

## Questions & Answers

**In our last newsletter we commenced a Question and Answer section for members who were experiencing problems. The query was addressed to the Committee for discussion. By way of reminder the query was: -**

"A Chara,

*I have been appointed an arbitrator in a consumer arbitration scheme. While I have indicated a timetable for the exchange of pleadings and documents, the Respondent has not adhered to my procedural timetable. I do not wish to seem impartial by putting undue pressure on the Respondent to comply with my Directions. I would welcome the Committee's advice on how to move matters on without compromising my independence.*

*Is mise,*

*Mr. Arbitrator"*

**The advice is:-**

*The inaction of the Respondent is causing considerable delay to the arbitration process.*

*The arbitration is governed by the Arbitration Acts 1954 – 1998. Under section 24 of the Arbitration Act 1954 an arbitrator is obliged to use all 'reasonable dispatch' in entering on and proceeding with the reference and making an award.*

*In the event that the Respondent fails to respond to your directions that you could write a warning letter to the Respondent or its solicitor by registered post, giving a deadline by which the Respondent must comply by. If the Respondent still does not respond by the deadline that it is reasonable for you to write a further letter by registered post to the Respondent alerting it to the fact that you will proceed in its absence to the next stage of the process by a specific date in the event of a further default. Also the Respondent may have effectively denied itself the right to enter such a document in the arbitration. You could also remind the Respondent that you may take into account the acts or omissions of either party during the course of the arbitration when it comes to the decision in respect of costs.*

**A question that we received for this next newsletter is as follows: -**

*A Chara,*

*The parties to a dispute in which I have been appointed as arbitrator are seeking to compel witnesses to attend the arbitration. While I am aware that I am empowered to allow witnesses to give evidence on oath or affirmation, can I direct that these third parties attend even though it is likely that they may not want to attend*

*Is mise,*

*Ms. Arbitrator.*

## N.I. Chapter

The Northern Ireland Chapter is bringing 2008 to a close with its Christmas Event on 04 December 2008. The event will take place at 6:00pm in the Reform Club Belfast with guest speaker Mr. John Madden on the topic of mediation. The talk will be followed by drinks and finger food.

Following on the mediation theme the NI Chapter will be running an introduction to mediation course early next year which

## New Members

Ms. D. McCabe (Co. Dublin)

Mrs. S. Ui Bhraonain (Co. Dublin)

Ms. L. Myles (Co. Galway)

Mr. S. Nash (Co. Galway)

Ms. G. Clarke (Co. Dublin)

Mrs. V. B. Akale (Co. Dublin)

Ms. T. Layng (Co. Dublin)

Mr. M. J. Edwards (Co. Kilkenny)

Mr. P. A. Kelly (Co. Cork)

Mr. N. Sudway (Co. Dublin)

Mr. J. W. Devlin (Co. Dublin)

Mr. G. Gibson (Northern Ireland)

Ms. A. Blaney (Co. Kildare)

Mr. P. Connaughton (Co. Leitrim)

Mr. S. Conaty (Co. Kildare)

Mr. D. P. Lucey (Co. Cork)

## ICC Conference 3 October 2008

This is an annual event organised by Chambers Ireland by way of updating those interested in international arbitration with recent events. The Branch was invited to participate and to nominate a speaker for the event which it was pleased to do.

The conference was opened by the Attorney General who confirmed that the Arbitration Bill was expected to be made law before the summer of 2009. It was chaired by Klaus Reichert with contributions from local and international speakers including Simon Greenberg, the Deputy Secretary General of the ICC Court of Arbitration.

The conference applied itself initially to a consideration of possible changes to the ICC Court of Arbitration Rules which were last updated in 1998. The speakers in the second half applied their minds to the provisions of the Arbitration Bill 2008.

The event was well attended. The Attorney General's speech was particularly impressive and it is considered likely that the event will have increased Ireland's standing as a potential venue for international arbitration.

The Irish Branch of the Chartered Institute of Arbitrators had already delivered to the Department of Justice its submissions in relation to the Arbitration Bill prior to the event. This submission was referred to by many of the speakers with approval.



Anthony Hussey, committee member and speaker at ICC Conference

## Seminar on the Arbitration Bill 2008 at UCD on 8 September

The seminar was organised by Brian Hutchinson of the UCD Law School and was chaired by Stewart Shackleton a partner in Eversheds London. There were six speakers in all and interestingly each of them is a member of the Irish Branch. The speakers consisted of Colm O'hOisin who spoke on the origins of the Bill and he was followed by Michael Carrigan who described the changes as a result of the UNCITRAL Model law while Brian Hutchinson described the further changes within the Bill itself. Ciarán Fahy dealt with the impact on consumer arbitrations while David Gill spoke on the implications for the property sector and Anthony Hussey dealt with the impact in construction disputes.



L-R- Ciaran Fahy (Chairman), Brian Hutchinson, Anthony Hussey, Colm O'hOisin, David Gill, Michael Carrigan, Stewart Shackleton

The various papers were well received and at the end there was a very lively debate which showed that while there was broad welcome for the Bill there was still a strong desire to see further



**A very Merry Christmas to all members  
and a peaceful and prosperous New Year**



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