee example is R25,250 per party excluding VAT, but all further costs remain matter-specific.

DEFECTS AND RETENTION DISPUTE

Problem: A body corporate withholds retention because of alleged defects. Focused technical proof is required.

Possible expedited approach: The arbitrator might direct a joint defects matrix, expert reports confined to defined questions, written argument and a limited oral session.

The extent of expert and oral evidence remains a matter for procedural direction and fairness.

PAYMENT CERTIFICATION DISPUTE

Problem: A payment certificate is disputed, and the key materials are the contract, certificate, notices, valuation backup and correspondence.

Possible expedited approach: The dispute may be suitable for a document-led procedure with controlled bundles and focused submissions.

Whether discovery, witness evidence or a hearing is required will depend on the disputed facts and the arbitrator’s directions.

URGENT COMMERCIAL CLOSURE

Problem: A project has been completed but the final account remains unresolved, and both parties require budget and cashflow certainty.

Possible expedited approach: The Rules may facilitate prompt appointment and a supervised timetable. The award is due within 30 days after finalisation of the proceedings unless the parties agree otherwise or AFSA permits an extension; this is not a 30-day period from commencement.

7. Important Rule considerations before selecting the expedited route

- **Interlocutory relief - Rule 7:** A party may apply to the arbitrator for temporary or interlocutory relief within the limits of the arbitrator's lawful powers; court relief may be necessary where the relief cannot lawfully be granted by an arbitrator.
- **Appeal - Rule 10.3:** There is no right of appeal unless the parties instruct the AFSA Secretariat otherwise in writing before the final award; where they do so, Article 22 of the AFSA Rules for Commercial Arbitrations applies.
- **Taxation - Rule 11:** At a party's request, the arbitrator may direct the Secretariat to appoint a person from the Legal Costs Panel to tax a bill on the same basis and tariff as a taxing master under High Court Rule 70; the arbitrator directs who pays the taxation fee and may incorporate the taxed amount into the award.

8. Drafting recommendation

A clause should expressly identify arbitration administered by AFSA under the AFSA Domestic Arbitration Expedited Rules and should specify the number of arbitrators.

Where only certain categories of disputes are intended to use the Expedited Rules, the gateway criteria must be objective and carefully drafted to reduce the risk of a preliminary dispute about which rules apply.

The clause should also address seat, language and the parties' appeal election where appropriate.

OPTION A - ALL DISPUTES UNDER THE EXPEDITED RULES

Any dispute arising out of or in connection with this agreement, including any question concerning its existence, validity, interpretation, performance, breach or termination, shall be finally resolved by arbitration administered by the Arbitration Foundation of Southern Africa (AFSA) in accordance with the AFSA Domestic Arbitration Expedited Rules in force when the arbitration is commenced.

The tribunal shall consist of one arbitrator.

The juridical seat of the arbitration shall be [CITY], South Africa, and the language shall be English.

[Select one: (a) the award shall not be subject to appeal; or (b) the parties agree that an appeal shall be available and shall instruct the AFSA Secretariat in writing before the final award in accordance with Rule 10.3 and the applicable appeal provisions.]

OPTION B - DEFINED DISPUTES ONLY

BESPOKE DRAFTING REQUIRED

Any dispute arising out of or in connection with this agreement that:

(a) concerns payment, certification, valuation, retention or the final account; and

(b) has an aggregate amount in dispute, including any counterclaim, not exceeding R[AMOUNT],
shall be finally resolved by arbitration administered by AFSA in accordance with the AFSA Domestic Arbitration Expedited Rules in force when the arbitration is commenced.

The tribunal shall consist of one arbitrator.

All other disputes shall be resolved under the AFSA Domestic Arbitration Commercial Rules.

The parties should obtain project-specific legal advice on mixed disputes, aggregation, counterclaims, consolidation, seat, language and the appeal election before adopting this clause.

9. Conclusion

The Expedited Rules provide an institutionally supervised and flexible framework that may be well suited to disputes capable of proportionate management.

Their commercial value lies in the tribunal's ability to tailor procedure, not in any assurance of a predetermined cost, duration or outcome.

Parties should evaluate suitability, fee exposure, interim-relief requirements, appeal arrangements and costs recovery at the drafting stage and again when a dispute arises.

INDEPENDENCE AND LEGAL DISCLAIMER

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It is general information only and does not constitute legal advice.

Parties should consult the current AFSA Rules, the applicable Schedule of Costs and suitably qualified legal advisers before drafting a clause or commencing proceedings.

SOURCE NOTE

AFSA Domestic Arbitration Expedited Rules and AFSA Domestic Schedule of Costs published online and checked on 15 July 2026.

Cost calculations are CRA arithmetic illustrations and exclude VAT and all additional fees and costs.

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