

THE ASSOCIATION OF PRIVATE DETECTIVES AND INVESTIGATORS, INDIA (DISCIPLINE AND APPEAL) RULES 2007

1. SCOPE OF APPLICATION:

- 1.1 These rules shall be known "The Association of Private Detectives and Investigators, India" (Discipline and Appeal) Rules 2007. These rules shall apply to every member enrolled in the APDI and or persons appointed to a post in connection with the affairs of APDI.
- 1.2 They shall come into effect immediately.

2. DEFINITIONS:

In these rules, unless there is anything repugnant to the subject of context,

- (a) APDI - means The Association of Private Detectives and Investigators, India.
- (b) Board- means the Board of Directors of the APDI and includes any committee constituted by the Board or any officer/of the APDI to which/whom the board has delegated powers for the purpose of these rules;
- (c) Chairman & Managing Director/Managing Director- means Chairman & Managing Director; Managing Director of the APDI.
- (d) Notice - means a notice in writing required to be given or posted on the notice board of the office concerned for the purpose of these rules;
- (e) Notice Board- means the Notice Board maintained in a conspicuous place at or near the main entrance of the APDI.
- (f) Disciplinary Authority- means the Head of the Committee concerned in which the member is serving for the time being, as notified from time to time;

Note:

The Disciplinary Authority may delegate to an authority subordinate to it the powers vested in it under these rules excepting those laid down in Rule 4.

- (g) Appellate Authority means the authority to which the Disciplinary Authority reports or, as notified from time to time.
- (h) "Member of Family" in relation to an employee includes -
- (1) the wife or husband, as the case may be, of the member, whether residing with the member or not, but does not include a wife or husband, as the case may be separated from, the member by a decree or order of competent court;
 - (2) son or daughter or step son or step daughter of the member and wholly dependent on him,

but does not include a child or step-child who is no longer in any way dependent on the member or of whose custody the member has been deprived by or under any law;

3.0 FEES/REMUNERATION MEANS-

- (1) Fees in a time scale, and special reimbursements, if any; or
- (2) Fixed component
- (3) Consolidated remuneration described as consolidated or fixed fees.

4.0 SUSPENSION PENDING INQUIRY AND DISCIPLINARY ACTION FOR MISCONDUCT:

4.1 Misconduct

Without prejudice to the generality of the term "misconduct" the following acts of omission and commission shall be treated as misconduct:

- (1) Theft, or dishonesty in connection with the business or property of the APDI or of property of another member within the premises of the APDI or otherwise.
- (2) Taking or giving bribes or any illegal gratification.
- (3) Engaging directly or indirectly in any business, trade or profession or canvassing for any profession, business or trade owned or managed by a member of his family which is not in conformity with the interests of APDI.
- (4) Transactions, by way of borrowing or lending money with fellow-members habitually, or with any other person/firm/Private Limited Company/Agent with whom the member has or is likely to have any official dealings, including insolvency and habitual indebtedness.
- (5) Contracting or entering into a marriage with a person having a spouse living, or contracting/entering into another marriage while member's spouse is alive, without obtaining prior permission of the APDI, notwithstanding the fact that such marriage is permissible under the personal law applicable to the member.
- (6) Abuse of official position or exerting pressure, directly or indirectly, to secure employment or any other pecuniary benefit for any member of the member's family in any undertaking having direct dealing with the member.
- (7) Willful in-subordination or disobedience, whether or not in combination with others, of any lawful reasonable order of the member's superior in connection with the work of APDI.
- (8) Habitual negligence or neglect of work including slowing down or work.
- (9) Interference or tampering with any safety devices installed in or about the premises of the client or willful damage to any property of the client.
- (10) Drunkenness or riotous or disorderly behavior in the premises of the APDI or outside such premises where such behavior is related to or connected with the membership.
- (11) Collection without the permission of the competent authority of any money except as sanctioned by any law of the land for the time being in force or rules of the APDI.
- (12) Commission of any act which amounts to a criminal offence involving moral turpitude.
- (13) Commission of any act subversive of discipline or of good behavior.
- (14) Breach of violation of the rules, regulations or orders applicable to the members.

- (15) Assaulting, threatening or abusing or insulting or intimidating or surrounding and forcibly detaining any employee or officer of the APDI within or outside the premises of the APDI.
- (16) Abetment, or attempt at abetment, of any act which amounts to misconduct.

Note:

The above instances of misconduct are illustrative in nature and not exhaustive.

4.2 SUSPENSION:

- (1) The disciplinary authority or any other authority to which it is subordinate, which is empowered to impose on a member any or all of the penalties specified in Rule 4.4, or any other authority empowered in that behalf by the Board of the Chairman & Managing Director by general or special order, may place a member under suspension by issuing an order.
 - (a) where a disciplinary proceeding against a member is contemplated or is pending, and his/her presence at his/her duty post is not considered desirable; or
 - (b) where a case against a member in respect of any criminal offence is under investigation or trial, if the case relates to his/her official duties and/or his/her presence at his/ duty post is not considered desirable.
- (2) A member who is arrested, whether on a criminal charge or otherwise, and is detained in custody for a period exceeding 48 hours shall, as soon as possible, report the facts to the disciplinary authority. The authority will decide whether the member should be placed under suspension, and if so, for what period.
- (3) While taking a decision to place a member under suspension the disciplinary authority will pass order whether or not the member will be required to be present in the office.
- (4) A statement setting out in detail the reasons for suspension shall be supplied to the member within a week from the date of the order of suspension.
- (5) An order of suspension made under this clause may be, at any time, be revoked by the authority which made the prior order or by any authority to which that authority is subordinate.

4.3 TREATMENT OF THE PERIOD OF SUSPENSION:

- (1) When the member under suspension is reinstated, the suspending authority (vide clause (1) of Rule 4.2) may grant to him the following status, for the period of suspension.
 - (a) if the member is exonerated and not awarded any of the penalties mentioned in Rule 4.4, the status quo would be granted as if he had not been suspended.
- (2) In a case falling under sub-clause (a), the period of absence from membership will be treated as period in continuation.

4.4 PENALTIES:

- The following penalties may be imposed on a member, as hereinafter provided, for misconduct committed by him in the present, previous or earlier misconduct or for any other good and sufficient reasons;
- (a) censure;
 - (b) withholding of membership with or without cumulative effect;
 - (c) recovery from fees/remuneration of the whole or part of any pecuniary loss caused by negligence or breach of conditions.

- (d) removal from membership.
- (e) dismissal from membership

Explanation:

Nothing other than those specified at items (a) to (e) above is a penalty. To illustrate, the following shall not amount to a penalty within the meaning of this rule;

- (1) non-grant of increment/ promotion if his work is not found satisfactory or to be of the required standard, or for failure to pass a prescribed test or examination;
- (2) non-promotion of a member to post in the next higher grade of the APDI or automatic elevation.
- (3) reversion to his previous grade or post, of a member appointed on probation, in accordance with the terms of his appointment;
- (4) termination of a membership: -
 - (a) appointed or enrolled on probation, during or at the end of the end of the period of probation, in accordance with the terms of his appointment/ enrollment.
 - (b) appointed/ enrolled under a time-bound contract or agreement, in accordance with the terms of such contract or agreement.
 - (c) for continued ill health or on permanent incapacitation for further service due to ill health or disablement; and
 - (d) on voluntary abandonment of membership;
 - (e) retirement of a member on personal grounds.

4.5 DISCIPLINARY AUTHORITY

The various authorities specified in clause (c) of Rule 2 may impose any or all of the penalties prescribed in Rule 4.4. An authority higher than that which is empowered to impose a particular penalty on an employee/ members in such cases, appeal shall lie to the authority to which such higher authority reports.

4.6 PROCEDURE FOR IMPOSING PENALTIES

- (1) Order imposing any of the penalties specified in Rule 4.5 shall be made after an inquiry is held.
- (2) In the inquiry, the member concerned may take the assistance of another member (to be known as the Assisting officer) posted at his headquarters station at his own initiative and responsibility.

4.7 ACTION ON THE INQUIRY REPORT:

If the disciplinary authority, having regard to its findings on all or any of the articles of charge and also on consideration on the basis of part aggravating circumstances duly recorded, is of the opinion that -

- (a) any of the penalties specified in rule 4.5 should be imposed on the member, it shall make an order imposing such penalty;
- (b) no penalty is called for, it may pass an order accordingly.

4.8 COMMUNICATION OF ORDERS:

Orders made by the disciplinary authority under Rule 4.7 shall be communicated to the member concerned. Every order, notice and other process made or issued under these rules shall be served on the member concerned in person, or communicated to him at his last known address by registered post/

acknowledgement due. It may also be served personally. If the member refuses to accept delivery, such refusal will be made and signature (s) of the witnesses obtained and communication deemed to the above means, a copy thereof will be posted on the notice board of the APDI to which the employee belongs and notice so posted shall be deemed to be served on the member.

4.9 SPECIAL PROCEDURE IN CERTAIN CASES:

1. When the disciplinary authority is satisfied that in the interest of the APDI it is not expedient or necessary to hold an enquiry, it may in writing recommend to the next higher authority for imposing penalty without going through the procedure of the enquiry. However, the next higher authority to whom the case is so referred or suo motto may subject to clause (2) below, impose the penalty specified in rule 4.5, when it is convinced that there are reasons for taking action under the clause and the situation so warrants. Such action may also be taken by any superior authority to the next higher authority.
2. The power under this rule shall not be delegated to any lower authority.

4.10 APPEALS:

A member may appeal within one month against an order imposing upon him any of the penalties specified in Rule 4.4. The appeal shall lie to the authority specified.

4.11 MEANS OF REDRESS FOR MEMBERS AGAINST UNFAIR TREATMENT OR WRONGFUL EX-ACTIONS BY THE APDI OR ITS LAWFUL REPRESENTATIVE:

All complaints arising out of membership including those relating to unfair treatment or wrongful exaction on the APDI or its lawful representative, shall be submitted to the Chairman of APDI.

With Best Compliments From:

