

Emergency Arbitration: A Comparative Analysis Of Global Standards And India's 2024 Legislative Framework

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Abstract

Emergency arbitration, which offers immediate interim relief prior to the establishment of an arbitral tribunal, has come a long way since its inception by the International Chamber of Commerce (ICC) in 1990, with improvements by institutions such as the Singapore International Arbitration Centre (SIAC), ICC, and London Court of International Arbitration (LCIA). The procedural frameworks of emergency arbitration under SIAC, ICC, and LCIA, their systematic timelines, emergency arbitrator powers, and award enforceability, are compared with India's Arbitration and Conciliation (Amendment) Bill, 2024, which includes emergency arbitration under Section 9A but without specified timelines for the appointment of arbitrators and decisions, in contrast to SIAC's 24-hour appointment and 14-day decision timelines, ICC's 2-day appointment and 15-day decision periods, and LCIA's 3-day appointment and 14-day decision timelines. The paper maps the gaps in India's model, such as unspecified fees and opt-out provisions, restricting its conformity with international best practices. While taking a leaf from SIAC, India's provisions are underdeveloped, affecting the efficiency of emergency arbitration. The analysis calls for India to follow clearer procedural guidelines and timelines for ensuring the efficacy of emergency arbitration, aligning with international best practices for speedy and fair resolution of urgent commercial disputes.

INTRODUCTION

Emergency arbitration was created to cater to the immediate requirement of interim relief in disputes before a full-fledged arbitral tribunal can be constituted, similar to interim injunctions in traditional court systems. The International Chamber of Commerce (ICC) created emergency arbitration in 1990, a pioneering feature of alternative dispute resolution, to enable parties to seek expeditious protective orders to prevent irreparable damage or maintain the current status quo.¹ Singapore International Arbitration Centre (SIAC) further developed the mechanism by adding extensive provisions in its Arbitration Rules dated January 1, 2025, including a 24-hour appointment process and 14-day decision time by emergency arbitrators.² The London Court of International Arbitration (LCIA) and ICC too introduced identical mechanisms, with appointment times of 3 and 2 days, respectively, and decision times of 14 and 15 days, thereby enabling expeditious adjudication of urgent matters.^{3,4}

¹Kailash Vanathi Srinivasan, The Scope For Emergency Arbitration In India - A Comprehensive Analysis On The Current Legal Position And The Way Forward, Indian J.L. & Legal Res. (2024), <https://www.ijllr.com/scope-for-emergency-arbitration-in-india> May. 17, 2025.

²Singapore International Arbitration Centre Rules, 7th edn (2025), sch 1, para 7.

³LCIA Arbitration Rules (2020) (effective 1 October 2020), art 9B.9.6, http://lcia.org/dispute_resolution_Service_/lcia-arbitration-rules-2020.aspx accessed 17 May 2025.

⁴ICC Arbitration Rules (2021) (ICC Pub No 901E, in force 1 January 2021), Appendix V, art 2(1), <https://iccwbo.org/wp-content/uploads/sites/3/2020/12/icc-2021-arbitration-rules-2014-mediation-rules-english-version.pdf> accessed 17. May 2025.

In India, emergency arbitration received official sanction by the Arbitration and Conciliation (Amendment) Bill, 2024, under Section 9A, allowing parties to seek immediate interim relief before the constitution of the tribunal.⁵ However, unlike SIAC, ICC, and LCIA, the 2024 Bill lacks specific timeframes for the appointment of arbitrators and determination, weakening the “emergency” flavour. It also lacks fee provisions and opt-out provisions, bespeaking gaps compared to international standards. This step, although inspired by SIAC, requires further refinement to align it with international best practices.

EMERGENCY ARBITRATION

Like lunch motion petitions in high courts the Emergency Arbitration also aims to provide a “Urgent Interim Relief” before the constitution of an arbitral tribunal. This is not a modern concept it is introduced by the International Chamber of Commerce in 1990.⁶ But Singapore International Arbitration Center (SIAC) made it more advance. Under Singapore International Arbitration Centre Arbitration Rules 1st Jan 2025 emergency arbitrator can appointed as per rule 2.1. according to rule it provides the two rules to appoint him they are;

Singapore International Arbitration Center (SIAC) Provisions to appoint Emergency Arbitrator	
Rule 2.1 Emergency Arbitrator	Emergency Arbitrator can be appointed under the rule 12.1 or paragraph 7 or 26 of schedule 1 of the Act ⁷
Rule 12.1 Emergency Arbitrator	Under this rule the Emergency Arbitrator always 1. “Prior To The Constitution of The Tribunal” 2. “Party has to file the application to appoint the emergency arbitrator in accordance with the schedule 1” ⁸ Here it is showing Applicant Jurisdiction
Schedule 1 paragraph of 7 Appointment of Emergency Arbitrator	After the filing application for the emergency arbitration SIAC president approval is mandatory to appoint the emergency arbitrator. After receiving the approval from the president SIAC will appoint the emergency arbitrator with in 24 hours. ⁹
Calculation of 24 hours period	The 24rs period has start only after the submission the both following has been happened 1. The SIAC registrar has received the application. ¹⁰

⁵Ministry of Law & Just., India, The Arbitration and Conciliation (Amendment) Bill, 2024 (Draft, Jan. 2024) cl 9A(1).

⁶Kailash Vanathi Srinivasan, ‘The Scope For Emergency Arbitration In India – A Comprehensive Analysis On The Current Legal Position And The Way Forward’ [2024] Indian Journal of Law and Legal Research <https://www.ijlr.com/scope-for-emergency-arbitration-in-india> accessed 17 May 2025.

⁷Singapore International Arbitration Centre Rules, 7th edn (2025), r 2.1.

⁸Singapore International Arbitration Centre Rules, 7th edn (2025), r 12.1.

⁹Singapore International Arbitration Centre Rules, 7th edn (2025), sch 1, para 7.

¹⁰ Singapore International Arbitration Centre Rules, 7th edn (2025), sch 1, para 7(a).

	2. The required application fee and deposits has been paid. ¹¹ The clock starts ticking only after the application and the payment are completed.
Paragraph 26 of schedule 1	If the president receives and decided to accept the application the under paragraph 25 of SIAC which talks about the “Protective Preliminary Order” then must appoint the emergency arbitrator according to the time frame set by the paragraph 7 of the schedule 1. ¹²
What is Protective Preliminary Order?	As per under paragraph 25 it refers to an urgent order requested by the party before the emergency arbitrator is appointed. ¹³ The goal is to prevent the serious harm and maintain the status quo before the full emergency arbitrator is appointed.

POWER TO MAKE A PRELIMINARY ORDER

Under Rule 16 the emergency arbitrator has power to make temporary order even before reviewing the facts of the case or fully considering the application.¹⁴ For instance if a jet airways company wants to stop another party from selling a disputed aircraft then jet airways company may apply for emergence arbitration. Then emergency arbitrator has power to give a temporary order to freeze that sale before going into facts of the case. Later after reviewing the complete case the arbitrator can cancel, modify, confirm the order. This ensures that emergence mattes can be resolved immediately and preventing harm before a full decision is made.

POWER TO MAKE INTERIM RELIEF

The emergency arbitrator has power to make any type of interim relief only if he thinks it necessary which includes the freezing the assets, stopping a contract breech, preventing an action. The emergency arbitrator should make an Award or Order “with in 14 days for the time of his appointment”. if EA wants more time then the registrar of the SIAC can extend the time. All Awards and Orders which are made by the emergency arbitrator should be approved by the registrar of the SIAC in accordance with the RULE 53.¹⁵

POWER TO MODIFY, RECONSIDER, OR VACATE THE AWARD OR ORDER

Emergency arbitrator has power to reconsider, modify, or vacate these are the special powers of the arbitrator before constitutes the arbitral tribunal officially formed.¹⁶

Reconsider	The emergency Arbitrator is reconsidering his own decision determine to change. For instance, any new evidence has produced which is not available during the initial proceedings.
Modify	The EA can modify the original order or Award without cancelling it. For instance, adjusting the

¹¹ Singapore International Arbitration Centre Rules, 7th edn (2025), sch 1, para 7(b).

¹² Singapore International Arbitration Centre Rules, 7th edn (2025), sch 1, para 26.

¹³ Singapore International Arbitration Centre Rules, 7th edn (2025), sch 1, para 25.

¹⁴ Singapore International Arbitration Centre Rules, 7th edn (2025), sch 1, para 16.

¹⁵ Singapore International Arbitration Centre Rules, 7th edn (2025), sch 1, para 17.

¹⁶ Singapore International Arbitration Centre Rules, 7th edn (2025), sch 1, para 19(a).

	amount of a payment, or extending the duration of an injunction.
Vacate	The EA can cancel or nullifies its original order or award entirely. For instance, the award or original order is found to be based on incorrect facts or legal errors.

Under rule 19(b) the emergency arbitrator didn't address some facts of the case while deciding the case he has power to issue an award or additional order to cover those missing issues.¹⁷

Cease Of Emergency Arbitral Award

Schedule 1 of para 20 explains the emergency arbitral award is temporary and does not exist forever. It will cease being valid in the following situations

- A) If parties agreed mutually to cancel the award or original order.¹⁸
- B) Cancelled by the emergency Arbitrator or Tribunal this two has power to modify and cancel the award or original order.¹⁹
- C) The application is withdrawn by the parties themselves as per the rule in schedule 1 of paragraph 5 or 6 after withdrawal the order automatically becomes invalid.²⁰
- D) The emergency arbitral award automatically expires if the full tribunal is not formed within the 90days from the order was issued. Unless the registrar has extended the time.²¹
- E) If parties withdrawn their main claims related to the arbitration and the arbitration is terminated to the before the passing the final order.²²
- F) Once the final award is issued the emergency arbitral award or order can automatically expires unless the tribunal specifically decided to keep it in effect.²³

Emergency Arbitration In India

The Arbitration and Conciliation Act 1996, doesn't explicitly talks about the emergency arbitration, but in the proposed draft bill in the section 9A of the Act first time it recognized and incorporated emergency arbitration in the Act and within the legislative frame work. Section 9A of the Act talks about the procedure how to appoint the emergency arbitrator before the constitution of arbitral tribunal. Even though it got inspired by the SIAC but it not that advanced, in SIAC rules it is mentioned from how to approach tribunal to cease of emergency award as discussed it above. But when it comes to the India the 2024 amended bill still missing some provisions with regard to the emergency arbitration award. Here it discussed it below.

Section 9A (1) Appointment Of Emergency Arbitrator

Same like SIAC the emergency arbitrator has appoint before the constitution of the tribunal. This clause provides the parties to seek urgent interim relief without having a formal establish constitution of tribunal.²⁴ This helps the party to get immediate relief such as preventing other party to selling properties, preventing a breach of contract, and preserving evidence. In this situation the tribunal passes the emergency arbitral award which has the temporary relief which is similar to interim injunctions from

¹⁷Singapore International Arbitration Centre Rules, 7th edn (2025), sch 1, para 19(b).

¹⁸Singapore International Arbitration Centre Rules, 7th edn (2025), sch 1, para 20(a).

¹⁹Singapore International Arbitration Centre Rules, 7th edn (2025), sch 1, para 20(b).

²⁰Singapore International Arbitration Centre Rules, 7th edn (2025), sch 1, para 20(c).

²¹Singapore International Arbitration Centre Rules, 7th edn (2025), sch 1, para 19(d).

²²Singapore International Arbitration Centre Rules, 7th edn (2025), sch 1, para 19(e).

²³Singapore International Arbitration Centre Rules, 7th edn (2025), sch 1, para 19(f).

²⁴Ministry of Law and Justice (India), The Arbitration and Conciliation (Amendment) Bill, 2024(Draft, January 2024) cl 9A(1).

courts under section 9.²⁵ Instead of approaching courts the parties have an option to go tribunal to appoint emergency arbitrator who has same powers like section 9 of the Act.

GAPS IN APPOINTING THE EMERGENCY ARBITRATOR IN INDIA WHEN COMPARED TO THE SIAC

Appointment of the Emergency	Within 24 hours ²⁶
Arbitrator under SIAC & interim relief should be decided in	Matter should be decided in 14days. ²⁷
Appointment of the Emergency Arbitrator & interim relief should be decided under Arbitration and Conciliation Amended bill 2024	No strict time line is mentioned for both appointment and to decide the matter also

The Arbitration and Conciliation Amended bill 2024 no were mentioned the timeline for appointment of the emergency arbitrator, and timeline to resolve the matter. The bill got amended in the year of 2024 it still lacking in fundamental things. If the rules didn't mention any time line for appointment of the emergency arbitrator then act is not justifying the "emergency arbitrator" which is mentioned in the Act. On other hand the SIAC is clearly mentioned from appointment emergency arbitrator and how to calculate the 24hrs. time.

SECTION 9A (2) CONDUCT OF PROCEEDINGS BY THE EMERGENCY ARBITRATOR

Once the emergency arbitrator has appointed under subsection (1) must conduct the arbitration proceeding under rules and guidelines specified by the Arbitration Council of India (ACI) or the designated arbitral tribunal.²⁸ This ensures that even in the emergency times the arbitrator is following the structured process and it maintain consistency, transparency, and fairness.

SECTION 9A (3) ENFORCEMENT OF EMERGENCY ARBITRATOR AWARD

The proposed amended bill 2024 states that Any award passed by the emergency arbitrator under subsection (2) of this section shall have the same enforced as the same manner award passed by the arbitral award under subsection (2) of the section 17.²⁹ Section 17(2) gives power to arbitral tribunal to issue interim measures and makes those an enforceable as if they were orders passed by the courts.³⁰ Amazon v future Retail(2021) the issue in this is the enforcement of the Singapore Emergency arbitration award in India the supreme court of India indirectly recognized the EA order but didn't equate them with the tribunal under 17(1). An emergency arbitral award is valid under section 17(2) of arbitration Act.³¹

SECTION 9A (4) MODIFICATION AND CONFORMATION OF EMERGENCY ARBITRATOR'S ORDER

²⁵Arbitration and Conciliation Act 1996 (India), s 9 (as amended by Arbitration and Conciliation (Amendment) Act 2019 (No 33 of 2019)).

²⁶Singapore International Arbitration Centre Rules, 7th edn (2025), sch 1, para 7.

²⁷Singapore International Arbitration Centre Rules, 7th edn (2025), sch 1, para 17.

²⁸Ministry of Law and Justice (India), The Arbitration and Conciliation (Amendment) Bill, 2024(Draft January 2024) cl 9A(2).

²⁹Arbitration and Conciliation (Amendment) Act 2019 (Act No 33 of 2019) (India), s 16 (inserting s 17(2) in the principal Act).

³⁰Ministry of Law and Justice (India), The Arbitration and Conciliation (Amendment) Bill, 2024(Draft January 2024) cl 9A(3).

³¹Amazon.com NV Investment Holdings LLC v Future Retail Ltd & Ors (Supreme Court of India, 6 August 2021) <https://www.sci.gov.in> (SCC Online SC 557) para X.

Section 9A (4) states that any order issued by the emergency arbitrator is not final, after constitution of the main arbitration tribunal has power to altered, reviewed, cancelled, revoked, fully or partly.³² The emergency arbitrator has power to issue the interim relief before full tribunal is formed. After constitution of the main tribunal has formed it has an option to modify, accept, cancel the order passed by the emergency arbitrator. this clause (4) is inspired by the SIACC rules Schedule 1 para 19(a)³³ SIACC also give power to the tribunal to review or cancel the order.in India this modification of the emergency arbitration award aligns with the international standards it lacks the clarity on the modification and revocation on specific grounds. This amendment has given power to tribunal to modify the order passed by the emergency arbitrator but it doesn't give the power to supreme court to alter the award passed by the arbitral tribunal it is in debate stage.

EMERGENCY ARBITRATION UNDER THE INTERNATIONAL CHAMBER OF COMMERCE (ICC)

The ICC introduced the emergency arbitration in the year 2012 arbitration rules and amended in the year 2017 and last amended was in 2021.³⁴ Like we discussed in the above SIACC rules the emergency arbitration allows party to urgent interim relief before the constitution of the arbitral tribunal. It applies only arbitration agreements signed after January 2012. The articles which discuss about the emergency arbitration are in the below;

APPOINTMENT OF EMERGENCY ARBITRATOR

The appointment of the emergency arbitrator can be done according to the article 29 of the ICC rules 2021. Article 29 says the EA can be appointed on the following grounds.³⁵

ARTICLE 29(1) EMERGENCY MEASURES BEFORE TRIBUNAL FORMATION

This provision allows a party to seek urgent interim relief orders or conservatory relief order under the emergency arbitrator rules Appendix V before the full arbitral award is constituted.³⁶

INGREDIENTS OF ARTICLE 29(1)

- 1) Urgency Requirement – the party who is seeking for emergency arbitration should show the urgency in the matter so waiting for constitution of the original tribunal would cause irreparable harm.
- 2) Timing of the Application – the request of emergency arbitration application should be submitting before the time of case is transmitted to full arbitral proceeding tribunal under article 16. It shows that granting emergency award is only in situations require immediate intervention before constitution of the original arbitral proceedings.
- 3) No Need to File a Full Arbitration Request First – the party can seek an emergency arbitration award without filing a formal request for arbitration. It gives immediate protection of rights and without procedural delay.

³²Ministry of Law and Justice (India), The Arbitration and Conciliation (Amendment) Bill, 2024(Draft January 2024) cl 9A(4).

³³Singapore International Arbitration Centre Rules, 7th edn (2025), sch 1, para 19(a).

³⁴ICC Arbitration Rules (2021) (ICC Publication No. 901E, in force 1 January 2021) <https://iccwbo.org/wp-content/uploads/sites/3/2020/12/icc-2021-arbitration-rules-2014-mediation-rules-english-version.pdf> accessed 29 March 2025.

³⁵ICC Arbitration Rules (2021) (ICC Publication No. 901E, in force 1 January 2021) art 29 <https://iccwbo.org/dispute-resolution-services/arbitration/rules-of-arbitration/> accessed 29 March 2025.

³⁶ICC Arbitration Rules (2021) (ICC Publication No 901E, in force 1 January 2021) art 29(1) <https://iccwbo.org/wp-content/uploads/sites/3/2020/12/icc-2021-arbitration-rules-2014-mediation-rules-english-version.pdf> accessed 29 March 2025.

ARTICLE 29(2) DECISION OF EMERGENCY ARBITRATOR

The emergency arbitrator doesn't have a power to pass a final arbitral award he can issue his decision in the form of an order which is not a final arbitral award. The order passed by EA has a binding nature i.e. both parties should follow it. This order is temporary and valid until final order has passed it aims to provide an urgent interim relief.³⁷

ARTICLE 29(3) EMERGENCY ARBITRATOR'S AWARD IS NOT FINAL

The orders passed by the emergency arbitrator is temporary and does not control and influence the final order passed by the arbitral tribunal. After reviewing the case the full arbitral tribunal has power to modify, cancel, confirm the emergency order.³⁸ This clause prevents the emergency arbitral award permanently and it ensures the final tribunal independently assesses all facts and arguments.

ARTICLE 29(4) TRIBUNALS AUTHORITY OVER EMERGENCY ARBITRATOR PROCEEDINGS

It states that the Arbitral Tribunal has ultimate power to review and decide the all matters relating to emergency arbitration.³⁹

- 1) Review and decide – if any party believe that the award passed by the emergency arbitrator is unfair, or incorrect then they can raise the issue before the full tribunal.
- 2) Reallocate the Cost of Emergency Arbitration – if a party applies for the emergency arbitration and later tribunal feels that is unnecessary or unfair then the tribunal order the requesting party to bear the expenses. On the other hand, if the emergency order was justified, the tribunal may require the losing party to pay the costs.
- 3) Decide on claims related to compliance or non-compliance – if one party didn't follow the emergency order then the tribunal decide the consequences and the penalties, or damages. If any party suffered financial loss, or operation harm due to non-compliance they can file for compensation.

The full arbitral tribunal has an authority to decide on all issues relating to emergency arbitration, including cost, and compliance.

ARTICLE 29(5) EMERGENCY ARBITRATOR IS ONLY AVAILABLE TO SPECIFIC PARTIES

The parties who having direct legal connection with the arbitration agreement can apply for emergency arbitrator. i.e. parties who signed arbitration agreement. Parties who are not a signatory to the arbitration agreement cannot apply for emergency arbitrator. it ensures that party bound by the arbitration agreement who are directly related arbitration agreement can seek for emergency arbitration.⁴⁰

ARTICLE 29(6) EMERGENCY ARBITRATION CANNOT BE USED

³⁷ICC Arbitration Rules (2021) (ICC Publication No 901E, in force 1 January 2021) art 29(2) <https://iccwbo.org/wp-content/uploads/sites/3/2020/12/icc-2021-arbitration-rules-2014-mediation-rules-english-version.pdf> accessed 29 March 2025.

³⁸ICC Arbitration Rules (2021) (ICC Publication No 901E, in force 1 January 2021) art 29(3) <https://iccwbo.org/wp-content/uploads/sites/3/2020/12/icc-2021-arbitration-rules-2014-mediation-rules-english-version.pdf> accessed 29 March 2025.

³⁹ICC Arbitration Rules (2021) (ICC Publication No 901E, in force 1 January 2021) art 29(4) <https://iccwbo.org/wp-content/uploads/sites/3/2020/12/icc-2021-arbitration-rules-2014-mediation-rules-english-version.pdf> accessed 29 March 2025.

⁴⁰ICC Arbitration Rules (2021) (ICC Publication No 901E, in force 1 January 2021) art 29(5) <https://iccwbo.org/wp-content/uploads/sites/3/2020/12/icc-2021-arbitration-rules-2014-mediation-rules-english-version.pdf> accessed 29 March 2025.

There are three exceptions to this article 29(6) which talks about the cease of EA⁴¹

- 1) If the arbitration agreement made before 1st January 2012 – before 2012 there no provisions related to the emergency arbitration in the ICC rules.⁴²
- 2) If parties have chosen to opt out – in some contracts parties specifically exclude the emergency arbitration. if both parties agreed to not to choose emergency arbitration they cannot opt it even later one party later changes their mind.⁴³
- 3) Arbitration agreement comes from a treaty – some arbitration agreements are based on treaties like investment treaty, international treaty between the countries. Emergency arbitration clause doesn't apply to this treaty-based disputes unless this treaty explicitly allows it.⁴⁴

ARTICLE 29(7) PARTIES CAN APPROACH TO COURTS FOR URGENT INTERIM RELIEF

This provision clarifies parties can approach to courts emergency arbitration is not only the option. If any party needs an urgent interim relief such as preventing assets from being sold, or stopping a contractual breach, they can approach to courts before or during emergency arbitration. The fundamental rule of arbitration is less intervention of courts so that parties sign the arbitration agreement to avoid courts intervention, however if signatory party approaches court to get urgent interim relief it will not consider a breach to arbitration agreement. But this should be immediately informed to the secretariat about their approach, request, and any decision given by the courts this ensures transparency in the arbitration proceedings.⁴⁵

APPENDIX V – EMERGENCY ARBITRATION RULE ARTICLE 2

APPOINTMENT OF THE EMERGENCY ARBITRATOR

Once the party submit the application for emergency arbitration the president of the emergency center shall appoint the emergency arbitrator within a short time, generally within two days from the secretariat receipt of the application.⁴⁶ However, in exceptional cases it may take longer time.

No emergency arbitration

Once the case has sent to the main arbitral tribunal under article 16 parties cannot appoint the emergency arbitrator. because tribunal itself deals with the emergency requests. If an emergency arbitrator has already appointed prior to the tribunal then he has to decide the case within the given time generally 15 days.⁴⁷

⁴¹ICC Arbitration Rules (2021) (ICC Publication No 901E, in force 1 January 2021) art 29(6) <https://iccwbo.org/wp-content/uploads/sites/3/2020/12/icc-2021-arbitration-rules-2014-mediation-rules-english-version.pdf> accessed 29 March 2025.

⁴²ICC Arbitration Rules (2021) (ICC Publication No. 901E, in force 1 January 2021) art 29(6)(a) <https://iccwbo.org/wp-content/uploads/sites/3/2020/12/icc-2021-arbitration-rules-2014-mediation-rules-english-version.pdf> accessed 29 March 2025.

⁴³ICC Arbitration Rules (2021) (ICC Publication No. 901E, in force 1 January 2021) art 29(6)(b) <https://iccwbo.org/wp-content/uploads/sites/3/2020/12/icc-2021-arbitration-rules-2014-mediation-rules-english-version.pdf> accessed 29 March 2025.

⁴⁴ICC Arbitration Rules (2021) (ICC Publication No. 901E, in force 1 January 2021) art 29(6)(c) <https://iccwbo.org/wp-content/uploads/sites/3/2020/12/icc-2021-arbitration-rules-2014-mediation-rules-english-version.pdf> accessed 29 March 2025.

⁴⁵ICC Arbitration Rules (2021) (ICC Publication No 901E, in force 1 January 2021) art 29(7) <https://iccwbo.org/wp-content/uploads/sites/3/2020/12/icc-2021-arbitration-rules-2014-mediation-rules-english-version.pdf> accessed 29 March 2025.

⁴⁶ICC Arbitration Rules (2021) (ICC Publication No. 901E, in force 1 January 2021) Appendix V, art 2(1) <https://iccwbo.org/wp-content/uploads/sites/3/2020/12/icc-2021-arbitration-rules-2014-mediation-rules-english-version.pdf> accessed 30 March 2025.

⁴⁷ICC Arbitration Rules (2021) (ICC Publication No. 901E, in force 1 January 2021) Appendix V, art 2(2) <https://iccwbo.org/wp-content/uploads/sites/3/2020/12/icc-2021-arbitration-rules-2014-mediation-rules-english-version.pdf> accessed 30 March 2025.

ARTICLE 3 CHALLENGE OF AN EMERGENCY ARBITRATOR

If a party wants to challenge the appointment of the arbitrator due to conflict of interest, or bias party can file an application within 3days after the appointment. three days starts from

- 1) the date they receive notification of the appointment of the emergency arbitrator or
- 2) from the date where they discover the new facts or circumstance that justify a challenge.⁴⁸

ARTICLE 7 COST OF THE EMERGENCY ARBITRATOR PROCEEDINGS

If a party wants to go for emergency arbitration they have to pay \$40,000 USD which includes

\$10000 USD	ICC administrative expenses
\$30000 USD	Emergency arbitrator fee and expenses

Until receiving the 40000\$ USD the ICC didn't move the emergency arbitration application.⁴⁹

INCREASE OF EMERGENCY ARBITRATION FEE

If the president has authority to increase the fee if he feels that

- 1) The emergency arbitrator has done the more work
- 2) If parties use more administrative resources of ICC then he can increase the administrative fee

If the parties failed to pay in the additional fee within the timeline specified by the secretariat, the application shall be considered as withdrawn.⁵⁰

If the emergency arbitration doesn't happen or stopped prior without emergency arbitrator issues an award then the ICC president will decide the refundable amount to the parties. However, the \$5000USD is non-refundable from the \$40000 USD no matter what happens.⁵¹

Gaps in appointing the emergency arbitrator in India when compared to the ICC

Features	ICC	Indian Arbitration & conciliation Act 2024
Appointment of Arbitrator	ICC President	Designated Arbitral Tribunal
Appointment time	2days	Not Mentioned in the Act
Decision Deadline	15days	Not Mentioned in the Act
Fees	\$40000USD	Not Mentioned in the Act
Optout option	yes	No Specific option to optout
Enforceability	Binding but tribunal can modify	Enforceable as per section 17

EMERGENCY ARBITRATION UNDER LONDON COURT OF INTERNATIONAL ARBITRATION (LCIA)

Any agreement, contract, and reference whether explicitly signed or not that mentions arbitration clause under the LCIA in any form, the parties are automatically obliged to settle their disputes under the LCIA

⁴⁸ICC Arbitration Rules (2021) (ICC Publication No. 901E, in force 1 January 2021) Appendix V, art 3(1) (<https://iccwbo.org/wp-content/uploads/sites/3/2020/12/icc-2021-arbitration-rules-2014-mediation-rules-english-version.pdf> accessed 30 March 2025).

⁴⁹ICC Arbitration Rules (2021) (ICC Publication No. 901E, in force 1 January 2021) Appendix V, art 7(1) (<https://iccwbo.org/wp-content/uploads/sites/3/2020/12/icc-2021-arbitration-rules-2014-mediation-rules-english-version.pdf> accessed 30 March 2025).

⁵⁰ICC Arbitration Rules (2021) (ICC Publication No. 901E, in force 1 January 2021) Appendix V, art 7(2) (<https://iccwbo.org/wp-content/uploads/sites/3/2020/12/icc-2021-arbitration-rules-2014-mediation-rules-english-version.pdf> accessed 30 March 2025).

⁵¹ICC Arbitration Rules (2021) (ICC Publication No. 901E, in force 1 January 2021) Appendix V, art 7(5) (<https://iccwbo.org/wp-content/uploads/sites/3/2020/12/icc-2021-arbitration-rules-2014-mediation-rules-english-version.pdf> accessed 30 March 2025).

rules.⁵² These rules govern the arbitration process and the procedural aspects such as jurisdictional, costs, and tribunal formation. However, party seek the interim relief through the emergency arbitrator appointed by the LICA court.

APPOINTMENT OF EMERGENCY ARBITRATOR

Under Article 9B of the LICA rules if there is need of emergency arbitration before the constitution of the tribunal either under normal or expedited procedures under article 5 or 9A, either of the party who are involved in the dispute can request the LICA court to appoint a temporary sole arbitrator. this emergency arbitrator can resolve the issue by passing a temporary decision to address immediate concerns until the full arbitral tribunal is constituted.⁵³

APPLICATION TO APPOINT AN EMERGENCY ARBITRATOR

When parties want to go for emergency arbitration they must apply to the LICA registrar electronically and the application should contain

- 1) The reason for urgency – why an emergency arbitrator is needed
- 2) The specific relief requested – what measures applicants are seeking and why

The application must include the Proof of Special fee has been paid or is being paid if LICA doesn't received the fee it automatically rejects the application. Special fee contains

- 1) The emergency arbitrator fee and expenses;
- 2) Administrative fees of LICA;
- 3) Any extra charges if needed.⁵⁴

Once the arbitrator is appointed he LICA may increase the special fee based on the case complexity. Special fee is handled separately, as per the LICA schedule of costs.

REVIEW OF THE APPLICATION

The LICA will review the application as quickly as possible. Once it approved by the court emergency arbitrator will appointed within in the 3days of receiving the request from the registrar or as soon as possible after that. The emergency arbitrator must be qualified and conducted required outlined articles under 5.3,5.4, and5.5. until the emergency proceedings are fully completed.⁵⁵

EMERGENCY ARBITRATION PROCEEDINGS

The emergency arbitrator has full discretion conduct the emergency proceeding according to the situation demands. The arbitrator gives a chance to both the parties to present their views even if they don't opt after that he reviews the facts and examine the evidences for emergency relief. Holding a hearing is completely discretion of the emergency arbitrator sometimes he can decide the case based on documents alone. He feels that hearing is needed then it can be done through in person, phone, video calls, or any other technology. If hearing is held, it can have a multiple session, and articles like 16.3,19.2,19.3, and 19.4 will apply.⁵⁶

Grant of relief

⁵²LICA Arbitration Rules (2020) (Effective 1 October 2020), preamble
http://lcia.org/dispute_resolution_Service_/lcia-arbitration-rules-2020.aspx accessed 30 March 2025.

⁵³LICA Arbitration Rules (2020) (Effective 1 October 2020), art9B.9.4
http://lcia.org/dispute_resolution_Service_/lcia-arbitration-rules-2020.aspx accessed 30 March 2025.

⁵⁴LICA Arbitration Rules (2020) (Effective 1 October 2020), art9B.9.5
http://lcia.org/dispute_resolution_Service_/lcia-arbitration-rules-2020.aspx accessed 30 March 2025.

⁵⁵LICA Arbitration Rules (2020) (Effective 1 October 2020), art9B.9.6
http://lcia.org/dispute_resolution_Service_/lcia-arbitration-rules-2020.aspx accessed 30 March 2025.

⁵⁶LICA Arbitration Rules (2020) (Effective 1 October 2020), art9B.9.7
http://lcia.org/dispute_resolution_Service_/lcia-arbitration-rules-2020.aspx accessed 30 March 2025.

After the appointment of the emergency arbitrator he has to decide the case within 14 days from the date of appointment. the deadline is only extended in exceptional cases only if the LICA court allows and if all parties agrees in writing. The emergency arbitrator has the same powers the arbitral tribunal and issue order and award like tribunal. The emergency arbitrator can delay all or the part of the emergency relief request until the main arbitration proceedings take place.⁵⁷

WRITTEN ORDER FROM THE EMERGENCY ARBITRATOR

The emergency arbitrator must issue a written order with reasons explaining the decisions. If decision is in form of an award, it must follow the Article 26.2, and will have the same effect as an arbitral award under article 26.8. after making the award or order it is the duty of the emergency arbitrator to send that documents to the registrar, who will forward those copies to the parties electronically.⁵⁸

SPECIAL FEE FOR EMERGENCY ARBITRATION

The special fee paid for emergency arbitration by the parties is consider part of the total arbitration costs under article 28.1, and the final amount was decided by the LICA court. Any legal expenses incurred by the parties during the emergency proceedings are counted as legal costs under the article 28.3. the emergency arbitrator will decide the how much legal charge should pay and which party has to pay emergency proceedings. the final decision on the cost can be left to the arbitral tribunal once it is formed.⁵⁹

TEMPORARY AWARD BY THE EMERGENCY ARBITRATOR

Any award passed by the emergency arbitrator in the emergency proceedings is not final it only has a temporary effect until main arbitral tribunal is formed. Once main arbitral tribunal has formed it has power to modify, confirm, or discharge.⁶⁰ This review can happen in two ways

- 1) On the request of the party
- 2) The tribunal request on its own.

Powers of the emergency arbitrator

Before the arbitral tribunal is formed emergency arbitrator has the following powers to do the following:

- 1) Modify and cancel – emergency arbitrator has power to modify, cancel, confirm, or adjust any order they previously made. He can also issue an additional document also.
- 2) Fix errors – he can correct calculation mistakes, clerical errors, typo errors, ambiguity, or any similar mistake in the award
- 3) Decide on pending issues – if there were any claims for emergency relief that were not mentioned in the initial decision, the emergency arbitrator can separate award on them.⁶¹

STATE COURTS AUTHORITY TO APPOINT EMERGENCY ARBITRATOR

⁵⁷LICA Arbitration Rules (2020) (Effective 1 October 2020), art9B.9.8
http://lcia.org/dispute_resolution_Service_/lcia-arbitration-rules-2020.aspx accessed 30 March 2025.

⁵⁸LICA Arbitration Rules (2020) (Effective 1 October 2020), art9B.9.9
http://lcia.org/dispute_resolution_Service_/lcia-arbitration-rules-2020.aspx accessed 30 March 2025.

⁵⁹LICA Arbitration Rules (2020) (Effective 1 October 2020), art9B.9.10
http://lcia.org/dispute_resolution_Service_/lcia-arbitration-rules-2020.aspx accessed 30 March 2025.

⁶⁰LICA Arbitration Rules (2020) (Effective 1 October 2020), art9B.9.11
http://lcia.org/dispute_resolution_Service_/lcia-arbitration-rules-2020.aspx accessed 30 March 2025.

⁶¹LICA Arbitration Rules (2020) (Effective 1 October 2020), art9B.9.12
http://lcia.org/dispute_resolution_Service_/lcia-arbitration-rules-2020.aspx accessed 30 March 2025.

Article 9B allows for the appointment of the emergency arbitrator, its not only the sole option to the parties, they can access the right to approach to state courts or legal authority to grant an interim relief before the formation of the main arbitral tribunal.⁶²

- 1) Emergency arbitration is not only option to the parties, they can still approach to the state courts
- 2) Court order must be shared – if ay order passed by the court’s parties must share that order to the registrar, emergency arbitrator, and all other parties.
- 3) Parallel proceedings – a party can pursue emergency relief from both courts and emergency arbitrator depends upon the situation.

NON-ADDRESSED ISSUES IN EMERGENCY ARBITRATION

If a situation arises during emergency proceedings which not directly addressed or not mentioned in the article 9B, on those circumstances the LCIA has the discretion to make its own decisions.⁶³

NON-APPLICABILITY OF THE EMERGENCY ARBITRATION

Emergency arbitration is not applicable in two situations

- 1) If arbitration agreement mad before 1st October 2014 and parties didn’t explicitly agree in writing to follow emergency arbitration
- 2) Mutually agreed by the parties to optout at any time from emergency arbitration.⁶⁴

GAPS IN APPOINTING THE EMERGENCY ARBITRATOR IN INDIA WHEN COMPARED TO THE LICA

Appointment of Emergency Arbitrator	LICA court	Designated Arbitral Tribunal
Appointment Time	3 days	Not mentioned in the Act
Deadline to Pass Award	14days	Not mentioned in the Act
Special Fee	£ 10000 Application Fee £ 25000 Emergency Arbitrators Fee	Not mentioned in the Act
Non-Addressed Issues in Emergency Arbitration	LCIA has an authority to make decisions	Not mentioned in the Act

CONCLUSION

Emergency arbitration is a landmark in international dispute resolution, providing expedited interim relief to avoid irreparable damage prior to the constitution of arbitral tribunals. SIAC, ICC, and LCIA have embraced detailed schemes, with transparent timelines, fixed fees, and effective powers for emergency arbitrators, establishing international standards. SIAC’s 24-hour appointment and 14-day decision timelines, ICC’s 2-day appointment and 15 day decision timelines, and LCIA’s 3-day appointment and 14 day decision timelines are evidences of procedural efficiency. India's Arbitration and Conciliation (Amendment) Bill, 2024, however, introduces emergency arbitration under Section 9A but

⁶²LCIA Arbitration Rules (2020) (Effective 1 October 2020), art9B.9.13
http://lcia.org/dispute_resolution_Service_/lcia-arbitration-rules-2020.aspx accessed 30 March 2025.

⁶³LCIA Arbitration Rules (2020) (Effective 1 October 2020), art9B.9.15
http://lcia.org/dispute_resolution_Service_/lcia-arbitration-rules-2020.aspx accessed 30 March 2025.

⁶⁴LCIA Arbitration Rules (2020) (Effective 1 October 2020), art9B.9.16
http://lcia.org/dispute_resolution_Service_/lcia-arbitration-rules-2020.aspx accessed 30 March 2025.

lags behind such standards. Lack of explicit timelines for appointment of arbitrators and decision-making, fee structures left ambiguous, and absence of opt-out provisions dilute its efficacy. While drawing inspiration from SIAC, India's model needs major improvements to provide clarity, transparency, and consistency with international norms. To achieve the full potential of emergency arbitration, India needs to embrace accurate procedural guidelines, pursue stringent timelines, and clarify enforcement mechanisms, thus imparting confidence in its arbitration infrastructure and providing effective resolution of urgent commercial disputes.