

**PROPOSED AMENDMENTS TO THE NCIA ARBITRATION RULES 2015
(REVISED 2019)**

1. Introduction of the Role of a Tribunal Secretary in the Rules.

Definition of the term:

“Tribunal Secretary” means *any person approved by the Parties, at the request of the Arbitral Tribunal, to render the services prescribed under clause 3 of the NCIA Arbitral Tribunal Secretary Guidelines, 2023 and its amendments from time to time.*

Rule 14A Tribunal Secretary

(1) An Arbitral Tribunal may obtain assistance from a Tribunal Secretary in relation to an arbitration in accordance with the NCIA Arbitral Tribunal Secretary Guidelines, 2023 and its amendments from time to time.

(2) The Tribunal Secretary’s fee shall be calculated in accordance with Part 6 of the First Schedule.

(3) The Tribunal Secretary shall agree in writing upon fee rates conforming to the provisions of Part 6 of the First Schedule.

(4) The Parties shall be jointly and severally liable for payment of the Tribunal Secretary’s fees and expenses.

2. Introduction of the following sub-rule (4) under the General provisions in Part 1 of the First Schedule on Fees and Costs:

“Any transfer or currency exchange charges shall be borne by the Party paying the fees and expenses.”

3. Introduction of the following sub-rule under Fees and Costs in Part 2 of the First Schedule:

“Where a tribunal secretary is appointed, the Arbitral Tribunal’s fees shall include the amount billed for the tribunal secretary fees.”

4. Proposal to increase the appointment fee from Kshs 5,000 to Kshs 10,000 under **Rule 7, Requests to act as appointing authority**. Thus, the provision to read as follows:

“Any party intending to nominate the Centre to act as appointing authority shall make the request to the Registrar together with payment of a non-refundable appointment fee of USD 1000 in international arbitration and KES 10,000 in domestic arbitration payable to the Centre.”

5. Introduction of a **Fixed Rate – Fast Tracked Documents Only Arbitration for International Arbitrations** as follows:

Fixed Rate – Fast Tracked Documents Only Arbitration

AMOUNT IN DISPUTE (USD)	ARBITRATOR’S FEES (USD)
Up to 50,000	800
50,001 to 100,000	1600
100,001 to 500,000	3200
500,001 to 1,000,000	6400
1,000,001 to 2,000,000	12,800
2,000,001 to 5,000,000	12,800 + 2.8% above 2,000,000
5,000,001 to 10,000,000	70,000 + 0.6% above 5,000,000
10,000,001 to 50,000,000	100,000 + 0.05% above 10,000,000
Above 50,000,001	120,000 + 0.02% above 50,000,000

6. Introduction of the following statement in the **First Schedule** under **Part 3:B** on Administrative Costs to provide for the Centre’s administrative costs when a Tribunal Secretary is appointed.

**Where a Tribunal Secretary is appointed, the administrative costs shall include an additional 10% of the fees above.*

7. Introduction of a **Fixed Rate** table to provide for **Arbitrator's Fees** in a **Fast Track Documents Only Arbitration (Domestic Arbitration)** under **Part 4** of the **First Schedule**:

AMOUNT IN DISPUTE (KES)	FEES (KES)
1 – 500,000	100,000
500,001 – 1,000, 000	200,000
1,000,001 to 5,000,000	350,000
5, 000,001 to 15,000,000	1,000,000
15,000,001 to 50,000,000	3,500,000
50,000,001 to 100,000,000	6,500,000
100,000,001 to 200,000,000	7,500,000
200,000,001 to 500,000,000	8,000,000
500,000,001 to 1,000,000,000	10,000,000
Above 1,000,000,001	10,000,000 + 0.15% above

8. Proposal to increase the rate charged as **administrative costs** from **1.5% to 20%** in **Part 4** of the **First Schedule** thus the provision to read as follows:

B. Administrative Costs

20% of the rate charged for Arbitral Tribunal's fees.

9. Proposal to increase the Administrative Costs in a **Domestic Emergency Arbitration** from **Kshs 10,000 to Kshs 50,000** in **Part 5** of the **First Schedule**.

10. Introduction of the Tribunal Secretary's Fees in **Part 6** of the **First Schedule** as follows:

Tribunal Secretary's Fees for Domestic Arbitrations

An hourly rate of between **Kshs 3,000 to Kshs 8,000** to be agreed by the Parties at the time of appointment.

Tribunal Secretary's Fees for International Arbitrations

AMOUNT IN DISPUTE (USD)	TRIBUNAL SECRETARY FEES (USD)
Below 1,000,000	2,000
1,000,001 to 2,000,000	3,000
2,000,001 to 5,000,000	4,000
5,000,001 to 10,000,000	8,000
10,000,001 to 50,000,000	10,500
Above 50,000,001	15,500