

# INDIAN DENTAL ASSOCIATION



## Bye-Laws, Rules & Regulations of Arbitration and Conciliation



Indian Dental Association

**Registered Head Office**

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## Introduction

The Constitution lays down an Article on 'Disputes and Arbitration' to settle any disputes that may arise in the functioning of the Association. In addition the 'Arbitration Guidelines' presented herein lays down the procedure to protect the Association's interest at large and to achieve its fundamental aims by providing remedy to internal / external disputes within the purview of 'Indian Arbitration and Conciliation Act', as approved and adopted unanimously by the Central Council.

# **Bye-Laws, Rules & Regulations of Arbitration and Conciliation Guidelines**

1. Indian Dental Association (hereinafter referred as “IDA”) Constitution and Bye-laws and ethics as mentioned and defined under separate leaf-lets.
2. Registered Office (Head Office):  
  
For the purpose of Jurisdiction Registered Office means Head Office as described in Article 5 of the constitution of the Association. (As per clause 5 of the Constitution of IDA, the Registered Head Office of the Association shall be in India where the Honorary Secretary General resides/practices. )
3. Rules Of Arbitration

### **3. Rules of Arbitration**

#### **Definitions:**

The rules may be called the “Rules of Indian Dental Association.

#### **1. Rule - 1**

- a. These rules may be called the “Rules of Indian Dental Association.
- b. These rules shall apply in conjunction with article 12 of the Constitution of IDA
- c. Association means Head Office of Indian Dental Association including Branch office and state office.
- d. The rules shall automatically come into force once, as per article ‘Disputes and Arbitration’ sub-clauses 2.C.d of the Constitution, an Appeal against the decision of the Central Council is referred for Arbitration

#### **2. Rule - 2**

In these rules, the following words have the following meanings:

- a. “Arbitral Tribunal” means an arbitrator or arbitrators appointed for determining a particular dispute (s) or difference (s).
- b. “Arbitral Award” includes an interim award.
- c. “IDA HO” means the Governing Body of the Association.
- d. “Guidelines” means the guidelines for arbitrators and the parties to the Dispute.
- e. Arbitration for expeditious conduct of the arbitration proceedings given in the Annexure to these Rules.
- f. Jurisdiction means the place of Head office of the Association and if during the pendency of any proceedings if Head Office is shifted to any other state as per clause 5 of the constitution then the court where the proceedings were pending will continue to have Jurisdiction till final disposal of the proceedings.
- g. Head Office is represented by the Honorary Secretary General in the City where his Office is situated and not in any other place in India.
- h. “Party” means all parties to an Arbitration agreement. It includes members inter-se; members and outsiders; Association and members; and Association and outsiders concerning the business of the Association relating to any contract and dispute and interpretation of any contract, Bye-laws, rule and regulation of the Association and also any dispute regarding any meetings and resolution of the Association.
- i. Place of Arbitration means place of Head Office of the Association and if

during pendency of any proceedings if Head Office is shifted to any other state as per clause 5 of the constitution then the Arbitrable Tribunal where the proceedings were pending will continue to have Jurisdiction till final disposal of the proceedings.

- j. “Rules” means the rules of arbitration of the Association.
- k. “Rules of Conciliation” means the Rules of Conciliation of the Association.

## **Arbitration Committee**

### **3. Rule-3**

- a. The Central Council shall constitute an Arbitration Committee for performing the functions prescribed under the Rules. The Committee shall consist of the President, President (Elect), Honorary Secretary General, Past President & Chairman of Constitution Committee. The Committee shall hold the office for a year or as mutually decided.

## **Rules Applicable**

### **4. Rule 4**

- a. Any dispute relating to any matter as envisaged under article 12 “DISPUTES & ARBITRATION” of constitution of IDA shall be determined and settled in accordance with these Rules.
- b. IDA HO shall also be competent to administer the Conduct of the arbitration in any dispute (s) or difference (s) relating to between the parties as mentioned in sub-clause (a) hereinabove.
- c. IDA HO shall be competent to function as the appointing authority on receipt of reference from the aggrieved party against the decision of the Central Council of the Association.

### **5. Rule 5**

The decision of the Arbitrator on any question referred including interpretation of these rules or procedural matter hereunder shall be final and binding on the parties.

### **6. Rule 6**

A Panel of Arbitrators shall be selected by the Arbitration Committee from amongst the persons who are qualified and possess the knowledge and experience in their respective field of profession and basic knowledge and Arbitration law and procedure and are willing to serve as arbitrator generally or those who, from time to time, are recommended by the members of the Arbitration Committee.

All the members of the Panel will carry equal status and parties will not have any right to challenge the appointment of the arbitrators on the ground that its nominee arbitrator has higher status than the Presiding Arbitrator.

## **4 Arbitration Guidelines**

**7. Rule 7**

The Secretary General shall prepare and maintain an up-to-date Panel of Arbitrators with adequate information as to their qualifications and experience. Separate list may be kept and maintained of Arbitrators included in the Panel of Arbitrators in general.

**8. Rule 8**

The Arbitration Committee may, at any time, add the name of any person to the list of arbitrators included in the panel or delete the name of any person from the panel.

**9. Rule 9**

The Chairman of the Committee may include the name of any person in the panel, in case it is required in any particular case.

**Initiation of Arbitration**

**10. Rule 10**

- a. Any aggrieved party, who is aggrieved of the decision of the Central Council, wishing to commence the arbitration proceedings under these rules (Claimant) shall give a notice of request of arbitration to the IDA Arbitration Committee.
- b. The notice of request (application) for arbitration to the IDA Arbitration Committee shall be accompanied by:
  1. The names and full addresses of the parties to the dispute.
  2. The statement of the claim and facts supporting the claim, points at issue and relief sought with other details of the claimant's case.
  3. Original or duly certified copies of the decision of the Central Council and such other documents and information relevant or relied upon.
  4. Registration fee of Rs. 500/-
  5. The aggrieved party against the decision of the Central Council may select arbitrator from list of panel or from provided by the Arbitration Committee to adjudicate the said disputes.
  6. The arbitration shall be deemed to have commenced on the day when the application (notice) of arbitration, payment of registration fee and statement of claim are received in the office of the Arbitration Committee (IDA HO).

**Defence Statement**

**11. Rule 11**

- a. On receipt of application together with the statement claim, the Arbitra-

tion Committee shall send to the other party (Respondent) a copy of the claim statement and attached documents and ask such other party to furnish within 30 days from any extended date, a defence statement setting out his case accompanied by all documents and annexures in support of the defence.

- b. The copy of the defence statement and all appended documents, if any, shall be sent to the claimant.
- c. The communication is deemed to have been received on the day it is so delivered.

### **Counter-Claim and Reply to Counter-Claim.**

#### **12. Rule 12**

- a. The Respondent may make a counter-claim against the Claimant provided the counter-claim arises under the same transaction as the original claim. He must submit the counter-claim with full details, supported by all documents and annexures within the period laid down for the defence statement to the claim and the Claimant may, within 30 days of the receipt of the counter-claim or within such extended time, submit the statement in reply to the counter-claim.

The Arbitral Tribunal appointed to adjudicate the original claim shall also adjudicate upon the counter claim and there will be no change in the number of members of the Arbitral Tribunal already constituted on the basis of the original claim.

- b. Copy of the reply of the Claimant to the counter-claim and all appended documents, if any, shall be sent to the Respondent.

#### **13. Rule 13**

On receipt of application (notice) for Arbitration, the Arbitration Committee of IDA HO shall take necessary steps to have the arbitral tribunal constituted for the adjudication of the dispute or difference as provided hereunder.

#### **14. Rule 14**

There will be a sole Arbitrator who shall be selected by the aggrieved party within 7 days of the compliance of Rule 10 herein from the list supplied by the Arbitration Committee failing which the Arbitrator from the panel shall be appointed by the Arbitration Committee and nobody shall have a right to question the same.

#### **15. Rule 15**

The Arbitration Committee will obtain the consent from the person(s) nominated by it. After a person gives his consent for appointment as Arbitrator he will be duly intimated about his appointment to decide the dispute by a memo in writing

in the hand of the Arbitration Committee about the constitution of the Arbitral Tribunal. The appointment of the Arbitrator will take effect from the date of such intimation about the constitution of the Arbitral Tribunal.

**16. Rule 16**

- a. If any appointed Arbitrator resigns or dies or becomes incapable of acting or neglects or fails to act expeditiously, prior to or during the Arbitration hearings, or if he fails to make the award within the prescribed time as per rule 22 and the Parties do not agree to extend the time for making the award, in consultation with the Arbitration Committee may terminate the authority of such an appointed arbitrator and inform accordingly.
- b. In case of the resignation or death or termination of Authority of an appointed Arbitrator under Sub-Rule (a) above, a new Arbitrator will be appointed in his place by the Arbitration Committee.
- c. The Arbitrator appointed as above will be informed about the reconstitution of the Arbitral Tribunal and the reconstituted Arbitral Tribunal shall make the award expeditiously within the time prescribed under Rule 22 from the date when the reconstituted Arbitral Tribunal enters the reference.

**Place of Arbitration**

**17. Rule 17**

The place or venue of Arbitration shall be at the Registered Head office of Indian Dental Association.

**Award**

**18. Rule 18**

No award shall be made by the Arbitral Tribunal unless the case of the Party applying for Arbitration has been brought to the notice of the other Party and unless after the lapse of such specified time within which he has been asked to submit his defence statement under Rule 12.

**19. Rule 19**

The Arbitration Tribunal shall make an award as expeditiously as possible preferably within six months according to the Guidelines from the date of the reference subject to a maximum limit of one year from the date of commencement of the Arbitral Tribunal. If necessary, the maximum limit of one year for making the award may be extended by mutual agreement between the parties to the dispute.

**20. Rule 20**

The Arbitration Tribunal may make an interim award and may, by an award, determine and order what shall be done by either or any of the parties, in respect of the matters referred.

#### **21. Rule 21**

- a. When an award has been made, the Secretary General shall furnish a true copy of the award to the parties by registered post.
- b. The Secretary General may require either party to notify him of the compliance with the award. The Governing Body may print or publish or otherwise circulate any award made under its rules, or under its auspices in any Arbitration journal, magazine, report etc. for the purpose of creating Arbitration jurisprudence or precedents for the benefit and guidance of future Arbitration. No party to the Arbitration shall have any objection to the publication of the awards as above, provided that the names and addresses of any party to the dispute will be omitted from such publication and its identity duly concerned if so desired by such party.

#### **22. Rule 22**

A party shall in all things abide by and obey the award which shall be binding on the parties and their respective representatives. The award made by the Arbitrator shall be final and conclusive.

### **Filling of Award**

#### **23. Rule 23**

The Arbitral Tribunal shall at the request of any of the Parties to the proceedings or of any person claiming under a party or if so directed by the Court cause the award or signed copy thereof together with the deposition or documents which may have been taken and proved before it to be filed before the Court.

### **Stamp Duties**

#### **24. Rule 24**

Stamp duties, if any, payable on the Award are to be paid by the parties in equal share in all cases

#### **25. Rule 25**

The Central Council Body may revise, amend or alter these rules whenever it finds expedient and necessary.

### **Exclusion of Jurisdiction of Civil Court**

#### **26. Rule 26**

In view of the Arbitration clause all disputes and grievances between members of the Association or Local Branch/ State Branch and outsiders and members/ Association the remedy to approach Civil Court is barred. All such disputes and grievance shall be decided only by Arbitration as per procedure prescribed in the guideline provided hereinabove.



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