

Principles
Criteria
Protocol

for the designation

QUALIFIED ARBITRATOR

I INTRODUCTION

Arbitration is a process whereby parties to a dispute refer it by agreement (either before or after the dispute arises, or as required by statute) to one or more persons by whose decision they agree or are required to be bound. In that process the arbitrator (or arbitrators) resolves the dispute by determining the parties' legal rights and obligations (unless the parties have agreed to proceed on another basis), after finding the relevant facts and applying the law to those facts in light of the evidence and arguments presented by the parties.

The process is generally characterized by the parties choosing the arbitrator (or having input into that choice), the arbitrator having the authority to rule on jurisdiction, and the principles of party autonomy, procedural flexibility, confidentiality and judicial deference.

The ADR Institute of Canada, Inc. ("ADR Canada") is applying for recognition under the *Federal Trade Marks Act* for the designations Qualified Arbitrator, as "Q.Arb", and Arbitre Breveté / Arbitre Brevetée, as "Arb.B".

The Q.Arb designation recognizes practitioners who have completed basic arbitration training. It is an intermediate step for some arbitrators working to receive their Chartered Arbitrator designation. For others it is a final designation.

The designations will assist the public to select an arbitrator who has the appropriate training.

The Q.Arb designation also assists the arbitrator by providing a nationally recognized credential to show that the arbitrator has met minimum nationally-set standards for training. Since these standards are minimum national standards, ADR Canada's regional affiliates may set higher local standards if they so desire.

To ensure that a high and consistent set of standards is met by the persons entitled to use this designation, ADR Canada has established general principles, a set of criteria and a protocol to be used in assessing the eligibility of an applicant for the designation and for the granting of the designation.

Specific additional skills and competencies may be necessary and desirable for arbitrators practicing in specific areas such as marine and labour arbitrations.

ADR Canada is national in scope and is represented throughout Canada by regional affiliates who administer and regulate the Q.Arb designation in their respective regions.

All references to rules, forms and requirements are references to the most recent version of the rules, forms and requirements approved by the ADR Canada Board of Directors.

II DEFINITIONS

REGIONAL QUALIFIED ARBITRATOR ACCREDITATION COMMITTEE ("Regional Committee"): The Regional Committee is appointed in each region by ADR Canada's regional affiliate and shall be comprised of no fewer than 3 Chartered Arbitrators. At least 2 of the 3 members of this committee shall constitute a quorum.

NATIONAL ARBITRATION APPEAL AND AUDIT COMMITTEE ("National Committee"): The National Committee is appointed by ADR Canada and shall be comprised of no fewer than 3 Chartered Arbitrators.

III GENERAL PRINCIPLES

A member of ADR Canada who meets the standards required of a Qualified Arbitrator may apply for the designation on the form prescribed by ADR Canada.

The following process is required to qualify an applicant for certification:

1. Satisfactory completion of the educational requirements and written examinations;
2. Review and approval of the written application by the Regional Committee.
3. Review and approval of the application, for completeness only, by ADR Canada.

The designation is awarded by ADR Canada and is subject to renewal or revocation in accordance with the rules established by ADR Canada.

The designation certificate remains at all times the property of ADR Canada.

IV CRITERIA

An applicant must meet the following criteria and conditions:

A. EDUCATION

1. Successful completion of a course of study of 40 hours or more in arbitration and hearing procedure approved by ADR Canada or a regional affiliate;
and
2. Successful completion of ADR Canada's written open book Q.Arb examination or an examination which is part of a course approved by ADR Canada or a regional affiliate, no more than 10 years prior to application.

B. PLEDGE

An applicant must pledge to abide by ADR Canada's [Code of Ethics](#).

C. MEMBERSHIP

An applicant must be a member in good standing of ADR Canada, which includes being a member in good standing of a regional affiliate. The Q.Arb designation lapses upon termination of membership in ADR Canada or a regional affiliate, or upon failure to pay Q.Arb annual fees.

D. FEES

An applicant must pay an application fee to the Regional Affiliate.

E. ONGOING REQUIREMENTS

1. Every three years, Qualified Arbitrators are required to acquire a set number of points as prescribed by the ADR Canada Board of Directors for the Continuing Education and Engagement Program.
2. The Q.Arb designation must be renewed annually. Qualified Arbitrators must pay an annual designation fee to ADR Canada. This is in addition to the application fee, and membership fees payable to a regional affiliate.

3. Qualified Arbitrators must maintain professional liability insurance in an amount prescribed by ADR Canada and provide proof of same upon request by ADR Canada.
4. Failure to comply with ongoing requirements constitutes grounds for suspension or cancellation of the Q.Arb designation.

V PROTOCOL

Regional affiliates invite and accept applications from members who believe they meet the standards required of a Qualified Arbitrator.

The Regional Committee evaluates the application in accordance with the process established by the regional affiliate and the requirements established by ADR Canada.

VI APPLICATION FORM

All applicants will use the application and evaluation forms prescribed by ADR Canada.

VII APPLICATION APPROVAL AND APPEAL PROCESS

A. Review Process

1. Where the Regional Committee approves an applicant, by unanimous or majority decision, the Regional Committee will forward the application to the Manager of Designations at ADR Canada.
 - i. ADR Canada will review the application and forms to ensure the application is complete and the requirements established by ADR Canada have been met;
 - ii. Where ADR Canada considers an application to be complete, the Manager of Designations will inform the applicant and the Regional Committee that the application has been approved. The Regional Committee will notify the regional affiliate of the approval. ADR Canada will forward the Q.Arb certificate to the applicant; and
 - iii. Where ADR Canada finds the application incomplete, the Manager of Designations will return the application to the Regional Committee to be completed.

B. Right to Appeal

1. The applicant may appeal to the National Committee a decision of the Regional Committee to deny the Q.Arb designation only if the reason for denial relates to or raises policy or procedural issues. The applicant must deliver a written notice of appeal to the Manager of Designations within 30 days of receipt of the decision of the Regional Committee, setting out the grounds for the appeal, failing which the Regional Committee decision stands.
2. The National Committee will review the policy or procedure issues and if a policy or procedure has not been followed, may allow the appeal. If a policy and procedure has been followed but its application is unfair in a particular application, the

National Committee may make a recommendation to the ADR Canada Board of Directors.

VIII AUDIT AND QUALITY CONTROL

A percentage of applications will be sent to the National Committee for review after the Regional Committee decision and review by the Manager of Designations.

The National Committee will review applications sent to it for review to ensure all documentation is in order and the prescribed process has been followed. National Committee concerns will be directed to the Manager of Designations, the Board of Directors, and the originating Regional Committee to ensure future applications are appropriately processed and reviewed. The decision of the Regional Committee on a particular application will remain final notwithstanding the comments of the National Committee.

IX VOTING

Any member of a Regional Committee or regional affiliate Board of Directors who has voted on any application at that level must not vote on that application as a member of the National Committee or the Board of Directors.