

Guidelines on the Redress of Grievances and Resolution of Disputes, 2017

**Warehousing Development and Regulatory Authority
Government of India**

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CHAPTER I **PRELIMINARY**

1. Short title, objective and utilization of Grievance Redress system:

- (1) These guidelines may be called the Guidelines on the Redress of Grievances and Resolution of Disputes, 2017.
- (2) These guidelines seek to enable the Authority to provide a central forum for registration, tracking and monitoring of grievances against the Authority, inspection agencies, repositories and warehousemen.

2. Definitions

- (1) In these guidelines, unless the context requires otherwise:
 - (i) “Act” means the Warehousing (Development and Regulation) Act, 2007 (37 of 2007);
 - (ii) “arbitral award” means any decision of the arbitral tribunal on the substance of the dispute submitted to it;
 - (iii) “arbitral tribunal” means a sole arbitrator or three arbitrators nominated for resolution of a dispute through arbitration under these guidelines;
 - (iv) “arbitrator” means an arbitrator empanelled by the Authority under section 35(2)(I) of the Act;
 - (v) “Authority” means the Warehousing Development and Regulatory Authority established under the Act;
 - (vi) “WDRA grievance redress system” or “WGRS” means the central system of registering, tracking and monitoring grievances, established by the Authority under these guidelines, which will be accessible in the manner specified by the Authority from time to time. All communications through the WGRS will be in the form and manner required by the Authority.

- (vii) “communication” means a written or electronic communication which —
 - (a) states an action that the Authority, inspection agency, repository or warehousemen proposes to take;
 - (b) states the causes requiring the proposed action;
 - (c) provides the time limit within which such communication must be replied to; and
 - (d) provides the manner of replying to the communication, including whether replies are sought in person or through written representations or both.
 - (viii) “grievance” means an expression of dissatisfaction made by or on behalf of a person, alleging that such person has suffered or is likely to suffer legal injury or monetary loss on account of an act or omission by the Authority, an inspection agency, a repository or a warehouseman, and which would constitute a violation of the provisions of the Act, rules, regulations and guidelines/circulars made thereunder and any notification issued thereby.
 - (ix) “aggrieved party” means any person who registers a grievance
 - (x) “dispute” means a grievance filed against a warehouseman, which remains unresolved and is determined by the Authority to be an allegation of offence under section 43 or section 44 of the Act
 - (xi) “order” means any order issued by the Authority which is issued in writing or electronically, and states a decision of the Authority under these guidelines.
 - (xii) “grievance against Authority” includes any grievance against the Authority made by any person.
 - (xiii) “guidelines” means these guidelines issued by the Authority and as amended from time to time.
 - (xiv) “respondent” means any warehouseman, repository or inspection agency against whom a grievance has been registered.
- (2) Other words and expressions used herein but not defined shall have the meaning assigned to them as per the Act.

CHAPTER II

Grievance Redress by an Inspection Agency/Repository/Warehouseman

3. Grievance Redress System / Procedure:

- (1) From such date as may be specified by the Authority, any person may register a grievance along with supporting evidence on the WDRA Grievance Redress System in such form and manner as may be specified by the Authority.

- (2) An NWR holder who wishes to file a delivery related grievance against a warehouseman must do so before taking delivery or within 30 days of taking delivery under protest.
- (3) The WDRA Grievance Redress System shall send an acknowledgment of receipt of the grievance to the aggrieved party within 3 days. This acknowledgment will include:
 - a. date of registration of grievance;
 - b. unique reference number;
 - c. the category of grievance;
 - d. Details of respondent to whom grievance is forwarded
- (4) The WDRA Grievance Redress System will simultaneously forward all details of the grievance registered under clause 3(1) to the concerned respondent.
- (5) On receipt of the grievance, the respondent shall redress the grievance within 15 working days from the filing of grievance by the aggrieved party and shall communicate the same to him through WDRA Grievance Redress System immediately.
- (6) The communication of redressal issued by the respondent under clause 3(5) may include the following:
 - a. action taken by respondent to redress grievance;
 - b. if the grievance is rejected, reasons for doing so;
- (7) Where the aggrieved party is not satisfied with the redressal provided by the respondent under clause 3(5), it may communicate its response to the respondent through the WDRA Grievance Redress System within 10 working days.
- (8) The aggrieved party's response made under clause 3(7) of this guideline must clearly state the reasons for which the aggrieved party is not satisfied.
- (9) The respondent must respond to the aggrieved party's response under clause 3(7) through the WDRA Grievance Redress System within 10 working days from the filing of response by aggrieved party.
- (10) Where the aggrieved party is still not satisfied with the response provided by the respondent under clause 3(9), it may escalate the grievance to the Authority through the WDRA Grievance Redress System.
- (11) Where the respondent fails to respond to the aggrieved party within the specified time under clause 3(9) or where the aggrieved party makes an escalation under clause 3(10) of this guideline, the Authority will assess the grievance and shall take the following action:
 - a. Where the grievance constitutes a dispute, the Authority shall categorise the grievance as a dispute and initiate dispute resolution proceedings as per clause 10 of these guidelines.
 - b. Where the grievance does not constitute a dispute, the Authority shall issue a

communication stating that the status of the grievance is unresolved and the aggrieved party may take the appropriate legal action against the respondent. In the case of Repositories and Repository Participants, provisions for Conciliation and Arbitration available in the Bye-Laws of the Repositories, may be followed.

4. Closure of grievance

A grievance shall be considered as closed when:

- (1) the aggrieved party has accepted the response given by the respondent as per clause 3(5) or clause 3(9) of these guidelines;
- (2) the aggrieved party has not communicated a response to the respondent within eight weeks of the issuance of the respondent's response; or
- (3) the aggrieved party withdraws its grievance from the WDRA Grievance Redress System.

5. Grievance Redress Policy

- (1) Every Inspection agency/Repository/Warehouseman shall have a Grievance Redress Policy which shall be filed with the Authority and shall also be adequately publicised. This policy shall include:
 - a. The grievance redress process followed by the respondent;
 - b. The time-lines for resolution, which will be in compliance with these guidelines; and
 - c. The procedure for escalation of grievances.
- (2) The respondent shall maintain a record of all grievances that it may receive, via the WDRA Grievance Redress System or otherwise, and related information thereof and make such information available to the Authority as and when required.

6. Grievance Officer

Each registered warehouse of a warehouseman and every registered office of an Inspection agency or Repository shall have a designated grievance officer.

7. Consequences of failing to comply with these guidelines

Failure to comply with these guidelines may lead to:

- (1) Suspension or Cancellation of registration of Warehousemen under the "*Warehousing (Development and Regulation) Registration of Warehouses Rules, 2017*";
- (2) Suspension or Cancellation of registration of Repositories under the "*Guidelines on Repositories and Creation and Management of Electronic Negotiable Warehouse Receipts*";
- (3) Suspension or Cancellation of empanelment of Inspection agencies under the "*Guidelines on empanelment of inspection agencies and inspection of warehouses, 2017*".

CHAPTER III

Grievance Redress by Authority

8. Grievance Redress System /Procedure

- (1) An aggrieved party shall register its grievance against the Authority on the WDRAGrievance Redress System.
- (2) The WDRAGrievance Redress System may send an acknowledgement of receipt of the grievance to the aggrieved party. The acknowledgement will include:
 - i. date of registration of grievance;
 - ii. unique reference number;
 - iii. the category of the grievance;
 - iv. the name and designation of the officer at the Authority who will deal with the grievance.
 - v. the time within which it will be resolved.
- (3) The Authority may ask for evidence or additional information to be submitted by the aggrieved party through the WDRAGrievance Redress System.
- (4) The Authority will examine the grievance including any evidence or additional information that may have been collected under clause 8(3) and pass an appropriate order within 15 working days from the filing of the grievance by aggrieved party.

9. Closure of grievance against the Authority

A grievance against the Authority shall be considered as closed when:

- (1) an order is passed by the Authority under clause 8(4) of these guidelines;
- (2) the aggrieved party withdraws its grievance from the WDRAGrievance Redress System.

CHAPTER IV

Dispute Resolution

10. Dispute against warehouseman

- (1) For a grievance against a warehouseman that is categorised as a dispute by the Authority under clause 3(11)(a) of these guidelines, the Authority will issue a communication through the WDRAGrievance Redress System to both the aggrieved party and the warehouseman, which shall include:
 - (a) date of registration of the grievance;
 - (b) unique reference number;
 - (c) the category of the dispute;
- (2) The communication will include an option to the disputing parties to resolve the dispute through arbitration

- (3) The disputing parties must respond to the communication under clause 10(2) through the WDRA Grievance Redress System within 10 working adys.

11. Examination of dispute and decision by the Authority

- (1) Where one or both of the disputing parties do(es) not opt for arbitration or where the respondent does not communicate its response as per 10(2) of these guidelines, the Authority will issue a communication through the WGRS calling for evidence from both parties.
- (2) The communication under sub-clause (1) may include:
 - a. Call for evidence including oral evidence to be submitted by the disputing parties in the manner as required by the Authority.
 - b. Time within which the evidence may be submitted.
- (3) The disputing parties must submit evidence within the time and manner required by the Authority.
- (4) The Authority may allow for additional time to submit evidence if it is deemed necessary.
- (5) The Authority may conduct a hearing after considering the evidence received under sub-clause (3) if it is deemed necessary.
- (6) The Authority will examine all the evidence collected under sub-clause (3) and sub-clause (5) and shall pass an appropriate order.

12. Arbitration

- (1) The Authority shall maintain a panel of arbitrators which shall consist of persons possessing requisite qualifications, experience and knowledge as felt appropriate by the Authority.
- (2) The Authority shall have absolute right at any time to add or remove any person from the panel of arbitrators.
- (3) Where both parties opt for arbitration as per clauses 10(2) & 10(3) of these guidelines, the Authority shall direct the aggrieved party and the respondent to submit a list of three arbitrators — in descending order of preference — from the panel of arbitrators maintained by the Authority in a form specified in the Schedule from time to time, within 7 working days.
- (4) Save as otherwise specified by the Authority, the number of arbitrators to be nominated to the arbitral tribunal shall be determined as follows:
 - (a) If the value of the dispute is more than INR two crores on the date of application, then such a dispute shall be referred to an arbitral tribunal of three arbitrators.
 - (b) If the value of dispute is up to INR two crores, then the same shall be referred to an arbitral tribunal of a sole arbitrator.
 - (c) The Authority may from time to time, change the value of dispute up to which the dispute shall be referred to an arbitral tribunal of a sole arbitrator or three arbitrators as the case may be.

- (5) If the office(s) of any of the arbitrator(s) falls vacant after nomination to an arbitral tribunal, the Authority shall nominate substitute arbitrator(s) to fill the vacancy(ies).
- (6) If the dispute requires an arbitral tribunal consisting of a sole arbitrator under clause 11(4)(a), upon receiving the lists of preferred arbitrators from the aggrieved party and respondent the Authority shall appoint the arbitral tribunal, in the following manner:
 - (a) The Authority shall identify the most common arbitrator to whom the highest preference has been given by both the aggrieved party and the respondent.
 - (b) If no common arbitrator is identifiable, the Authority shall select an arbitrator from the panel of arbitrators excluding the persons selected by the aggrieved party and the respondent. If after excluding the arbitrators selected by the aggrieved party and the respondent no-one on the panel is available to act as arbitrator or if the available arbitrator refuses or fails to act as arbitrator, then the Authority may select an arbitrator from the list submitted by either the aggrieved party or respondent.
- (7) If the dispute requires an arbitral tribunal consisting of three arbitrators under clause 11(4)(b) of these guidelines, upon receiving the lists of preferred arbitrators from the aggrieved party and respondent, the Authority shall appoint the arbitral tribunal, in the following manner:
 - (a) The Authority shall identify three common arbitrators in the order of preference given by both the aggrieved party and the respondent.
 - (b) If no common arbitrator is identifiable or only one or two common arbitrators are identifiable, the first, the second and/or the third arbitrator as the case may be shall be selected by the Authority from its panel of arbitrators excluding the arbitrators selected by the aggrieved party and the respondent. If after excluding the arbitrators selected by the aggrieved party and the respondent no-one from the panel is available to act as arbitrator or if the available arbitrator refuses or fails to act as arbitrator, then the Authority may select an arbitrator from the list submitted by either the aggrieved party or respondent.
 - (c) In the event of failure of the aggrieved party and the respondent to submit any names from the panel of arbitrators the Authority shall select the arbitrators who shall be part of the arbitral tribunal from its panel of arbitrators.
 - (d) The arbitral tribunal so appointed shall select one among themselves to act as a presiding arbitrator. In case of failure or lack of consensus among the panel to select a presiding arbitrator, the Authority shall select the presiding arbitrator.
- (8) If the aggrieved party refuses or fails to submit the list of their preferred arbitrators as per these guidelines, and the respondent does so, then the Authority shall select an arbitrator from its panel excluding the arbitrators selected by the respondent. If after

excluding the persons selected by the respondent no arbitrator from the panel is available to act as arbitrator or if the available arbitrator refuses or fails to act as arbitrator, then the Authority may select an arbitrator from the list submitted by the respondent.

- (9) If the respondent refuses or fails to submit the list of their preferred arbitrators as per these guidelines, and the aggrieved party does so, then Authority shall select an arbitrator from the panel of arbitrators excluding the persons selected by the aggrieved party. If after excluding the persons selected by the aggrieved party no arbitrator from the panel is available to act as arbitrator or if the available arbitrator refuses or fails to act as arbitrator, then the Authority may select an arbitrator from the list submitted by the aggrieved party.
- (10) If the arbitrator(s) selected as per the above procedure is/are not able to take up the matter for whatsoever reasons then the Authority shall select arbitrator(s) from the remaining names on the panel.
- (11) Neither party will have a right to challenge the nomination of arbitrator(s) except as provided in clause 12(12), as amended from time to time.
- (12) Challenge to the nomination of arbitrator(s):
 - (a) If circumstances exist that give rise to justifiable grounds to doubt the independence or impartiality of any or all of the arbitrators in the arbitral tribunal, either of the parties may make an application in writing to the Authority to replace said arbitrator(s).
 - (b) The Authority shall have the power to dismiss a challenge after a prima facie examination of whether the challenge is serious or frivolous.
 - (c) Where the examination by the Authority provides grounds for change of arbitrators, the Authority will pass an order to that effect.
 - (d) The challenge to an arbitrator may be made at any point in the arbitral proceedings.
- (13) The Authority shall give advance notice to both parties regarding the place, date and time of the first hearing. The arbitral tribunal shall decide the time and place of subsequent hearings, if required, after consulting with both parties.
- (14) The arbitral tribunal will determine whether or not a hearing is required after the first hearing as follows:
 - (a) If the value of the claim or dispute is lower than INR two lakh and fifty thousand the arbitral tribunal may, upon its discretion, adjudicate based only on the documentary evidence and statements submitted by both the parties. In such a case no hearings will be held after the first hearing.
 - (b) If the value of the claim or dispute is higher than INR two lakh and fifty thousand

the arbitral tribunal shall conduct hearings as per these guidelines unless both parties make a written submission to the arbitral tribunal waiving their right to a hearing.

- (15) Despite due notice if either or both parties fail(s) to attend arbitral proceedings, the arbitral tribunal may conduct the arbitration proceedings ex parte.
- (16) Without prejudice to the rights of the parties or the final determination of the dispute, the arbitral tribunal may issue orders to the parties or recommendations to the Authority as may be deemed necessary. Such orders to parties or recommendations to Authority include but are not limited to —
 - (a) Safeguarding, interim custody, preservation, protection, storage, sale or disposal of the whole or part of the subject matter of the dispute or
 - (b) Inspection or sampling of the subject matter of dispute as per the Guidelines on empanelment of Inspection agencies and Inspection of Warehouses, 2017.
- (17) The making of arbitral award will be as follows:
 - (a) Three original copies of the arbitral award shall be made in writing. All three copies shall be duly dated and signed by every arbitrator on the arbitral tribunal.
 - (b) The arbitral tribunal shall file the three original copies with the Authority. The Authority shall retain one copy for its records, and arrange to send one copy each to each of the two parties.
 - (c) If the two parties settle the dispute before an arbitral award is made, the arbitral tribunal shall record such a settlement as an arbitral award on agreed terms.
- (18) Subjects of the arbitral award shall be as follows:
 - (a) The arbitral tribunal may include in the sum for which the award is made interest at such rate on such sum and for such period as the arbitral tribunal deems reasonable.
 - (b) The arbitral tribunal may include the cost of arbitration as specified in clause 12 (19) in the sum of the arbitral award.
 - (c) The arbitral tribunal shall not include fines or penalties in the arbitral award.
- (19) Arbitration fees and costs:
 - (a) Both the parties to arbitration shall make a deposit with the Authority at the time of submission of their list of chosen arbitrators, for defraying the costs that may be incurred for conducting the arbitration proceedings provided when there is failure, neglect or refusal by the respondent, to make a deposit accordingly, the aggrieved party shall be responsible for making such deposit without prejudice however to its right to recover the same from such respondent in terms of the

arbitral award.

- (b) The amount of deposit, which has to be deposited by the parties shall be as determined by the Authority from time to time keeping in view the cost of arbitration.
 - (c) Such an amount shall be deposited by the parties in equal shares towards the cost of arbitration.
 - (d) All deposits towards costs and expenses shall be made with the Authority and no payment shall be released to the arbitrators directly by the parties.
 - (e) Unless the arbitral tribunal directs otherwise, each party shall bear their own expenses of travelling and other incidental expenses incurred.
 - (f) The arbitral tribunal shall be entitled to allow fees and expenses of witnesses, expenses connected with the collection and carriage of sample and examination of goods, Weights and Measures Department's and/or assayers' and/or quality certifying agencies' charges, cost of legal or technical advice, or proceedings in respect of any matter arising out of the arbitration, and any other incidental expenses and charges in connection with or arising out of the reference or award as the arbitral tribunal may, in its absolute discretion, think fit.
 - (g) The costs, if any, to be awarded to either of the party in addition to the fees and charges that have to be borne by the parties for conducting the arbitration shall be decided by the arbitral tribunal.
 - (h) The balance if any after adjusting the cost of arbitration and arbitral award shall be returned to respective party/parties.
- (20) The dispute, whether by arbitral award or on agreed terms, shall be resolved within the time as specified by the Arbitration and Conciliation Act 1996.
- (21) Notwithstanding anything contained in Section 34 of the Arbitration and Conciliation Act 2016 as amended from time to time, the arbitral award made by the arbitral tribunal shall be final and binding on the aggrieved party and respondent.

13. Closure of Dispute

The dispute shall be deemed closed if:

- (1) an arbitral award is made under clause 12(17) of these guidelines; or
- (2) an order is passed under clause 3 (6) of these guidelines; or
- (3) the aggrieved party withdraws its grievance against the respondent.

CHAPTER V

Appeals

14. Appeal against order issued by the Authority

Any person aggrieved by an order of the Authority made under these guidelines may prefer an appeal to the Appellate Authority as mentioned in section 42 of the Act, Rules and Regulations made thereunder.

F.No. WDRA/2017/41-2/A&F

(Ganesh Bakade),
Director (A&F), WDRA.

CHAPTER VI

Schedules

15. Arbitration Fees

The arbitration fees specified in this schedule shall be deposited with the Authority as per clause 12(19) to cover cost of arbitration.

Table VI.1 : Arbitration Fees (per arbitrator)	
Value of Dispute (INR)	Arbitration Fee
Less than or equal to 2 crore	INR 30,000 or 2.4% of value of dispute, whichever is higher, up to a maximum of INR 2.4 lakh
Greater than 2 crore	1.2% of the value of dispute or INR 24 lakh, whichever is lower

Note: In addition to the arbitration fees in the table above the arbitral tribunal may ask the two parties to pay up to INR 5000 each, per hearing, to cover costs of conducting hearings (including but not limited to renting a meeting hall, renting equipment, and purchasing stationery).

16. Form for Submitting List of Preferred Arbitrators

Form Arb01

WGRS UNIQUE REFERENCE NUMBER:

NAME:

ADDRESS:

Are you the AGGRIEVED PARTY or RESPONDENT? (Circle whichever is appropriate)

Table VI.2: List of Preferred Arbitrators	
Preference	Name of Arbitrator
1	
2	
3	
4	
5	

Note: 1 denotes highest preference, 5 denotes lowest preference

SIGNATURE:

DATE: