



## **THE MALAYSIAN INSTITUTE OF ARBITRATORS**

Registration No. 1361/91-(Wilayah Persekutuan)

### **MIArb Constitution**

**THE MALAYSIAN INSTITUTE OF ARBITRATORS**

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## RULES OF INSTITUT PENIMBANGTARA MALAYSIA (THE MALAYSIAN INSTITUTE OF ARBITRATORS)

### 1. Name

The name of the Institute shall be Institut Penimbangtara Malaysia (The Malaysian Institute of Arbitrators).

### 2. Registered Place of Business

The registered place of business or office of the Institute shall be Unit 508, Block A, Damansara Intan, No. 1, Jalan SS20/27, 47400 Petaling Jaya, Selangor Darul Ehsan or any such place or places as may be from time to time be decided by the Council. The registered place of business shall not be changed without the prior approval of the Registrar of Societies.

### 3. Definitions

In these rules :-

- 3.1 The Institute shall mean Institut Penimbangtara Malaysia (The Malaysian Institute of Arbitrators).
- 3.2 The Council shall mean The Council of the Institute.
- 3.3 The Logo is symbolic of the function and constraints of arbitration.
- 3.3.1 Description of the Logo :
- (a) **The Arbitrator** - a rounded representation as a reminder that the arbitrator has to be open minded and address all the issues. And as in the arbitral process, he is central and pivotal.
  - (b) **Book** - to symbolise the law and that the award has to have reference to the law.
  - (c) **Scale** - to represent the 2 disputing parties and their evidence to be considered.
  - (d) **Hour-Glass** - to signify that in arbitration, time has also taken charge and that the arbitrator and the parties involved are to act within a reasonable time frame.
- 3.3.2 The Colours of the Logo :
- (a) The general colour of blue (against a white background) is selected because it is the colour of the open sky, and arbitrators are to be open and fair-minded in their approach towards the disputing parties.
  - (b) The relief colour of gold for the weigh-trays is symbolic of the value of the issues in dispute and the same gold colour represents the sand in the hour-glass
- 3.4 "Arbitration" shall mean the process of dispute resolution carried out under the law of arbitration of any country in the world.
- 3.5 "Alternative Dispute Resolution" or "ADR" shall mean the process of dispute resolution other than litigation or arbitration and shall include mediation, conciliation, adjudication and expert determination. *[amendment approved on 24/10/2011]*

## 4. Aims and Objectives

The objectives for which the Institute is established and registered are as follows:-

- 4.1 to promote the facilities for the determination of disputes by the arbitration process.
- 4.2 to provide means of communications between members of the Institute and other bodies concerned with arbitration within the country or overseas.
- 4.3 to co-operate with other professional bodies having the same common interests in arbitration.
- 4.4 to provide training and educational facilities for members who are desirous of becoming arbitrators and to promote the study of the law and practice relating to arbitration, subject to the Education Act, 1961.
- 4.5 to arrange for and provide facilities for meetings, seminars, conferences and workshops and arrange for the reading and presentation of lectures and demonstrations of the arbitration proceedings.
- 4.6 to promote the ethical and professional standards of service and professional conduct of its members and the exercise of professional supervision and disciplinary power over its members.
- 4.7 to print and publish papers, periodicals, magazines, journals, circulars, books and other literatures and information material pertaining to arbitration subject to the prior approval of the relevant authorities.
- 4.8 to disseminate widely the knowledge of the practice and the law of arbitration. *[amendment approved on 24/10/2011]*
- 4.9 to provide for the appointment of arbitrators for the settlement of disputes.
- 4.10 to decide on a reasonable scale of fees for its arbitrators and to regulate the conduct of its members.
- 4.11 to do all other things which are incidental to and necessary for the attainment of the objectives stated hereinabove.
- 4.12 the objectives as stated hereinabove shall also apply mutatis-mutandis to alternative dispute resolution (ADR) processes.

## 5. Membership

In these rules :-

Membership of the Institute shall be open to persons or organisations whose duties, activities, work, business and/or services are such as to cause them to deal, participate, or work in the area of the law and/or practice relating to dispute resolution.

Membership shall be of 5 categories, namely : Associates, Members, Fellows, Affiliates and Corporate Members.

### 5.1 Associates

Associates shall be elected by Council and every candidate for election shall fulfill the following conditions in that he/she: -

- 5.1.1 be proposed and seconded by Fellows or Members of the Institute.
- 5.1.2 satisfies the Council that he/she is fit in all respects to be a proper person for admission and not one who had been convicted of any criminal offence by the courts of law.
- 5.1.3 be engaged in a profession, occupation or calling in which there is recourse to arbitration directly or indirectly.
- 5.1.4 be over twenty-one years of age at the date of submitting an application for membership.
- 5.1.5 has obtained a degree or equivalent qualification from a university or tertiary educational body acceptable to the Council; and
- 5.1.6 be a member of a professional, commercial, trade, industrial, or Government body acceptable to the Council e.g. architects, engineers, quantity surveyors, lawyers, accountants.

Provided that : -

- (a) where a candidate fulfills conditions 5.1.1 to 5.1.4 and fulfills either condition 5.1.5 or condition 5.1.6, the Council shall have the discretion to elect the candidate to be an Associate of the Institute if he/she has considerable training or experience in the conduct of arbitrations or arbitration-related matters or if he/she is an active member of another national or international institute of arbitrators, or if he/she satisfies the Council as to his/her proficiency in the law and procedure relating to arbitration.
- (b) where a candidate fulfills conditions 5.1.1 to 5.1.4 but does not fulfill any of the conditions 5.1.5 or 5.1.6, the Council shall have the discretion to elect the candidate to be an Associate of the Institute if he/she has considerable experience as an arbitrator for not less than three (3) years before the date of application and has published at least two (2) written awards.

## **5.2 Members**

5.2.1 Members shall be elected by the Council.

5.2.2 Every candidate for election as a Member :

- (a) shall fulfill the conditions for election to be an Associate as stated in 5.1 (read with the provisos); and
- (b) he or she satisfies the Council either as to his/her actual involvement in the arbitration process as an arbitrator, counsel, expert witness or advisor, or as to his/her actual experience in making judicial decisions for not less than two years in a court of law or judicial tribunal, or as to his/her proficiency in the law and procedure relating to arbitration.

## **5.3 Fellows**

Fellows shall be elected by the Council and every candidate for election shall:-

5.3.1 be a member of the Institute for a period of not less than five years and be over the age of thirty five years on the date of his application.

5.3.2 satisfy the Council that he is a fit and proper person to be made a Fellow.

5.3.3 Have practiced as an arbitrator or counsel representing parties in the arbitration or litigation of disputes for not less than 10 years and satisfy Council as to his proficiency in the law and practice relating to arbitration. Provided always, that Council may waive this requirement in the case of a candidate who has at least 5 years experience as aforesaid and passes any assessment or examination as may be prescribed by Council from time to time to evaluate the candidate's proficiency in the law and practice relating to arbitration.

*[Approved by ROS on 24/11/2010]*

5.3.4 provided always that Council may, in exceptional circumstances, waive the requirement that the candidate for election as a Fellow shall have attained the age of Thirty Five Years in the case of candidates holding a professional qualification recognised by Council as justifying such a waiver or the requirement of a period of satisfactory training.

5.3.5 provided always that Council may waive the requirements aforesaid and directly elect into the Fellow category candidates who are already Fellows of a national arbitrators institute or organisation where Council considers the candidate to be a fit and proper person to be so elected.

5.3.6 Provided always that the Council may, in exceptional circumstances set out below, waive totally or partly the requirement that the candidate for election as a Fellow shall have been a Member of the Institute for not less than five years in the case of:-

- (a) a candidate who has been actively practicing as an arbitrator in the settlement of contract or industrial or commercial disputes for not less than five years, who satisfies the Council as to his/her proficiency in the law and procedure relating to arbitration, and who is of considerable reputation in arbitration matters; or
- (b) a candidate who has been actively involved in arbitrations in the settlement of contract, industrial or commercial disputes in his/her capacity as arbitrator or counsel or as administrative head or director of a national or international arbitration institute or body, and with whom the Council is satisfied as to his/her proficiency in the law and procedure relating to arbitration, and whose election as a Fellow would in the opinion of the Council, enhance or promote the image or reputation of the Institute; or

- (c) a candidate who is or has been a Judge of the High Court (or its equivalent) or a Judge of a Court of higher hierarchy, whether in Malaysia or outside Malaysia, and with whom the Council is satisfied as to his/her proficiency in the law and practice relating to arbitration.

5.3.7 For the purpose of this Rule “counsel” shall include any person who represents a party in an arbitration and conducts the arbitration on its behalf. *[Approved by ROS on 24/11/2010]*

#### **5.4 Affiliates**

5.4.1 Any graduate, undergraduate or person who is unable to qualify as an Associate under the conditions stipulated in para. 5.1 but who intends to so qualify shall be entitled to join the Institute as an Affiliate provided he satisfies the Council that he/she is fit in all respects to be a proper person for admission as an Affiliate.

5.4.2 Any person admitted as an Affiliate shall take up approved training to qualify as an Associate within 5 years of his/her admission as an Affiliate, failing which any extension of membership as an Affiliate shall be subject to the approval of Council and Council may prescribe such conditions thereto as it thinks fit.

#### **5.5 Corporate Membership**

5.5.1 Any professional institution, professional association, trade body, corporation, partnership or business is entitled to be elected by the Council as a Corporate Member.

5.5.2 Every candidate for election as a Corporate Member shall satisfy the Council as to the candidates actual involvement in duties, activities, work, business and/or services are such as to cause them to deal, participate or work in the area of the law and/or practice relating to arbitration or alternative dispute resolution.

#### **5.6 Application for Membership**

5.6.1 Every application for membership shall be made in a prescribed form provided by the Institute and submitted to the Council for approval.

5.6.2 In exceptional circumstances as the Council may think fit, the Council may dispense with the requirement of submitting an application by a candidate suitable for election to be a Fellow and the Council may invite such suitable candidate to be a Fellow of the Institute.

#### **5.7 Voting rights of Members**

5.7.1 All Associates, Members and Fellows are entitled to attend General Meetings and to vote at such General Meetings.

5.7.2 An Affiliate is entitled to attend General Meetings but shall not be entitled to vote.

5.7.3 A Corporate Member shall be entitled to attend General Meetings and to one vote on each matter submitted to the membership for a vote and its right shall be exercised through its authorised representative.

## **6. Honorary Members**

The Council may elect as an Honorary member any person whom the Council considers deserving of such membership by virtue of his/her having rendered important contribution in promoting the objectives of the Institute or of the dispute resolution process at any time without the sanction of a General Meeting. The members elected for Honorary Membership shall not exceed six in number at any time. *[amendment approved on 24/10/2011]*

6.1 Honorary members shall be entitled to the ordinary privileges of membership but shall not be entitled to vote at a General Meeting or be elected as members of the Council or of any Committee set up by the Council.

6.2 They shall not be deemed to be members of the Institute within the meaning of these Rules nor shall they be required to pay subscription dues or contribute to the funds of the Institute.

## 7. Certificates and Designation

Every Affiliate, Corporate Member, Associate, Member, Fellow or Honorary Member when admitted shall be entitled to receive a certificate of membership and shall, so long as he/she remains a member, be entitled to hold the said certificate. Every certificate so issued shall be in the form decided by Council and shall remain the property of the Institute and shall be returned to the Institute in the event of a cessation of membership.

- 7.1 Every Associate, Member or Fellow when admitted shall be entitled to use the letters AMI Arb, MMI Arb, FMI Arb or Hon. MMI Arb respectively after their names.
- 7.2 Affiliates and Corporate Members shall not be entitled to the use of any letters after their names.

## 8. Subscriptions

8.1 Annual subscriptions and Entrance Fees for membership shall be as follows:

	Entrance Fee	Annual Subscription Fee
1. Associate	RM 250.00	RM 150.00
2. Member	RM 250.00	RM 200.00
3. Fellow	RM 250.00	RM 250.00
4. Affiliate	RM 50.00	RM 50.00
5. Corporate Member	RM 1,000.00	RM 500.00

Entrance Fee shall be payable only once upon the first admission to the membership of the Institute. A candidate whose membership is upgraded to a higher category in a particular year shall, in addition to the annual subscription for his previous category, also pay an annual subscription for the higher category in respect of the same year.

- 8.2 A member who has attained the age of 65 years or more shall be exempted from payment of annual subscriptions provided that for 5 years preceding such exemption he/she had been a member in good standing and had fully paid up all dues to the Institute. This provision is not applicable to Corporate Members. *[new clause approved on 24/10/2011]*

## 9. Members' Names and Addresses

Every member shall from time to time inform the Secretary as to his change of address for business or place of residence and all correspondences sent to his registered address shall be deemed to have been served for all purposes including notices for any General Meeting or other proceedings of the Institute and no meeting or proceedings shall be invalidated or prejudiced by reason of the non-receipt by him/her of any notice.

## 10. Resignation of Membership

- 10.1 Any member may resign from the Institute by serving written notice to the Council and subject to having paid up all his dues up to date; provided that any member whose conduct is under investigation by Council may not resign until the completion of such investigation.
- 10.2 Members whose annual subscription due are in arrears for six calendar months shall automatically cease to be a member. The Council may one month before the period of expiry serve written notice of such overdue subscription by registered post to the last registered address of the member concerned and should the subscription still remain overdue after 30th June of the relevant year, the Secretary shall strike off from the register of members the name of the defaulting member but the amount of arrears due shall continue to be a liability due from him/her.
- 10.3 Any member removed from the register may be reinstated by Council on payment of all subscriptions including that during the period of cessation and for all expenses that may be incurred by the Institute in this connection.
- 10.4 Any member in arrears with his/her annual subscription shall not be eligible to vote in the Annual General Meeting or Extra Ordinary General Meeting when held.

## 11. Ordinary Meetings of Council

- 11.1 Ordinary meetings of the Council shall be held at least four times a year at such times and in such places as Council may decide from time to time. *[amendment approved on 24/10/2011]*

## 12. Annual General Meeting

In these rules :-

- 12.1 The Institute shall hold its Annual General Meeting after the close of each financial year and in any event not later than thirteen months from the date of the previous Annual General Meeting at a time and place that Council may decide. The business of the Annual General Meeting shall be :-
- (a) To receive the Council's report on the working of the Institute during the previous year.
  - (b) To receive the Treasurer's report and the audited accounts of the Institute for the previous year.
  - (c) To elect a Council and to appoint auditors for the ensuing year.
  - (d) To deal with such other matters as may be put before it.
- 12.2 The Secretary shall send to all members at least fourteen days before the date set for the Annual General Meeting an agenda, minutes, reports and the audited accounts for the previous year. Copies of these documents shall also be made available at the registered place of business of the Institute for perusal by members.
- 12.3 Any member wishing to raise any matters at an Annual General Meeting shall give written notice to the Secretary not less than twenty eight days before the end of a financial year and such matter shall be included in the agenda. No decision may be taken on any matter not on the agenda.
- 12.4 The quorum for the Annual General Meeting shall be that the number of voting members present shall be twice the number of Council members. In the event that there is insufficient number of members present to constitute a quorum then after the lapse of half an hour after the time set for the meeting it shall be postponed for a period not exceeding fourteen days and for the postponed meeting the members present shall constitute a quorum and have power to proceed with the business of the day but they shall not have the authority to alter or amend any rules of the Institute or make any decisions affecting the whole of the membership.

## 13. Extra Ordinary General Meeting

- 13.1 An Extra Ordinary General Meeting of the Institute shall be convened whenever the Council deems it necessary or at the request in writing of not less than fifteen voting members who shall state the objects and reasons for such a meeting.
- 13.2 An Extra Ordinary Meeting requisitioned by members shall be held within thirty days of receiving such a requisition by Council.
- 13.3 Notice and agenda for such a meeting shall be sent to all members at least fourteen days before the date set for the meeting.
- 13.4 Para 12.4 of the Rules regarding the quorum and postponement of an Annual General Meeting shall apply also to an Extra Ordinary General Meeting, but with the proviso that if no quorum is present after half an hour from the time appointed for a postponed Extra Ordinary General Meeting requisitioned by members the meeting shall be cancelled and no Extra Ordinary Meeting shall be requisitioned for the same purpose until after the lapse of at least six months from the date thereof.

## 14. Minutes of Meetings

The Secretary shall record and keep minutes of every meeting and circulate same to all Council members as soon as possible after the conclusion of such meetings.



## 15. Council Members

Members of Council shall comprise :-

(a) **Office-Bearers:**

*A President*  
*A Deputy President*  
*A Vice President*  
*A Hon. Secretary*  
*A Hon. Treasurer*

(b) **Ordinary Council Members**

*The Immediate Past President*  
*Five Ordinary Members of Council by election*  
*One Ordinary Member of Council to be co-opted in accordance with Rule 15.2*

- 15.1 All members of Council (except the Immediate Past President) shall be elected at an Annual General Meeting except that upon registration of the Institute the Pro-Tem Committee members shall constitute the Council members during the first year of the Institute's establishment. The Immediate Past President shall be an ordinary member of the Council as of right.
- 15.2 All Fellows, Members and Associates and Corporate Members whose annual subscriptions are not in arrears are eligible to vote. All Fellows and Members whose annual subscriptions are not in arrears are eligible to hold office as Council members or as Secretary or Treasurer. The President shall co-opt an Associate to be an ordinary member of the Council.
- 15.3 All proposals for the election of members of Council at an Annual General Meeting have to be proposed and seconded by a member and supported by the agreement of the proposed candidate in writing that he will serve if elected into office and such proposal shall be submitted to the Secretary at least seven days before the date set for the Annual General Meeting.
- 15.4 All office-bearers of the Institute and every officer performing executive functions in the Institute shall be Malaysian citizens or permanent residents and shall be from the category of Members or Fellows.
- 15.5 All members of Council shall be elected for a term of 2 years.
- 15.6 Retirement from Council shall be by rotation and each Council member who has served a term of 2 years shall retire and be eligible for re-election, provided no member shall serve in Council for more than 2 consecutive terms, and a member who has served a term as an office-bearer shall not be eligible for re-election to the same post.
- 15.7 The new Rules 15.5, 15.6 and 15.7 shall take effect as from the AGM following their approval by the Registrar of Societies. Transitional provisions shall be as follows:-

	Election	Retirement	
	Year 1	Year 2	Year 3
President	<b>All elected for 2 years</b>		✓
Deputy President		✓	
Vice President		✓	
Hon Secretary		✓	
Hon Treasurer			✓
Ordinary members of Council (6 No.)		3 members by drawing lots	3 members remaining from election Year 1

## 16. Management

The management of the Institute shall be vested with the Council.

- 16.1 The Council shall have power to fill any vacancies that may arise and any member so appointed shall remain in office until the next Annual General Meeting. The Council may co-opt members for any purposes for such time as it may deem fit to assist in carrying out its objectives but not beyond the date set for the next Annual General Meeting.
- 16.2 The Council is to organise and supervise the day to day activities of the Institute and make decisions on any matters in connection with its general policies.
- 16.3 The Council may not act contrary to the expressed wishes of the Annual General Meeting and shall report on its activities during the year at the Annual General Meeting.
- 16.4 The Council shall meet at least four times a year at such times and in such place as Council may decide from time to time. At least seven days notice of each meeting shall be given to the members. *[amendment approved on 24-10-2011]*
- 16.5 For ordinary meetings of the Council at least seven members must be present to constitute a quorum and for its proceedings to be valid.
- 16.6 Where any urgent matters requiring approval of Council arise and it is not possible to convene a meeting then the Secretary or the President may obtain such approval by means of a telephone agreement and a circular letter of this shall be given to the members whose approval is by a majority votes of the members. Any decision obtained in this manner shall be reported at the next Council Meeting and be recorded in the Minutes thereof.
- 16.7 Any member of Council who fails to attend two consecutive meetings of Council without valid reasons shall be deemed to have resigned from Council.
- 16.8 In the event of death or resignation of a member of Council the candidate who received the next highest number of votes at the previous Annual General Meeting election shall be invited to fill the vacancy. In the event of his declining the offer then the Council shall have the power to co-opt any other member of the Institute to fill the vacancy until the next Annual General Meeting.
- 16.9 The Council shall give instructions to the Secretary and other officers for the conduct of the Institute's affairs and may employ such staff as it deems necessary. It may also suspend or dismiss any member of the staff for neglect of duty, dishonesty, incompetency, refusal to carry out decisions of the Council or for any other reasons deemed to be good and sufficient in the interest of the Institute.
- 16.10 The decisions laid down at the Annual General Meetings shall be binding on all members of the Institute and unless and until countermanded by a resolution of a general meeting.

## 16A. Subsidiary Rules, Forms, Procedures

In these rules :-

- 16A.1 The Council shall have power to approve, set and from time to time revise or modify the subsidiary rules and procedures and prepare, approve and adopt rules and forms for the purposes of or in connection with the aims and/or objectives of the Institute. Provided that this power does not extend to amendments or alterations of these Rules of the Institute.
- 16A.2 Without prejudice to the generality of the provisions of Rule 16A.1, the Council may: -
  - (a) prepare, approve and adopt the arbitration rules and procedure relating to appointment and remuneration of arbitrators;
  - (a) prepare, approve and adopt standard forms of contracts (including sub-contracts) for use in industries or services; and
  - (a) prepare, approve and adopt rules and procedure relating to Alternative Dispute Resolution including mediation, conciliation, adjudication and any other procedure pertaining to the dispute resolution or settlement.

## 17. Duties of Office Bearers

The President shall during his/her term of office preside over all general meetings and all Council Meetings and shall be responsible for the proper conduct of the meetings. He/she shall have a casting vote and shall sign the Minutes of all meetings.

The Deputy President shall deputise for the President during the latter's absence and in the absence of both, the Vice President.

- 17.1 The Secretary shall conduct the business of the Institute in accordance with the rules, and carry out the instructions of the General Meeting and the Council. He/she shall be responsible for conducting all correspondences and keeping all books, documents and papers except the accounts and financial records. He/she shall attend all meetings and record the proceedings and maintain proper membership register of the members consisting of such details as names, addresses, identity card numbers, occupation, place and date of birth.
- 17.2 The Treasurer shall be responsible for the financial records of the Institute, keep accounts of all financial transactions and shall submit audited accounts each year for approval at each Annual General Meeting.
- 17.3 The ordinary Council members shall carry out such duties as directed by the President or the Council.

## 18. Institute's Accounts

The Institute shall open and operate bank accounts with any registered licensed bank in Malaysia.

- 18.1 All cheques issued by the Institute shall bear any two signatures from office- bearers: -
- (i) *The President*
  - (ii) *The Deputy President*
  - (iii) *The Vice President*
  - (iv) *The Hon. Secretary*
  - (v) *The Hon. Treasurer*

## 19. Patrons

The Institute may appoint from amongst eminent members of the local community one or more Patrons whom the Institute considers or believes to be able to assist in helping to develop and fulfill its objectives.

## 19A. Panel of Arbitrators

- 19A.1 The Council shall have power to open and maintain a Panel of Arbitrators.
- 19A.2 Panel Arbitrators shall be elected by the Council and every candidate for election as a Panel Arbitrator shall fulfill the following conditions:
- (a) he/she is a Fellow of the Institute; and
  - (b) (i) he/she has been actively practicing as an arbitrator in the settlement of contract or industrial or commercial disputes in not less than three (3) arbitration cases and has published at least one (1) reasoned award; or
  - (ii) or he/she is or has been a Judge of the High Court (or its equivalent) or a Judge of a court of higher hierarchy, whether in Malaysia or outside Malaysia; or
  - (iii) he/she has acted as sole or lead counsel in five (5) or more arbitration cases and has completed conduct of at least two (2) arbitration cases in that capacity; or
  - (iv) he/she has undergone training to be an arbitrator or is a registered or qualified arbitrator with an arbitrator's body or with an institution or organisation involved in arbitration;
- and
- (c) with whom the Council is satisfied as to his/her proficiency in the law and practice relating to arbitration; and whose election as a Panel Arbitrator would, in the opinion of the Council, enhance or promote the image or reputation of the Institute; and
  - (d) he/she has no criminal conviction involving moral turpitude or fraud, and makes a character declaration accordingly.

## 19B. Panel of Mediators

19B.1 The Council shall have power to open and maintain a Panel of Mediators.

19B.2 Panel Mediators shall be elected by the Council and every candidate for election as a Panel Mediator shall fulfill the following conditions :

- (a) he/she is a Fellow of the Institute; and
- (b) (i) he/she has been actively practicing as a mediator in the settlement of contract or industrial or commercial disputes for not less than three (3) mediation cases and has completed at least one (1) mediation case; or
- (ii) or he/she is or has been a Judge of the High Court (or its equivalent) or a Judge of a court of higher hierarchy, whether in Malaysia or outside Malaysia; or
- (iii) he/she has undergone training to be a mediator or is a registered or qualified mediator with a mediation body or with an institution or organization involved in mediation;

and

- (c) with whom the Council is satisfied as to his/her proficiency in the law and practice relating to mediation; and whose election as a Panel Mediator would, in the opinion of the Council, enhance or promote the image or reputation of the Institute; and
- (d) he/she has no criminal conviction involving moral turpitude or fraud, and makes a character declaration accordingly.

## 19C. Panel of Adjudicators

19C.1 The Council shall have power to open and maintain a Panel of Adjudicators.

19C.2 Panel Adjudicators shall be elected by the Council and every candidate for election as a Panel Adjudicator shall fulfill the following conditions :

- (a) he/she is a Fellow of the Institute; and
- (b) (i) he/she has been actively practicing as a mediator in the settlement of contract or industrial or commercial disputes for not less than three (3) mediation cases and has completed at least one (1) mediation case; or
- (ii) or he/she is or has been a Judge of the High Court (or its equivalent) or a Judge of a court of higher hierarchy, whether in Malaysia or outside Malaysia; or
- (iii) he/she has undergone training to be a mediator or is a registered or qualified mediator with a mediation body or with an institution or organization involved in mediation;

and

- (c) with whom the Council is satisfied as to his/her proficiency in the law and practice relating to adjudication; and whose election as a Panel Adjudicator would, in the opinion of the Council, enhance or promote the image or reputation of the Institute; and
- (d) he/she has no criminal conviction involving moral turpitude or fraud, and makes a character declaration accordingly.

## 19D. Panels of other ADR processes

- 19D.1* The Council shall have power to open and maintain Panels of other ADR processes, and may designate a specific name for each Panel of each of the other ADR processes.
- 19D.2* Panel Mediators shall be elected by the Council and every candidate for election onto a Panel of other ADR process shall fulfill the following conditions:
- (a) he/she is a Fellow of the Institute; and
  - (b)
    - (i) he/she has been actively practicing as a tribunal member of that ADR process in the settlement of contract or industrial or commercial disputes for not less than three (3) such ADR cases and has completed at least one (1) such ADR case; or
    - (ii) he/she is or has been a Judge of the High Court (or its equivalent) or a Judge of a court of higher hierarchy, whether in Malaysia or outside Malaysia; or
    - (iii) he/she has undergone training in that ADR process or is a registered or qualified member with a body, an institution or organization involved in that ADR process;
- and
- (c) with whom the Council is satisfied as to his/her proficiency in the law and practice relating to that ADR process; and whose election onto the Panel of that ADR process would, in the opinion of the Council, enhance or promote the image or reputation of the Institute; and
  - (d) he/she has no criminal conviction involving moral turpitude or fraud, and makes a character declaration accordingly.

## 19E. Fee for Panels

A person who is elected as a Panel Arbitrator or a member of any other ADR Panel of the Institute shall, in addition to his/her annual subscription and entrance fee under Rule 8, also pay a processing fee of RM200.00 upon election as a panel member.

## 20. Financial Provisions

The financial provisions of the Institute shall be derived from :-

- 20.1* a discretionary grant which may be made by the Council each year.
- 20.2* any profits which may accrue to the Institute through its activities.
- 20.3* entrance dues and annual subscriptions from its members.
- 20.4* donations from its members or from the public at large with the prior approval of the relevant authority.
- 20.5* The Institute shall open and operate its accounts as per Clauses 18.0 and 18.1.
- 20.6* The funds of the Institute may be expended for any purpose necessary for the carrying out of its objectives including expenses of its administration, the payment of salaries, allowances and expenses of its salaried staff but shall not be used to pay the fines of any member who may be convicted in a Court of Law.
- 20.7* The Treasurer may hold a petty cash advance not exceeding RM1,000.00 at any one time. All monies exceeding this amount shall be deposited into the Institute's bank account.
- 20.8* Expenditures exceeding RM1,000.00 at any one time shall be approved by Council but expenditures less than this amount (RM1,000.00) at any one time may be incurred with the approval of the President.
- 20.9* As soon as possible after the end of each financial year ending 31st December, a statement of receipt and payments and a balance sheet for the year shall be prepared and audited by the Auditors. The audited accounts shall be submitted for the approval of the Annual General Meeting and copies of the account documents shall be made available at the registered place of business of the Institute for the perusal of the members.

## 21. Auditors

Two persons who are not office bearers of the Institute shall be appointed as Auditors by the Annual General Meeting.

- 21.1 The auditors shall audit the accounts of the Institute for the year and prepare a report or certificate for the Annual General Meeting.

## 22. Trustees

The General Meeting may appoint three Trustees who must be over 21 years of age and hold office during the pleasure of the Institute. They shall have vested in them :

- 22.1 The immovable properties whatsoever belonging to the Institute upon execution of a Deed of Trust.
- 22.2 The Trustees shall not sell, withdraw or transfer any of the property of the Institute without the consent and authority of a General Meeting of members.
- 22.3 The Trustees may be removed from office by the General Meeting on the grounds that, owing to ill health, unsoundness of mind, absence from the Country or for any other reason he is unable to perform his duties or unable to do so satisfactorily. In the event of death, resignation or removal of a Trustee the vacancy shall be filled by a New Trustee appointed by a General Meeting.

## 23. Prohibitions

No illegal activities may be conducted on the Institute's premises and this includes the introduction of bad characters into the premises.

## 24. Amendments of Rules

These rules may not be altered or amended except by resolution of a general meeting. Such alterations or amendments shall take effect from the date of their approval by the Registrar of Societies, who shall be notified of any amendments or alteration to the rules within 28 days of their being passed by the General Meeting.

## 25. Interpretation of Rules

- 25.1 Any dispute, difference, uncertainty or doubt arising out of the interpretation implementation or operation of these Rules or subsidiary Rules made under Rule 16A shall be referred to the Council of the Institute whose decision shall be final and binding unless and until countermanded by a resolution of a General Meeting. *[amendment approved on 24-10-2011]*
- 25.2 Any decision or resolution made under Rule 25.1 as the case may be shall be final and shall not be challenged in anyway whatsoever whether by way of Court proceeding, arbitration or otherwise. *[new clause approved on 24-10-2011]*

## 26. Dissolution

- 26.1 The Institute may be voluntarily dissolved by a resolution of not less than three-fifth of the Institute's total voting membership.
- 26.2 In the event of the Institute being dissolved as provided for above all debts and liabilities legally incurred on its behalf shall be fully discharged and the remaining funds shall be disposed of in such manner as may be decided upon at a General Meeting.
- 26.3 Notice of dissolution shall be forwarded to the Registrar of Societies within 14 days of it occurring.

(Revised wef 24 Oct 2011)