

DIAC EMPANELMENT RULES, 2020.

- I. Eligibility:**
- (1) Eligibility for empanelment as an arbitrator with DIAC:
 - a) Advocate (within the meaning of the Advocates Act, 1961) having minimum ten years of practice experience as an advocate with specialisation in the field of commercial and arbitration laws; or
 - b) Chartered accountant (within the meaning of the Chartered Accountants Act, 1949) having minimum ten years of practice experience as a chartered accountant with specialisation in the field of commercial and arbitration laws; or
 - c) Cost accountant (within the meaning of the Cost and Works Accountants Act, 1959) having minimum ten years of practice experience as a cost accountant with specialisation in the field of commercial and arbitration laws; or
 - d) Company secretary (within the meaning of the Company Secretaries Act, 1980) having minimum ten years of practice experience as a company secretary with specialisation in the field of commercial and arbitration laws; or
 - e) has been an Officer of the Indian Legal Service; or
 - f) has been an Officer with law degree having minimum ten years of experience in the legal matters in the Government, Autonomous Body, Public Sector Undertaking or at a senior level managerial position in private sector and where he /she has worked in the private sector; or
 - g) has been an Officer having minimum ten years of experience as an engineer in the Government, Autonomous Body, Public Sector Undertaking or at a senior level managerial position in private sector or self-employed; or
 - h) has been an Officer having senior level experience of administration in the Central Government or State Government or having experience of senior level management of a Public Sector Undertaking or a Government company or a private company of repute; or

- i) Person having educational qualification at degree level with ten years of experience in scientific or technical stream in the fields of architecture, telecom, information technology, Intellectual Property Rights or other specialised areas in the Government, Autonomous Body, Public Sector Undertaking or a senior level managerial position in a private sector, as the case may be; or
- j) Any person who has been a judge / judicial officer; or
- k) Any foreign national who has considerable experience in Arbitration as assessed by DIAC.

(2) Where the applicant is a professional or has worked / is working in the private sector as a professional / retainer, he / she must have declared net professional income of Rs. 6 lakhs per annum for the preceding two assessment years in his / her income tax returns.

(3) Where the applicant is a retired Government employee, he/she shall be eligible for empanelment on furnishing a vigilance clearance certificate from the concerned Government Department certifying that no departmental proceedings are pending against him / her and no punishment was imposed during his / her service.

II. General Norms:

- (1) The applicant shall be a person of general reputation of fairness and integrity and must be capable to apply objectivity in arriving at settlement of disputes;
- (2) The applicant must be impartial and neutral and avoid entering into any financial business or other relationship that is likely to affect impartiality or might reasonably create an appearance of partiality or bias amongst the parties;
- (3) The applicant should not be involved in any legal proceeding and must avoid any potential conflict connected with any dispute to be arbitrated by him/her;
- (4) The applicant should not have been convicted of an offence involving moral turpitude or economic offence;

- (5) The applicant shall be conversant with the Constitution of India, principles of natural justice, equity, common and customary laws, commercial laws, labour laws, law of torts, making and enforcing the arbitral awards;
- (6) The applicant should possess robust understanding of the domestic and international legal system on arbitration and international best practices in regard thereto;
- (7) The applicant should be able to understand key elements of contractual obligations in civil and commercial disputes and be able to apply legal principles to a situation under dispute and also to apply judicial decisions on a given matter relating to arbitration; and
- (8) The applicant should be capable of suggesting, recommending or writing a reasoned and enforceable arbitral award in any dispute which comes before him/her for adjudication.

III. Assessment: The eligible applications shall be assessed on the basis of the following factors:

- (1) Academic degrees or qualifications;
- (2) Current occupation, professional activity(ies) and position(s);
- (3) Fields of expertise / areas of practice;
- (4) Length of professional experience in the field of arbitration;
- (5) Empanelment with other arbitral institutions;
- (6) Number of cases conducted by the applicant as an Arbitrator;
- (7) Number of cases conducted by the applicant before Arbitral Tribunals;
- (8) Number of cases conducted by the applicant before Courts in cases relating to commercial law, preferably arbitration; and
- (9) Publications relating to arbitration in journals or books.

IV. Screening Committee:

- (1) The Arbitration Committee shall constitute a Screening Committee of at least three members to scrutinise the applications for empanelment.
- (2) The Screening Committee shall be guided by the factors of assessment laid down in these Rules while scrutinising and evaluating the applications.
- (3) The Screening Committee shall shortlist the applicants on the basis of the eligibility criteria and assessment factors laid down in these Rules.
- (4) The Screening Committee may call any shortlisted applicant for personal interaction, where deemed necessary.

V. Exemptions: Any person who has been a Judge in the Supreme Court of India, or a Judge in any of the High Courts in India or has been a Judicial Officer who has served with any other Court till his/her superannuation or Senior Advocate designated by the Supreme Court of India or any of the High Courts in India shall be exempted from the procedural requirements under these Rules. They shall be empanelled on submission of application form and completion of other formalities.

VI. Feedback: All the empanelled arbitrators may be subject to feedback process as notified by DIAC from time to time in which parties to the arbitration and their counsels may be asked to give feedback with respect to the Arbitrators appointed on their matter. Such feedback shall remain confidential and is for the internal assessment of the quality of empanelled arbitrators. DIAC shall maintain a strictly confidential register and record the feedback received from the arbitrating parties / lawyers. This Register shall be placed before the Chairperson of the Committee from time to time.

VII. Re-evaluation of empanelled arbitrators: The Arbitration Committee may direct re-evaluation of empanelled arbitrators under these Rules wherever deemed necessary.

VIII. Removal from the panel:

- (1) The Arbitration Committee reserves the right to remove any Arbitrator from its panel if it deems appropriate to do so without assigning any reasons.
- (2) On removal from the panel of DIAC, such Arbitrator may be substituted from any ongoing arbitrations wherein his/her appointment has been made by DIAC.

IX. Empanelment by Invitation: Arbitration Committee may invite any eminent person for empanelment as an arbitrator.

X. Residuary Provisions:

- (1) The applications shall be placed before the Screening Committee and the recommendations of the Screening Committee for empanelment of the applicant shall be subject to the approval of the Chairperson of the Arbitration Committee and thereafter, the final approval of the Chief Justice of Delhi High Court.
- (2) The Screening Committee is not required to give reasons for rejection to any unsuccessful applicant. Upon receipt of a communication of the rejection by DIAC, the said applicant can re-apply after a period of two years from the date of receipt of such rejection.
- (3) It is clarified that empanelment does not confer any rights to the person empanelled for appointment by DIAC. The appointments made by DIAC shall be as per internal assessment and are not open to scrutiny.

XI. Explanation: The rules shall become effective on such date as may be notified by the Arbitration Committee.