

10 October 2024



Appointment, Remuneration and Disciplinary Action of Mediators Rules Published

- Qualifications for appointment stipulated
- Appointment procedure provided
- Mediator's register to be maintained
- Mediators remuneration prescribed
- Misconduct complaint procedure explained

On 4 October 2024, the Chief Justice issued the Judicature and Application of Laws (Appointment, Remuneration and Disciplinary of Mediators) Rules vide GN No. 820 (the Rules). The Rules provide for, among others, appointment qualifications and process, remuneration of mediators as well as misconduct complaint procedure.

Rule 5 of the Rules require a person who is to be appointed as a mediator (other than serving and retired judicial officers) to be accredited as a reconciliatory, negotiator or arbitrator under the Reconciliation, Negotiation, Mediation and Arbitration (Practitioners Accreditation) Regulations (the Accreditation Regulations). It should be noted that the Civil Procedure Code (CPC) under Order VIII rule 25 allows parties to appoint mediators of their choice on or before the date of the First Pre-Trial Conference.

Further to the above, the Rules impose a mandatory obligation for mediators who intend to be appointed by parties to apply to the Chief Justice for appointment through an application Form prescribed in the Rules. The said application is to be accompanied by a certificate of accreditation issued under the Accreditation Regulations. Moreover, the Rules expressly oblige the Judiciary to remunerate and cover expenses and costs of Court based mediators (other than mediators appointed under order VIII of the CPC).

In so far as misconduct is concerned, a mediator who commits a professional misconduct shall, in case of a serving judicial officer, be liable to such disciplinary action as prescribed for under the Judiciary Administration Act; or in any other case, be liable to such disciplinary action as may be imposed pursuant to the Rules. Additionally, the Rules require a person who is aggrieved by the conduct of a mediator and believes that the mediator has committed a professional misconduct to lodge a complaint to the Judge in-charge. The said complaint should be in English or Kiswahili supported by any other document or information as proof of the alleged complaint.

Lastly, after lodging a complaint, the Judge in-charge is obliged, within 7 days of receipt of the complaint, to determine whether the complaint is tenable or frivolous and vexatious. After such determination and where the Judge in-charge is satisfied that a complaint is tenable, he may impose sanctions against the mediator as prescribed by the law. Such sanctions can be a written warning, payment of money to cover cost or loss of the complainant, recommendation to the Chief Justice for suspension or revocation, or any other action deemed fit.

To read the Judicature and Application of Laws (Appointment, Remuneration and Disciplinary of Mediators) Rules, 2024 [click here](#)

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