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PART II

Statutory Notifications (S.R.O.)

GOVERNMENT OF PAKISTAN

PAKISTAN NUCLEAR REGULATORY AUTHORITY

NOTIFICATION

Islamabad, the 19th October, 2019

S.R.O.1658 (I)/2019.—In exercise of the powers conferred by Section 16(2)(a) read with Section 56 of the Pakistan Nuclear Regulatory Authority Ordinance, 2001, the Pakistan Nuclear Regulatory Authority is pleased to make and promulgate the following regulations for the purpose of resolving disputes between its Directorates and licensees as prescribed in Section 46 of the Ordinance:—

1. Short Title, Extent, Applicability and Commencement.—(1) These regulations may be called the “Regulations on Dispute Resolution – (PAK/949)”.

- (2) These regulations extend to the whole of Pakistan.
- (3) These regulations shall be applicable to all the licensees of PNRA.
- (4) These regulations shall come into force at once.

2. Definitions.—In these regulations, unless there is anything repugnant in the subject or context,

- (a) “*Directorate*” means a Directorate of the Authority established under Section 13 of the Ordinance;
- (b) “*dispute*” means disagreement between any Directorate of the Authority and the licensee on a regulatory decision;
- (c) “*interested party*” means a person who in the opinion of the tribunal or the Authority, as the case may be, is a necessary party to the proceedings;
- (d) “*licensee*” means the holder of a valid license issued by the Authority;
- (e) “*Registrar*” means an officer of the Authority so designated as Registrar;
- (f) “*regulatory decision*” means decision made by the Directorates of the Authority, under the Ordinance and subsequent regulations;
- (g) “*referring party*” means any person referring a dispute;
- (h) “*Secretary*” means Secretary of the Authority; and

(i) “*tribunal*” means a tribunal established under Section 46 of the Ordinance.

3. Scope.—These regulations shall apply for the resolution of disputes which may arise between any Directorate of the Authority and the licensee.

4. Interpretation.—The decision of the Chairman regarding interpretation of any word or phrase of these regulations or applicability of these regulations shall be final and binding.

5. Establishment and Composition of Tribunals.—(1) The Chairman, on behalf of the Authority under Section 46(1) of the Ordinance, may establish tribunals, as and when required.

(2) Members of the tribunal will be from professional staff of the Authority. The tribunal will resolve disputes or such other matters as assigned.

(3) The tribunal may consist of three or more members, as deemed necessary. No member shall be nominated from the Directorate against whom the dispute is referred. The senior most member of the tribunal shall act as Head of the tribunal.

(4) The tribunal may seek advice or expert opinion on any matter under consideration from an expert or a consultant, however, said advice or expert opinion shall not be binding upon the tribunal.

6. Filing of Appeal for Dispute Resolution.—Appeal for dispute resolution may be filed by the aggrieved party to the Chairman through Registrar in accordance with Regulation 7 of these regulations along with the supporting documents. The appeal shall be filed within thirty (30) days of the regulatory decision.

7. Requirements for Appeal.—(1) An appeal shall be submitted on the format prescribed in the Schedule-I of these regulations.

(2) If a referring party seeks privileged treatment for any document submitted with the appeal, then such document shall be clearly identified, marked as 'CONFIDENTIAL' and placed in a separate envelope. Provided that reasonable access, to the relevant extract of such document, will be given to the interested party if intended to be used as evidence, enabling that party to address the same in his defence. In such a case, the appeal may not contain confidential information, however, proper reference shall be made.

8. Initial Assessment of the Appeal.—(1) The Registrar shall complete the assessment of the appeal within ten (10) working days after its receiving. The objection found, if any, in the appeal shall be conveyed to the referring party for removal.

(2) The Registrar may reject the appeal and convey in writing the cause of rejection, if the concerned matter is outside the jurisdiction of the Authority as defined in the Ordinance.

(3) If the Registrar decides to entertain the appeal, he shall:

(a) Request the Chairman for constitution of tribunal if not already constituted; and

(b) Notify the referring party.

9. Respondent's Reply.—(1) In case the appeal is entertained under regulation 8(3) of these regulations; the Registrar shall forward a copy of appeal, along with all supporting documents excluding those marked as confidential, to the respondent requiring response within:

(a) Fifteen (15) working days of receiving a copy of the appeal; or

(b) Any such period as specified by the Registrar, if the dispute is of complex and technical nature.

(2) The respondent shall submit a comprehensive response to the Registrar which shall include the following:

- (a) The respondent may admit or deny and provide a clear and concise written para-wise response against each allegation and any law upon which the answer relies;
- (b) Detail of any action taken to resolve the dispute;
- (c) Reasons for non-compliance with the statutory requirements;
- (d) Any proposed remedy implementation plan; and
- (e) Any other factor relevant to the dispute.

10. Compilation of Information.—(1) The Registrar shall collect relevant information as deemed necessary.

(2) Before commencement of the tribunal proceedings, the Registrar shall provide all the necessary documents and material so collected to the Head of the tribunal.

11. Meetings of the Tribunal.—(1) The tribunal may conduct hearing at such places or stations as the Head of the tribunal may decide, keeping in view the administrative convenience of the tribunal or interested parties to the dispute.

(2) The tribunal shall meet as often as it deems necessary for the proceedings.

12. Service of Notice.—(1) A notice issued on the directions of the tribunal may be served by the Registrar to the concerned party, as the tribunal may direct, through any one or more of the following modes of service namely:

- (a) By hand delivery through special messenger;
- (b) By registered post - acknowledgement due;
- (c) By courier service provider licensed from Pakistan Courier and Logistics Regulatory Authority.

(2) Every notice required to be served on, or delivered to any person, may be sent to the person at the address furnished by him for service or at the place where the person or his authorized agent normally resides or conducts business or personally works.

(3) Where a notice is to be served during the course of proceedings to another person or his authorized agent to represent him in the proceedings, such agent shall be considered duly authorized to accept service of a notice on behalf of the person concerned.

(4) No notice shall be deemed invalid by reason only of any error in the name or description of a person if the tribunal is satisfied that such service or publication is in all aspects sufficient.

13. Hearing by the Tribunal.—(1) After the receipt of appeal, other information (if applicable) in accordance with Regulation 7 of these regulations and the respondent's reply in accordance with Regulation 9 of these regulations, the tribunal shall examine the facts of the case and may:

- (a) Render its decision on the basis of appeal filed by the referring party summarily without holding regular proceedings, if the circumstances so require; or
- (b) Conduct regular proceedings by fixing the date and venue for the hearing and notify to the parties in advance to present their arguments concerning dispute and decide the case by framing the issues and recording the evidence.

(2) No Party or anyone acting on its behalf shall have any unilateral communication with the tribunal.

(3) The tribunal may exclude one or more issues or matters raised or stated in the pleadings and may include additional issues or matters not raised in the pleadings.

(4) Where an application has been dismissed or decided ex-parte, the aggrieved person may file a review application within fourteen (14) working days of such dismissal or decision, seeking a recall of the order or decision passed. The tribunal may recall the order on such terms, including imposition of costs, as it considers fit, if it is satisfied that there was a sufficient cause for non-appearance of the party.

(5) The tribunal shall declare closure of evidence after submission of evidence by all parties to the dispute.

(6) Any party shall not present additional evidence nor shall any hearing be re-opened after having been closed, except on an application filed with the tribunal exhibiting good cause. The tribunal shall serve notice to all concerned parties of its ruling on such application for producing additional evidence.

(7) Notwithstanding the closure of evidence in the proceedings or the hearing, as the case may be, the tribunal may:

- (a) Issue direction for provision of additional information; and
- (b) Call any person to appear before the tribunal for further clarification of provided information.

(8) Upon conducting the hearing proceedings, tribunal shall not be bound by law of evidence governing the admissibility of evidence in judicial proceedings.

(9) The proceedings before a tribunal shall be essentially of quasi-judicial nature.

(10) The tribunal shall offer the parties and its witnesses, if any, a reasonable opportunity to be heard.

14. Dispute Withdrawal.—A referring party may withdraw appeal at any time during the proceedings before tribunal takes a decision.

15. Decision of the Tribunal.—(1) All orders or directives issued during the proceedings shall be under the signatures of the Head of the tribunal or the Registrar, if so authorized.

(2) Decision of the tribunal shall be in writing and shall be signed by the Head and each member of the tribunal separately. In case one or more tribunal members dissent from the majority decision, his dissent note shall be reflected in the decision.

(3) A tribunal shall decide a dispute within ninety (90) working days from the date of its filing, provided that:

- (a) The tribunal may extend the time for another period of three (03) months maximum; and
- (b) For such an extension, the tribunal shall record reasons in writing.

16. Contents of a Decision.—(1) The tribunal shall submit its decision in writing which may include:

- (a) The names of the parties;
- (b) Subject of the matter;

- (c) The applicable provisions of the Ordinance, rules and regulations made thereunder, terms and conditions of the authorization, license or the directives issued by the Authority;
- (d) Brief summary of main issues stating point of view of the interested parties;
- (e) Findings of the tribunal on each issue; and
- (f) Decision of the tribunal.

17. Determination on the Decision by the Authority.—(1) The Head of the tribunal shall submit the decision to the Chairman for determination as per Section 46(2) of the Ordinance on behalf of the Authority, within fifteen (15) working days of taking the decision.

(2) The Chairman may take one or more of the following actions after receipt of determination request:

- (a) Direct the tribunal to provide any other material, correspondence or evidence;
- (b) Call for such other information, if deemed necessary, from any person who may be affected by the dispute;
- (c) Hear the aggrieved party; and
- (d) Make determination on decision made by the tribunal.

(3) The Chairman's determination on decision taken by any of the tribunals, pursuant to these regulations, shall be final and deemed to be a decree of civil court under the Code of Civil Procedure, 1908 (Act V of 1908). Aggrieved party may file an appeal under the Code of Civil Procedure, 1908 (Act V of 1908).

18. Communication of the Decision.—(1) The Registrar shall communicate the decision after determination to the concerned parties within ten (10) working days.

(2) The Registrar may provide copies of the decision, on request, to interested parties as it deems necessary, whether on payment of charges or otherwise.

Appeal Format

_____ Vs. _____ (Dispute Referring Party) (Respondent's Name & Address)
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(Fill in blank space and tick mark the applicable)

1. Referring Party

Individual	Organization	Company
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License No.	
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2. Information about the Referring Party:

Name:			
CNIC:			
Address:			
City:		Province:	
Res. Telephone:		Area Code:	
Office Telephone:		Area Code:	
Mobile No.:		Fax No.:	
Email:			

3. Information about the Respondent:

Name:			
CNIC:			
Address:			
City:		Province:	
Res. Telephone:		Area Code:	
Office Telephone:		Area Code:	
Mobile No.:		Fax No.:	
Email:			

4. Has the respondent violated any:

(a)	Ordinance	Yes	No
(b)	Rules/ Regulations	Yes	No
(c)	Orders of the Authority	Yes	No
(d)	Any other provision (if any)	Yes	No

If yes, provide details: _____

5. Any other facts (if any): _____

6. Explain clearly how the action or inaction violates the applicable statutory requirements:

7. Clearly specify the issues requiring consideration and the issues on which adjudication is required: _____

8. Any impact on life, property, environment etc. as an outcome of the issue: _____

9. Have you tried to resolve the dispute directly with the respondent?

Yes

No

If yes, explain steps taken and their results along with documentary evidence: _____

10. Merit Basis:

(a) State the legal or statutory provisions which have been allegedly mis-interpreted or violated by the respondent (if known).

(b) The grounds on which the dispute referring party relies for the relief claimed (if known).

11. What relief or remedy is sought : _____

12. Have you referred this dispute to any other Forum or Court?

Yes

No

(Note: If yes, provide details about the Forum or Court along with attested copies of the correspondence and/or decision/order of the Forum or Court, if any): _____

13. Have you attached three (03) attested copies of all relevant documents?

Yes

No

If yes, itemize the list as per format given below:

Serial No.	Description of Document	Annexure/Appendix	Number of Pages

14. I _____ certify that the information contained is complete and accurate to the best of my knowledge; that it is not being presented for any improper purpose, such as to harass; and that the assertion are warranted under the Ordinance, rules and applicable regulations, as it now exists or as it may be extended by a good-faith and reasonable argument.

Signature of the Authorized person of the Referring Party

Date

Important Note:

Please attach the “Affidavit” and “Wakalat Nama/Attorney” or “Authority Letter” as the case may be.

For Registrar’s Use (only):

Date Received: _____ File No.: _____

Forwarded to: _____

Objections/Comments (if any):

Signature with Date: _____

MOHAMMAD SALEEM ZAFAR,
Member (Corporate)