



MINISTRY OF JUSTICE



# MECHANISM FOR SELECTION OF ARBITRATOR





## **Mechanism for Selecting an Arbitrator, Settling His Fees and How Removed, Recused or Resigns**

The Cause-List Section of Judicial Arbitration Department shall receive request for arbitration and its attachments from the parties concerned, provided that this request shall be made into one original and several copies, depending on the number of parties to dispute, verify that this request contains necessary data to wit: copy of arbitration clause or the contract containing the arbitration clause and the request shall state the information of the parties to dispute, date of contract, subject matter of dispute, motions of parties to dispute, name of selected arbitrator, and proof of paying his fees. The request shall be registered in the special record relating to requests for arbitration at Judicial Arbitration Department.

### **FIRST: Selection:**

1. The Cause-List Section at Judicial Arbitration Department shall complete the formalities for appointment of arbitrators selected by the parties to dispute and also complete the formalities for deposition of monies allocated for paying their fees at the treasury of Judicial Arbitration Department. In the event that the parties to dispute do not select their arbitrators, they will be notified that they must carry out selection within 10 days from the date they are notified that each party must select his arbitrator.
2. In the event that the parties or either party to dispute do not select his arbitrator within 10 days from the date of notice, the Judicial Arbitration Department shall appoint the arbitrator who comes next in turn at the arbitrator lists enrolled at the said department.
3. Within three (3) days from the date on which the arbitrator agrees to perform the commission of arbitration, the request shall be presented to chairperson of Arbitration Board to estimate the amount to be deposited by each party on account of arbitrators' fees at the treasury of Judicial Arbitration Department, in the event the arbitrator gives no prior notice that his fees are paid by the party who selected that arbitrator.
4. After estimating amount of fees, the party to deposit the fees shall be notified that such party must deposit the said amount of fees within 10 days from the date of notice at the treasury of Judicial Arbitration Department. If the term



fixed to the party expires and the party does not deposit the amount, the Arbitration Department shall notify the other party that such other party must pay the fees of the arbitrator on behalf of the party who refrains from payment within 5 days from the date of giving that other notice, if he wishes to continue arbitration proceedings.

5. If both parties do not pay the amount after expiry of fixed term, the request shall be referred to chairperson of Arbitration Board to order keeping request on file.
6. If fees of arbitrators of parties are paid, the request shall be referred to the chairperson within 3 days from the deposition of the amount at the treasury of the department for scheduling a session to consider the dispute.

### **SECOND: Arbitrator to Step down Arbitration Commission:**

- a) If selected arbitrator requests to step down before request is considered by authorities:
  1. Arbitrator shall notify the department that he is not willing to carry out the arbitral commission by a request to Director of Judicial Arbitration Department
  2. The department shall appoint a replacement for the arbitrator who stepped down under the same formalities applied upon the appointment of this arbitrator.
  3. The Judicial Arbitration Department shall notify the party who has been represented by the stepping down arbitrator that such party must select another arbitrator within the aforementioned legal term.
  4. If it does not so happen, the Judicial Arbitration Department shall select the arbitrator who comes next in the rolls of arbitrators filed at the said department.
  5. Parties shall be notified of the name and person of the new arbitrator.
  6. The Judicial Arbitration Department shall complete formalities for acceptance by the new arbitrator of the arbitration commission and pay his fees, according to the aforementioned formalities.
  7. The complete file shall be forwarded to the chairperson of relevant Arbitration Board to fix the date of session for considering the dispute within three (3) days from the date on which the arbitrator declared his acceptance of the arbitration commission and payment of his fees.

- a) If the step-down occurs while the authorities consider the request:

The stepping down arbitrator shall present the request for step-down to the chairperson of Arbitration Board, who shall, in turn, commit the Arbitration Department



to appoint a replacement under the same formalities applied upon appointment of the former.

After delivery of the request for step-down to the department, it shall be referred to Cause-List Section, who shall, in turn, apply the aforesaid formalities in respect of appointing the new arbitrator and paying his fees.

After selecting the arbitrator, the chairperson of the board shall fix a date of session within 3 days and this session shall be served upon the parties.

### **THIRD: Death:**

If before the sessions are held, the arbitrator dies, the same provisions stated in step-down clause shall apply in his respect before the lawsuit is commenced.

However, if he dies during consideration of sessions by the board, the same provisions stated in step-down clause shall apply in his respect, before the lawsuit is commenced.

### **FOURTH: Recusal:**

The parties shall have the right to recuse any of the Arbitration Board members within five days from the date on which the formation of Arbitration Board is served upon the party seeking recusal, or from the date on which he gets to know the grounds for recusal, if his knowledge follows.

The request for recusal of arbitrator shall be made by a report lodged at Clerks Department of the Court of Cassation. The arbitrator shall be recused for the same reasons under which a judge is recused, according to provisions of Law of Procedures.

The Court of Cassation shall be competent to determine on the request for recusal of any member of the Arbitration Board, including judges.

If recusal is granted, the arbitration proceedings done, including the award of Arbitration Board shall be deemed as null and void.

A copy of recusal award shall be forwarded to Arbitration Department to select a new arbitrator. In respect of the new arbitrator the aforementioned formalities for selection of arbitrator shall apply in the event of removal or withdrawal.

### **FIFTH: Removal:**

An arbitrator may not be removed, except upon the consent of all parties to dispute.

In the event of removal, the aforementioned formalities shall apply for appointing a replacement arbitrator as applied upon appointing of the removed arbitrator.



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