



# **Internal Management Rules, 2020**

effective from 20<sup>th</sup> September 2020

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A meeting of the Governing Council of the Indian Law Society was held on 19.9.2020. One of the issues for discussion in the said meeting was

- To discuss and finalize the procedure for empanelment of arbitrators and mediators on the ILSCA Panel of Arbitrators and ILSCA Panel of Mediators.

This item was posted to get advice from the members of Governing Council for framing proper guidelines for empanelment of Arbitrators and Mediators on the ILSCA Panel of Arbitrators and ILSCA Panel of Mediators.

During the course of discussions, it emerged that as it was necessary to have a transparent, reasonable and just procedure for empanelment, it will be ideal to create an Advisory Body for ILSCA to take decision, to scrutinize the proposals and to give approvals as well as to send invitations to persons suggested by the members of the Governing Council and by the members of the General Body of the Indian Law Society, to be a part of the ILSCA Panel of Arbitrators and ILSCA Panel of Mediators.

The members of the Governing Council unanimously resolved for formation of an Advisory Body of ILSCA. It was resolved to form a committee consisting of in-house members of the Indian Law Society as under:

1. Justice Mridula Bhatkar- President- as Chairperson,
2. Mr. P. Narayan-Chairman- Governing Council as Member,
3. Ms. V.G. Joshi- Hon. Secretary-ILS as Member,
4. Mr. S.V. Kanetkar-Patron-ILS as Member, and
5. Ms. Sathya Narayan-Patron- ILS & Director-ILSCA as Member Secretary.

It was further resolved that Ms. Sathya Narayan will prepare guidelines for working of the committee constituted for empanelment of Arbitrators and Mediators and internal management of ILSCA henceforth addressed as “Advisory Body of ILSCA”.

## **Guidelines for working of the Advisory Body of ILSCA**

### **Our Organisation**

For the smooth functioning of arbitral and mediation proceedings administered under ILSCA Institutional Arbitral Rules (for the sake of brevity ILSCA (IA) Rules and ILSCA Institutional Mediation Rules (for the sake of brevity ILSCA (IM) Rules, respectively and for allied matters, three authorities are contemplated.

ILSCA operates under a three-tier structure comprising of the following bodies.

- 1. Indian Law Society**
- 2. Advisory Body of ILSCA**

### 3. ILSCA Secretariat

#### 1. The Indian Law Society

Indian Law Society a not-for-profit, Public Charitable Trust and a registered society was established in 1923. The main objective of the Indian Law Society has been to provide facilities for the study of law by starting law colleges at various places in the country. Another important objective of the Society was to provide facilities, specialised knowledge in various subjects of Law as well as allied disciplines to bring about dissemination of knowledge of law and generally to do all and every such things as would promote the aims and objects of the Society, like establishing allied units from time to time under its banner for the purposes of augmenting Legal Education, the basic purpose of the Society.

Indian Law Society chose the path of “Legal Education” to achieve its mission. Its watchword is aptly described in the following words

**धर्मं सर्वं प्रतिष्ठितम् ।**

According to this motto, there is nothing in the world which is not governed by law – in other words, the invariable concomitance of results and causes is our conception of the word ‘law’. Keeping in tune with this objective Indian Law Society established a law College in 1924.

For the last 98 years, very close to attain centenary, the ILS Law College has untiringly provided law education to thousands of students and has contributed for the creation of a sound legal culture in the country.

The affairs of the Indian Law Society are managed by two bodies

1. The General Body and
2. The Governing Council

To sub-serve the objective of the Society, the Indian Law Society, from time to time has established different centres, under its banner, to support and enrich the mainstream legal education.

#### **Foresight of the Indian Law Society**

The Governing Council, Indian Law Society by its resolution dated \_\_\_\_\_, established a Centre on **December 3, 2016**, wherein the Centre can work in confluence with the ILS Law College, which imparts legal education to students who aspire for law training. The Centre is titled as **Indian Law Society’s Centre for Arbitration and Mediation i.e., ILSCA**. It was further resolved that the aims and objects of the Centre shall be as under;

1. To give training to students, lawyers, judicial officers, arbitrators and other stakeholders in law of arbitration and practice, and the law and techniques of mediation and conciliation practice.
2. To create facilities to hold arbitration, mediation and conciliation proceedings.
3. To give diploma and certificates in Alternate Dispute Resolution mechanism.
4. To undertake research in the areas of Alternative Dispute Resolution mechanism.

To achieve these aims and objects, it was further resolved that a rule making committee be formed to draft rules- a. for working of ILSCA, b. for schedule of Fees, c. for ad-hoc arbitration and institutional arbitration, d. for various other aspects required to run the Centre.

Indian Law Society geared up with a vision to facilitate parties to resolve disputes by arbitration and mediation through settled rules framed for institutional arbitration and institutional mediation established a stable and a vibrant eco-system for catering to institutional arbitration and mediation.

ILS envisaged a trustworthy, independent, efficient and transparent Arbitration Centre, wherein the disputant parties could resolve disputes- by taking recourse to different methods of Alternative Dispute Resolution like Arbitration, Arb-Med-Arb, Med-Arb, Mediation, Negotiation and Conciliation.

**ILSCA** is a unit of the Indian Law Society. ILSCA is in fact a challenge to the current trend of downfall in the Indian arbitration milieu. As a result of the structured procedure and administrative support provided by ILSCA institutional arbitration and mediation, it will have distinct advantage over ad hoc arbitration. This Centre was established in consonance with the aims and objects of the Society as enshrined under the Constitution of the Indian Law Society. The Centre is first of its kind in India established under a Law Society.

Though the Governing Council and the General Body of the Society do not have an active role in the day-to-day administration and arbitral proceedings conducted at ILSCA, it does maintain a close interest in the ILSCA's operation, its administrative functions, and control over the overall working of ILSCA.

The Governing Council of the Indian Law Society delegated its authority to a smaller body the **Advisory Body of ILSCA** to oversee day to day administration of ILSCA and to ensure that there is a proper application of the ILSCA (IA) Rules in administering institutional arbitral proceedings and ILSCA (IM) Rules in administering institutional mediation proceedings, whenever they were referred.

## **2. Advisory Body of ILSCA**

The Advisory Body of ILSCA constituted in accordance with a resolution passed by the Governing Council of the Indian Law Society, on 19<sup>th</sup> September 2020, to ensure that the arbitrations and mediations – both institutional and ad hoc are administered effectively at ILSCA.

Ms. Sathya Narayan- the Director, ILSCA was advised by the Governing Council, Indian Law Society to frame Rules for the working of the Advisory Body of ILSCA.

The following Rules for the working of the Advisory Body of ILSCA were approved by the Advisory Body of ILSCA in its meeting dated 11<sup>th</sup> August 2021.

### **Rule 1: Term of Office of the Advisory Body of ILSCA**

1.1 The term of office of the Advisory Body shall be for a period of five (5) years from the date of its constitution subject to extension by the Governing Council of the Indian Law Society.

### **Rule 2: Responsibilities of the Advisory Body of ILSCA**

2.1 The Advisory Body of ILSCA will be the primary body which will supervise and control the management of ILSCA through the Appointing Authority, ILSCA, the head of the ILSCA Secretariat.

2.2 The Advisory Body of ILSCA is the final authority to ensure that there is a proper application of the ILSCA(IA) and ILSCA (IM) Rules in administering institutional arbitral and mediation proceedings.

2.3 The Advisory Body of ILSCA is responsible for overseeing ILSCA's operations.

2.4 The Advisory Body of ILSCA is responsible for empanelment of arbitrators and mediators on the ILSCA Panel of Arbitrators and ILSCA Panel of Mediators.

### **Rule 3: Empanelment to the ILSCA Panel of Arbitrators and ILSCA Panel of Mediators**

3.1 Empanelment to the ILSCA Panel of Arbitrators and ILSCA Panel of Mediators shall be by invitation by the Advisory Body of ILSCA or on application being made to ILSCA in response to the call inviting applications for empanelment.

- 3.2 The ILSCA Panel of Arbitrators and the ILSCA Panel of Mediators is selected by the Advisory Body of ILSCA from amongst persons who are qualified and possess knowledge and experience in their respective field of profession and arbitration law and procedure and are willing to serve as arbitrators generally or in specific fields.
- 3.3 To consider the names suggested by the members of the Governing Council and the General Body of the Indian Law Society for being empaneled on the ILSCA Panel of Arbitrator or ILSCA Panel of Mediators and on arriving at a consensus to invite them to be on the Panels.
- 3.4 The Advisory Body of ILSCA reserves the right, in its absolute discretion, to empanel or refuse to empanel any person to the ILSCA Panel of Arbitrators and ILSCA Panel of Mediators.
- 3.5 The Advisory Body of ILSCA shall select applications received in response to the call released, at its discretion from being empaneled on the ILSCA Panel of Arbitrators and ILSCA Panel of Mediators, or reject applications at its discretion from being empaneled on the ILSCA Panel of Arbitrators and ILSCA Panel of Mediators.
- 3.6 The Advisory Body of ILSCA shall direct the ILSCA Secretariat to prepare and maintain details of the ILSCA Panel of Arbitrators and ILSCA Panel of Mediators after selection and after securing the consent of such candidates so empaneled.
- 3.7 The Advisory Body of ILSCA shall direct the ILSCA Secretariat to obtain and maintain adequate and relevant information as to the personal details, qualification and experience of each such candidate who aspires to be empaneled on ILSCA Panel of Arbitrators and ILSCA Panel of Mediators, if such information is not provided along with their application.
- 3.8 The Advisory Body of ILSCA shall, upon sufficient and reasonable cause, remove a member from the panel and have the power to do so by way of a written notice to such member if,
  - (a) Any complaint of breach of duty or misconduct is received against a member and after giving such person sufficient opportunity for being heard, the Advisory Body of ILSCA is of the opinion that it would be in the interest of the Centre not to continue such person on ILSCA Panel of arbitrators or ILSCA Panel of Mediators; or

(b) The arbitrator or the mediator is declared by a court of competent jurisdiction to be of unsound mind or becomes incapacitated or has been found guilty of an offence of moral turpitude; or

(c) The arbitrator is declared Insolvent by a court of competent Jurisdiction; or

(d) The arbitrator has incurred any disqualification under the Arbitration and Conciliation Act, 1996.

#### **Rule 4: Empanelment of Tribunal Secretaries on the ILSCA Panel of Tribunal Secretaries**

4.1 The Advisory Body of ILSCA has the responsibility to empanel Tribunal Secretaries on the ILSCA Panel of Tribunal Secretaries.

4.2 The Advisory Body of ILSCA while empanelling Tribunal Secretaries on the ILSCA Panel of Tribunal Secretaries shall refer to ILSCA Tribunal Secretary Rules.

#### **Rule 5: Advisory Body of ILSCA as a Consultant**

5.1 The ILSCA Advisory Body shall act as a consultant and guide the Appointing Authority, ILSCA.

5.2 Alongside the other functions, the Appointing Authority, ILSCA in consultation with the Advisory Body of ILSCA shall prepare and publish Practice Notes to supplement, regulate and implement arbitral proceedings and mediation proceedings according to the ILSCA (IA) Rules and ILSCA (IM) Rules.

#### **Rule 6: Miscellaneous functions of Advisory Body of ILSCA**

6.1 The decision of the Advisory Body of ILSCA on any question relating to interpretation of these rules or any procedural matter there under shall be final and binding on the parties.

6.2 The Advisory Body of ILSCA may appoint the Director of ILSCA or any other eligible person as the Appointing Authority.

#### **ILSCA Secretariat**



## **Rule 7: ILSCA Secretariat**

- 7.1 There shall be a Secretariat for the Indian Law Society's Centre for Arbitration and Mediation titled as the ILSCA Secretariat, appointed by the Governing Council of Indian Law Society.
- 7.2 The ILSCA Secretariat shall be headed by the Appointing Authority, ILSCA appointed by the Advisory Body of ILSCA and shall discharge the duties and responsibilities towards ILSCA on the advice and directions of the Advisory Body, ILSCA.
- 7.3 The Indian Law Society shall appoint as many members to the staff of the ILSCA Secretariat as are required for the due discharge of its functions under the ILSCA (IA) Rules and ILSCA (IM) Rules.
- 7.4 The affairs of ILSCA are managed by the ILSCA Secretariat under the guidance of the Advisory Body of ILSCA.
- 7.5 The ILSCA Secretariat is, responsible for assisting the Arbitral Tribunals and the Mediators in carrying out their functions.
- 7.6 The ILSCA Secretariat through Appointing Authority, ILSCA shall maintain a register of:
  - (a) All arbitrations administered by ILSCA under ILSCA (IA) Rules;
  - (b) All awards made in arbitrations administered by ILSCA under ILSCA (IA) Rules;
  - (c) All Mediations conducted by ILSCA under ILSCA (IM) Rules;
  - (d) All settlement agreements reached in mediations administered by ILSCA under ILSCA (IM) Rules.

## **Rule 8: Monitoring the progress of the case**

- 8.1 The ILSCA Secretariat monitors the progress of the arbitral and mediation proceedings throughout the arbitration and mediation.
- 8.2 The ILSCA Secretariat is responsible for the day-to-day administration of arbitral and mediation proceedings administered as per ILSCA (IA) Rules and ILSCA (IM) Rules, respectively.

## **Rule 9: Arranging facilities and services for hearing**

- 9.1 The ILSCA Secretariat shall arrange rooms for arbitration or mediation hearings.
- 9.2 The ILSCA Secretariat shall arrange for transcription, translation and interpretation services.

- 9.3 The ILSCA Secretariat shall arrange for Audio and video recording facilities.
- 9.4 The ILSCA Secretariat, on request made by the Arbitral Tribunal and if parties demand, shall provide services of a Tribunal Secretary for each of the arbitral proceedings, who will assist the parties in resolving queries, making arrangements for hearing venues, preparing and adhering to the procedural timetable, interpreting and applying the ILSCA (IA) Rules, and dealing with any matters required under the ILSCA (IA) Rules.

### **Rule 10: Appointing Authority ILSCA**

- 10.1 The Advisory Body of ILSCA may appoint the Director of ILSCA or any other eligible person as an Appointing Authority, ILSCA.
- 10.2 The Appointing Authority, ILSCA is the principal point of contact for the ILSCA, the Advisory Body of ILSCA and the parties.
- 10.3 The Appointing Authority, ILSCA is primarily responsible to oversee the day-to-day administration and conduct of the business at ILSCA.
- 10.4 The Appointing Authority, ILSCA shall discharge such of the functions and administrative duties, as deemed proper and necessary from time to time.
- 10.5 The Appointing Authority, ILSCA shall carry out directions given by the Advisory Body of ILSCA and the Arbitral Tribunal and mediator from time to time.
- 10.6 All communications and all applications relating to arbitration and mediation shall be addressed to and received by the Appointing Authority, ILSCA.

### **Rule 11: Duties and Responsibility of the Appointing Authority, ILSCA**

- 11.1 The Appointing Authority, ILSCA is under a duty to take steps as may be necessary for timely completion of arbitral and mediation proceedings administered as per the ILSCA (IA) Rules and ILSCA (IM) Rules respectively.
- 11.2 Without prejudice to the generality of the provision in the clause as mentioned above, the Appointing Authority, ILSCA shall undertake to do the following relating to arbitral proceedings:
- (a) To appoint arbitrators, including the emergency arbitrators; and to monitor administration of the arbitral proceedings referred to ILSCA to be conducted according to ILSCA (IA) Rules;
  - (b) To ensure that arbitrations are conducted in strict compliance with ILSCA (IA) Rules;

- (c) To take steps as may be necessary for timely completion of arbitral proceedings;
- (d) To initiate action in accordance with ILSCA (IA) Rules, on receipt of Request for Commencement;
- (e) To call upon the parties to file their Statement of Claim, Response to Request along with Counterclaim or Set-off if any, Reply and Rejoinder thereto;
- (f) To keep and maintain all the records pertaining to each of the arbitral proceedings administered under ILSCA (IA) Rules;
- (g) To call upon the parties to deposit the fees of ILSCA and fees of the arbitrator(s) and other miscellaneous fees, if any, within the prescribed time frame;
- (h) To compile all documents filed by the parties related to arbitral proceedings, divide them into separate files, forward a copy to the Arbitral Tribunal and a copy for the record of the ILSCA in accordance with ILSCA (IA) Rules;
- (i) To assist the Arbitral Tribunal in rectifying clerical errors, if any, in the award;
- (j) To assess the costs to be awarded by the Arbitral Tribunal in all arbitral proceedings;
- (k) The Appointing Authority, shall supervise the arbitral proceedings in matters referred by any High Court or by the Supreme Court and also makes the appointment of arbitrators;
- (l) To perform such other functions in consultation with other authorities in accordance with ILSCA (IA) Rules.

11.3 Without prejudice to the generality of the provision as mentioned in Rule 11.1, the Appointing Authority, ILSCA shall undertake to do the following relating to mediation proceedings:

- (a) To appoint mediators and to monitor administration of the mediation proceedings referred to ILSCA to be conducted according to ILSCA (IM) Rules;
- (b) To ensure that mediations are conducted in strict compliance with ILSCA (IM) Rules;
- (c) To take steps as may be necessary for timely completion of mediation proceedings;
- (d) To initiate action in accordance with ILSCA (IM) Rules;
- (e) To keep and maintain all the records pertaining to each of the mediation proceedings administered under ILSCA (IM) Rules;

- (f) To call upon the parties to deposit the fees of ILSCA and fees of the mediator(s) and other miscellaneous fees, if any, within the prescribed time frame;
- (g) To compile all documents filed by the parties related to mediation proceedings;
- (h) To perform such other functions in consultation with other authorities in accordance with ILSCA (IM) Rules.

## **Rule 12: Powers of the Appointing Authority, ILSCA**

- 12.1 In case following applications are made by the parties during the arbitral proceedings the final authority to decide such application shall vest in the Appointing Authority, ILSCA
- (a) Application made by the parties challenging the appointment of arbitrators including the Emergency Arbitrator;
  - (b) Application by the parties for consolidation of two or more pending arbitrations in to a single arbitration;
  - (c) Application to appoint Emergency Arbitrator from ILSCA Panel of Arbitrators;
  - (d) Application to determine whether arbitral proceedings shall be conducted in accordance with the FastTrack Procedure;
- 12.2 The Appointing Authority in consultation with the Arbitral Tribunal may extend or shorten any time limits prescribed under ILSCA (IA) Rules subject to reasons recorded in writing.
- 12.3 The decision of the Appointing Authority on any question relating to interpretation of ILSCA (IA) Rules and allied rules and ILSCA (IM) Rules and allied rules or any procedural matter there under shall be final and binding on the parties
- 12.4 The Appointing Authority, ILSCA may take appropriate decisions, as it considers necessary in respect of all matters which are not specifically provided in the ILSCA (IA) and ILSCA (IM) Rules.

## **Rule 13: Review and amendment of ILSCA Rules**

The Advisory Body of ILSCA, shall have the power to review and amend the ILSCA (IA) Rules and allied rules, the ILSCA(IM) Rules and allied rules and ILSCA Internal Management Rules, from time to time as it deems necessary.

