

**JAMMU & KASHMIR INTERNATIONAL ARBITRATION CENTRE (JKIAC)
(INTERNAL MANAGEMENT) RULES, 2020**

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**HIGH COURT OF JAMMU AND KASHMIR AT SRINAGAR
(Office of the Registrar General)**

Subject: The Jammu & Kashmir International Arbitration Centre (JKIAC)(Internal Management) Rules, 2020.

NOTIFICATION

No: 44

Dated: 19.09.2020

To regulate the Internal Management of the Jammu and Kashmir International Arbitration Centre (JKIAC), the High Court of Jammu and Kashmir hereby frames the following Rules.

PRELIMINARY

1 Title - These Rules shall be called as "The Jammu & Kashmir International Arbitration Centre (JKIAC) (Internal Management) Rules, 2020".

The Rules shall come into force from the date of notification.

2 Definitions-

2.1 In these rules, unless the context otherwise requires;

- (a) "Act" means the Arbitration and Conciliation Act, 1996 and the amendments thereto or any re-enactment thereof;
- (b) "Arbitral Award" includes an interim, partial and preliminary award;
- (c) "Arbitration Committee" means the committee constituted under Rule 3;
- (d) "Arbitrator" means a person appointed as an arbitrator from the JKIAC panel of arbitrators or by consent of parties; and includes an Emergency Arbitrator.
- (e) "Centre" means Jammu & Kashmir International Arbitration Centre, for short, JKIAC;
- (f) "Chairperson" and "Vice-Chairperson" mean the persons nominated under Rule 3;
- (g) "Coordinator" and "Additional Coordinators" means the person appointed in accordance with these Rules;
- (h) "JKIAC Counsel" means the counsel appointed under Rule 7;
- (i) "JKIAC Panel of Arbitrators" means the Panel of Arbitrators prepared and maintained in accordance with Rule 10 of these Rules [for short, the Panel];
- (j) "Dispute" includes differences;
- (k) "Party" means a Party(ies) to an arbitration agreement.

2.2 The words and phrases not defined in these Rules shall bear the same meaning as used or defined in the Act, the Jammu & Kashmir International Arbitration Centre (JKIAC) (Arbitration Proceedings) Rules, Jammu & Kashmir International Arbitration Centre (Administrative Cost and Arbitrators' Fees) Rules and the Schedules thereto as the case may be.

2.3 The Chief Justice of the Common High Court of Jammu & Kashmir & Ladakh shall be the Patron-in-Chief of the Jammu & Kashmir International Arbitration Centre (JKIAC) and shall have the powers vested under Rules 3, 6, 8 & 12 of the Rules.

PART I
ARBITRATION COMMITTEE

3. The Arbitration Committee-

- 3.1 There shall be an Arbitration Committee consisting of members as under:
- (a) Three Judges of the Common High Court of Jammu & Kashmir and Ladakh to be nominated by the Chief Justice of the Common High Court of Jammu & Kashmir and Ladakh, the senior most amongst them shall be the Chairperson of the Arbitration Committee and shall preside over the meetings of the Committee. In the absence of the Chairperson, the next judge in seniority shall preside over the meetings and shall also exercise such powers and duties as may be assigned by the Chairperson.
 - (b) Advocate General for the Union Territory of Jammu & Kashmir.
 - (c) Assistant Solicitor General of India attached to the Common High Court of Jammu & Kashmir and Ladakh.
 - (d) Three members to be nominated by the Chief Justice of the Common High Court of Jammu & Kashmir and Ladakh out of whom at least one shall be designated Senior Advocate, while the others may be any arbitration expert, in India or abroad.
- 3.2 The Coordinator shall be the *ex-officio* member of the Arbitration Committee, without any voting rights, and shall convene the meetings of the Arbitration Committee as may be desired by the Chairperson/Vice-Chairperson.
- 3.3 The meetings of the Arbitration Committee shall be presided over by the Chairperson.
- 3.4 The members of the Arbitration Committee may meet as and when required for the smooth and efficient functioning of the Centre.

4. Powers and Function of the Arbitration Committee-

- 4.1 To monitor and oversee administration of the Centre
- 4.2 To take decisions for setting up Centres and for smooth and effective functioning of the Centre;
- 4.3 To formulate norms / guidelines for internal functioning of the Arbitration Committee and lay down guidelines for the Secretariat and the Advisory Counsel;
- 4.4 To recommend revision/amendment in the Jammu & Kashmir International Arbitration Centre (JKIAC) (Internal Management) Rules, the Jammu & Kashmir International Arbitration Centre (Arbitration Proceedings) Rules and the Jammu & Kashmir International Arbitration Centre (JKIAC) (Administrative Costs and Arbitrators' Fees) Rules and the norms/guidelines stated in Rule 4.3 of these Rules, as deemed appropriate;
- 4.5 To prepare and update the JKIAC Panel of Arbitrators and to take such decisions as may be required from time to time;
- 4.6 To fix / revise the arbitrators' fees.
- 4.7 To remove a person from the Panel of Arbitrators if:
 - (a) Any complaint of breach of duty or misconduct is received against him and the Arbitration Committee is of the opinion that it would be expedient in the interest of the Centre not to continue such person on its Panel of arbitrators; or
 - (b) He is declared to be of unsound mind or becomes incapacitated; or
 - (c) He has incurred any disqualification under the Act.
 - (d) For any other reason deemed appropriate by the Committee.

- 4.8 To promote the cause of arbitration in such manner as may be found expedient.
- 4.9 Exercise all such power and functions for the proper functioning of the JKIAC.

PART II
SECRETARIAT

5. THE SECRETARIAT-

- 5.1 There shall be a Secretariat to supervise and manage the JKIAC and shall consist of:
- (a) A member of Higher Judicial Service to be appointed by the Chief Justice of the Common High Court of Jammu & Kashmir and Ladakh as Coordinator who will be in-charge of the Centre and act under the supervision of the Arbitration Committee; and
 - (b) Two Members of Judicial Service to be appointed by the Chief Justice of the Common High Court of Jammu & Kashmir and Ladakh as Additional Coordinators to assist the Coordinator.
 - (c) Notwithstanding anything contained in Clause (a) and (b), it shall be open to the Chief Justice of the Common High Court of Jammu & Kashmir and Ladakh to appoint a person who in the opinion of the Chief Justice is qualified to be appointed as Coordinator or Additional Coordinator.
 - (d) Such staff as may be appointed / deputed by the Chief Justice of the Common High Court of Jammu & Kashmir and Ladakh.

6. Duties and Responsibilities of the Coordinator-

- 6.1 The Coordinator shall be responsible for the day-to-day functioning of the Centre.
- 6.2 The Coordinator shall be the Principal Officer of the Jammu & Kashmir Arbitration Centre (JKIAC) and shall be the custodian of all assets, accounts, records, funds at the disposal of the Centre and other necessary records.
- 6.3 Without prejudice to the generality of the provision in (1), the Coordinator shall undertake the following:
- (a) On receipt of a Request for arbitration, take steps in accordance with the rules of JKIAC.
 - (b) Notify the parties to comply with the requirements of filing of the Request and Reply and the submission and payment of arbitrators' fee(s) and miscellaneous expenses, within the prescribed time frame.
 - (c) Maintain and update from time to time a profile of each arbitrator on the Panel of Arbitrators, and make it available to the parties, on request.
 - (d) Maintain a fact sheet of each arbitration case dealt with by the Centre.
 - (e) Carry out directions given by the Arbitration Committee from time to time.
 - (f) Conduct regular workshops and training programmes for Advocates, Arbitrators and other interested persons to keep them abreast with the latest developments in the field of arbitration.
- 6.4 All correspondence and communications to the Centre shall be addressed to the Coordinator and all correspondence and communications on behalf of the Centre shall be made by the Coordinator.



PART III
JKIAC COUNSEL

7. JKIAC Counsel-

On the recommendation of the Arbitration Committee the Chief Justice shall appoint:

- 7.1 A Chief Counsel who shall be an Advocate with at least 10 years of standing and preferably experienced in the field of arbitration. The Chief Counsel shall provide assistance and advice to the Secretariat from time to time and shall oversee the compliance and the functioning of the Counsel on such terms and remuneration as the Chief Justice may determine in consultation with the Arbitration Committee.
- 7.2 Two or more Counsel and Deputy Counsel who shall be advocates, with preferably 5 years and 3 years post qualification experience respectively and preferably experience in the field of arbitration for such tenure and on such terms and remuneration as the Chief Justice may determine in consultation with the Arbitration Committee.
- 7.3 At any time on the recommendation of the Arbitration Committee, the Chief Justice shall have the power to terminate the tenure of any of the JKIAC Counsel without assigning any reason.

8. Duties and Responsibilities of the JKIAC Counsel-

The duties and responsibilities of the JKIAC Counsel shall be as under:

- (a) To process the records pertaining to each Request for arbitration, received by the Centre, and recommend to the Coordinator to initiate action in accordance with the rules of the Centre.
- (b) Call upon the parties through the Coordinator to file their Statement(s) of claim, Replies thereto; Counter-claim(s) etc.
- (c) Compile all documents received pursuant to filing of a Request, divide them into separate volumes, forward a copy to each member of the Arbitral Tribunal and maintain a copy for the record of the Centre in accordance with Rule 7 of the Jammu & Kashmir International Arbitration Centre (Arbitration Proceedings) Rules.
- (d) Call upon the parties through the Coordinator to deposit the assessed miscellaneous expenses of the Centre and the fees for the arbitrator(s).
- (e) Render assistance by way of legal research, if called upon or requested to by the Arbitral Tribunal.
- (f) Assess the costs to be awarded by the Arbitral Tribunal in all arbitration proceedings.
- (g) Ensure proper docket management and upkeep of the record of the JKIAC.
- (h) Report to all communications by the Parties and/ or the Arbitrator in consultation with the Coordinator/ Additional Coordinators and ensure time compliance.
- (i) Apprise the Arbitrator about the status of the fee/ charge deposited, pursue deposit of deficient amounts if any, report non-compliance of order of the Arbitrator or the Coordinator and to secure such orders as may be necessary.

9. Law Researchers-

- 9.1 On the recommendation of the Arbitration Committee, the Chief Justice shall appoint Law Researcher(s) for such tenure and such remuneration as may be determined.
- 9.2 The Law Researches shall inter alia assist in:
- (a) research for JKIAC Publications;
 - (b) maintaining statistical data of JKIAC; and;
 - (c) Providing assistance to the Arbitration Committee or any sub-committee appointed under the JKIAC (Proceedings) Rules.
- 9.3 The Chief Justice shall have the power to terminate the tenure of any of the Law Researchers without assigning any reason at any time on the recommendation of the Arbitration Committee.

PART IV PANEL OF ARBITRATORS

10. Panel of Arbitrators-

- 10.1 The JKIAC shall prepare and maintain a Panel of Arbitrators as approved by the Arbitration Committee from time to time from amongst persons who are suitable and willing to serve as arbitrators provided that their suitability shall be determined by the Arbitration Committee.
- 10.2 The Secretariat shall maintain an up-to-date record of the panel of arbitrators together with information as to their qualifications and experience.

11. Procedure for empanelment as an arbitrator

11.1 The empanelment of arbitrators for the JKIAC shall be done in the following manner :

- a) **Former Judges:** All retired Chief Justices of India, retired Judges of the Supreme Court of India, retired Chief Justices of the erstwhile Jammu & Kashmir High Court or the Common High Court of Jammu & Kashmir and Ladakh, all retired Judges of the High Court of Jammu & Kashmir and the Common High Court of Jammu & Kashmir and Ladakh, shall *ipso facto* stand empanelled as an arbitrator subject to Rule 11.5;
- b) **Lawyers :** The applications of lawyers to be empanelled as an arbitrator shall be submitted to the Arbitration Committee, and shall be considered subject to qualifying the minimum basic criteria:
 - i) Seven years of experience at the Bar with specialization in the field of commercial and arbitration laws. (The applicant shall give list of commercial and arbitration cases handled and argued by him/her during the last five years along with copies of three judgments in cases argued by him / her in preceding 36 months)
 - ii) Applicant should be an Income-tax assessee, with declared net professional income of Rs.6.0 lacs per annum or more for the preceding two assessments years. (proof of which is to be submitted along with the application).
 - iii) Selection would be made from the Advocates, who fulfill the aforesaid criteria after interaction/ interview.

c) **Former Judicial Officers, Chartered Accountants, Bureaucrats, Engineers, Architects, Professors etc:** The applications of Chartered Accountants, Bureaucrats, Engineers, Architects, Professors, retired Judicial Officers etc to be empanelled as an arbitrator shall be submitted to the Committee, and shall be considered subject to qualifying the minimum basic criteria and after an interaction

i) Chartered Accountant, Bureaucrats, Engineers, Architects, Professors etc. of atleast seven years standing in their area of specialisation desirous of empanelment will be required to submit details relating to their work experience, whether they have earlier acted as arbitrators, or associated with arbitration cases, with details of the present work / job. Retired Government Servants or public sector employees shall disclose, whether any departmental proceedings are pending/contemplated against them or whether any punishment was imposed during their service.

11.2 An application for empanelment as an Arbitrator may be submitted in the form of resume in the office of Coordinator, Jammu & Kashmir Arbitration Centre (JKIAC).

11.3 In case of retired officers including the officers from the District Judiciary, or any other department, the copies of ACRs for the last 05 years shall be appended with the applications.

11.4 An application for empanelment shall be put up by the Coordinator before the Arbitration Committee for scrutiny.

11.5 Arbitration Committee shall decide on the empanelment of the applicant as an Arbitrator in Jammu & Kashmir Arbitration Centre (JKIAC) and the decision of the Arbitration Committee shall be final.

11.6 The rules above shall not be applicable to the retired Chief Justice of India, Judges of the Supreme Court of India, the High Courts, and their consent or an intimation of interest by them for empanelment will be the only pre-requisite with the formal approval of the Arbitration Committee.

11.7 The Arbitration Committee may at any time add new names to the Panel of Arbitrators or omit the name of any person from the Panel of Arbitrators.

11.8 Notwithstanding the prescribed qualifications, the Committee would have the discretion to empanel any person considered fit for empanelment as an arbitrator.

12. Appointment of Arbitrator

12.1 The parties may appoint any person as an arbitrator or choose any person from the Panel of Arbitrators to be appointed as an arbitrator in respect of their disputes, subject to their availability. Information submitted by the persons who are so empanelled may be made available to the parties seeking to appoint an arbitrator.

12.2 Notwithstanding the above, the Court or the Chairperson, as the case may be, may appoint an arbitrator who is not empanelled, but such appointment shall be restricted to the case concerned.

PART V

GENERAL PROVISIONS

13. Amendment of Rules-

13.1 These Rules may be amended by the Chief Justice of the Common High Court of Jammu & Kashmir and Ladakh.

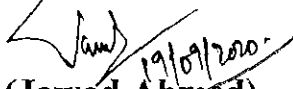
13.2 The Arbitration Committee may recommend amendment(s) in these Rules to

the Chief Justice of the Common High Court of Jammu & Kashmir and Ladakh.

14. Residuary Provision-

The Arbitration Committee may take appropriate decisions, as it considers necessary in respect of all matters, which are not specifically provided in these Rules.

By Order


(Jawad Ahmed)
Registrar General

No: 7087-7111/RG

Dated: 19.09.2020

Copy of the above forwarded to:

1. Advocate General, Government of UT of Jammu and Kashmir at Srinagar.
2. Chief Secretary, Government of UT of Jammu and Kashmir at Srinagar.
3. Advisor to LG UT of Ladakh, Leh.
.....for information.
4. Principal Secretary to Hon'ble the Chief Justice High Court of J&K.
5. Secretary to Hon'ble Mr/Mrs Justice _____
.....for information of their Lordships.
6. Secretary to the Department of Law, Justice and Parliamentary Affairs,
Government of Jammu and Kashmir, Srinagar.
7. Secretary to the Department of Law and Justice, Government of UT of Ladakh, Leh.
8. Registrar Vigilance, High Court of J&K, Srinagar.
9. Registrar Rules, High Court of J&K, Srinagar.
10. Member Secretary, J&K State, Legal Service Authority, Srinagar.
11. Registrar Judicial, High Court of J&K, Jammu/Srinagar.
.....for information.
12. CPC e-Courts J&K High Court Jammu for information and with the request to upload the Notification on the official website of the High Court.
13. Manager, Government Press, Jammu for publication in the next issue of Government Gazette.


Registrar General