

COAL INDIA LIMITED
(A Govt. of India Enterprise)
"COAL BHAWAN"

Premises No.: 04, MAR, Plot No.: AF-III
Action Area-1A,
Newtown, Rajarhat
Kolkata-700156 (WB)



A Maharatna Company

(An ISO 9001:2015 & ISO50001:2011 Certified Company)

LEGAL DEPARTMENT
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Ref. No. CIL/Legal/3738

Date: 16.12.2019

OFFICE MEMORANDUM

Subject: Policy for Empanelment of Advocates in CIL

In order to streamline the existing process of empanelment of advocates and to regulate their schedule of fees a comprehensive policy has been drafted. The said policy also introduces a mechanism for performance evaluation of empaneled advocates.

The subsidiary companies of CIL may adopt the said policy with necessary modifications upon approval from their respective CMDs. Advocates may be empaneled afresh along with their individual schedule of fees.

The aforementioned policy issues with approval of Competent Authority and shall come into force with immediate effect. The process of fresh empanelment may be taken immediately. Once new empanelment is approved, the existing panel shall automatically cease to exist.

The Policy for Empanelment of Advocates in CIL has been annexed herewith for information and compliance by all concerned.


Sanjeev Kumar
General Manager (P/Legal)

Distribution:

1. General Manager/TS to Chairman, CIL Kolkata
2. GM/HoDs, CIL HQ & GM, NEC
3. GM/HoD (Legal), ECL/BCCL/CCL/WCL/SECL/NCL/MCL
4. Company Secretary, CIL HQ
5. HoD (System), CIL with a request to upload the OM on the website of CIL along with the policy.

CC for kind information:

1. Chairman, CIL
2. Director (Technical)/(Personnel & IR)/(Finance)/(Marketing), CIL
3. CVO, CIL
4. Director (Personnel), ECL/BCCL/CCL/WCL/SECL/NCL/MCL & Director (Technical), CMPDIL

POLICY FOR EMPANELMENT OF ADVOCATES IN CIL

1. **Objective:** To provide a policy for empanelment of advocates and their regular evaluation.
2. **Applicability:** The policy for Empanelment of Advocates shall be applicable prospectively to CIL and its subsidiaries (along with necessary modifications by the respective subsidiaries considering the specific conditions inter alia Schedule of fee, etc. on approval by their respective CMDs).
3. **Definitions:** For the purposes of this Policy, the terms used will have the following meaning:
 - (i) 'Advocate' means an Advocate, entered in any roll of Advocates under the provisions of Advocates Act, 1961 (25 1961) (hereinafter referred as 'Act').
 - (ii) 'Company' means CIL or its Subsidiaries or Joint Venture companies of CIL or its Subsidiaries unless otherwise defined or explained.
 - (iii) 'Court' shall mean and include District Courts, any High Court, Supreme Court or tribunals including CGITs, CCI, NGT etc.
 - (iv) 'Effective Hearing' shall mean a hearing in which either one or both or all the parties involved in a case are heard by the court. If the case is only mentioned and adjourned or merely the judgment is pronounced, it would not constitute an effective hearing for the purposes of this Policy.
 - (v) The term 'similar cases' shall mean two or more cases in which identical questions of law or facts are involved or the same has been tagged as batch matter/petition by the Court.
4. **General**
 - (i) The number of Advocates in panel shall be determined by the HoD Legal, CIL/Subsidiary company
 - (ii) Cases involving similar issues/points of law or otherwise interlinked or clubbed may be entrusted to the same Advocate as far as possible, while care shall be taken to avoid concentration of cases in the hands of one Advocate/a few advocates/law firm(s).
 - (iii) The advocate shall not necessarily be empaneled for specific court and shall accept the work assigned to him and shall not refuse to accept any work without reasonable cause.
 - (iv) Refusal by any advocate to accept any work otherwise than on grounds of conflict of interest, may entail removal of such advocate from the panel. Similarly, no advocate as long as his name is on the panel shall contest any matter against the Company or its subsidiary or any joint venture where the interest of CIL/ Subsidiary is involved.
 - (v) The empaneled Advocates will not delegate cases and themselves deal with the same. They may have to coordinate and work with designated Senior Advocates, if any, engaged in the case as well as with the officers of the Company, as required.
 - (vi) The Advocates empanelled under this Policy shall not be employees of the Company and therefore, shall not be eligible for any benefits available to its employees.
 - (vii) The empaneled Advocate shall maintain absolute secrecy and confidentiality about the

cases of the Company as required under the Act and rules/regulations made thereunder.

- (viii) The advocates shall accept the terms and conditions of the empanelment in full as determined by the Company from time to time.
- (ix) Law Firm(s) may also be empaneled, through an Advocate, duly authorized by the said firm. In such a case all the terms and conditions for empanelment of the individual Advocates shall apply *mutatis mutandis* to them and the Company shall interact and deal with the said empaneled Advocate only.
- (x) If required and considered appropriate by the Director of dealing department of CIL/Subsidiary, Attorney General of India/Solicitor-General of India/Additional Solicitor General/Advocate General/Designated Senior Advocates may be engaged to argue the cases on behalf of the Company keeping in view the urgency and importance of a particular matter. They shall be engaged on case to case basis with the approval of the Director of dealing department to which the case has arisen.
- (xi) In case of North Eastern Coalfields (NEC) for the cases pertaining to NEC, where the term HoD (L) or GM (L) has been used in the Policy, it shall be understood to mean GM, NEC.

5. Tenure of Empanelment

The initial empanelment will be for **five years** or until further orders whichever is earlier. Performance of empaneled advocates shall be reviewed periodically and at least on annual basis. However, on completion of the term and satisfactory performance of the advocate, the empanelment may be renewed for a period of another **three years** by the Company on mutually acceptable terms and conditions.

The Company reserves the right to terminate the empanelment of any advocate at any time Without assigning any reason.

6. Eligibility for Empanelment

- (i) The Advocates should be familiar with various branches of law especially those concerning mining laws including coal mines, land acquisition laws, competition law, constitutional law, company law, forest and environmental law, service law, labour law, contract law, commercial law, property laws and taxation etc. Due weightage shall be given to Advocates having experience in handling cases of CPSEs and Government Departments.
- (ii) In addition to above, the Advocates are required to have the minimum professional/court practice experience as under:
 - For empanelment for the Supreme Court of India... 10 yrs. experience in Supreme Court.
 - For empanelment for the High Court in India/COMPAT 5 yrs. experience in High Court.
 - For empanelment for the Subordinate Courts/Tribunals.... 5 yrs. experience in Subordinate Courts/Tribunals.

- (iii) For considering empanelment for the Supreme Court, generally those Advocates who are regularly practicing including Advocates-on-Record of the Supreme Court would be considered, if they are otherwise found to be competent and suitable.
- (iv) Provided that the Chairman/Director (Personnel) of the Company may relax the above conditions at his discretion, if otherwise found suitable in certain cases for those having a very sound background, knowledge or to encourage the new talent etc.

7. Procedure for Empanelment

Empanelment should be done from time to time as per the requirement and upon instructions of HoD, Legal, CIL or of the respective subsidiary and concurrence of respective Dir. (P & IR).

For the purpose of empanelment, a search committee may be constituted. The said Committee shall have members nominated by HoDs of the following departments:

- i. Finance,
- ii. Legal,
- iii. Materials Management,
- iv. Personnel, and
- v. Marketing and Sales.

The committee would be responsible for recommending the name(s) of Advocates while also considering the pending requests received for empanelment. The name(s) so recommended by the committee must fulfill the eligibility conditions prescribed herein under Clause 6 titled 'Eligibility for Empanelment'.

The name(s) so recommended must be done by a consensus of all the committee members along with a brief justification for such recommendation.

Once the names are recommended by the Search Committee, the Advocates' shall be approached by the Committee for sending a brief application and documents.

- (a) While considering the request from the advocates, following points shall be considered:

- (i) Length of practice and specialization in the area of law relevant to the Company.
- (ii) Proper and adequate infrastructure such as office premises, number of junior advocates, assistants, clerks and fax, mobile phone, fixed phone, internet connection etc.
- (iii) Annual income-tax return filed with the Tax Authorities for three years may also be perused.
- (iv) If considered necessary, an enquiry in the respective Bar Council/Bar Association about the claims and conduct of the advocate to be empaneled can also be made and credentials may be verified.
- (v) If the advocate is empaneled by other regulators/organizations/ establishments, list of those organizations, addresses in full and contact numbers must be obtained for necessary verifications if occasion so arises.

The concerned Chairman/ Director (Personnel) may also prescribe any other factor relevant for empanelment. The panel of advocates so finalized shall not be exhaustive.

(b) Documents to be obtained from the Advocate

The Advocates will be required to furnish their Bio-data as per the format given in **Annexure-A**. The self-attested copies of the following documents required to be submitted with application:

- i. Registration with Bar Council
- ii. Identity card issued by Bar Association / Bar Council
- iii. List of empanelment with other Organizations
- iv. Certificates in support of experience/expertise and/ or declaration on this count.
- v. Annual Income Tax Returns filed for last three years.
- vi. An undertaking from the advocate to the effect that all information furnished by him is correct.

The recommendations of the Search Committee shall be placed before Dir (P), CIL through HoD (Legal), CIL for final empanelment.

8. Communication of Empanelment

After a decision to empanel the advocate is taken, a communication in writing to this effect shall be sent to the Advocate as per **Annexure-B** with acknowledgement and acceptance due. The process of empanelment shall be complete when Company receives a duly signed acceptance letter in prescribed format from the advocate.

9. Payment of Fee and Other Conditions

- (i) The fee payable to the Advocate shall subject to the limits enumerated in the Schedule of fee of the Company or respective subsidiary, as amended from time to time, and finalized with due deliberation with the respective Advocate(s) at the time of empanelment.
- (ii) Advocates engaged may claim the full fee for appearance only in cases of effective hearing. In case of non-effective hearing percentage of fee as prescribed in Schedule Annexed herewith shall be paid.
- (iii) Where two or more cases involving substantially identical or similar questions of law or facts, one of such cases will be treated as a main/lead case and others as identical/connected cases and the advocate/counsel shall be paid full fee for the main/lead case and 10% of the fee of main/lead case, for each of the identical or similar/connected case subject to a maximum of 10 cases only.
- (iv) If a Senior Advocate or an Advocate is required to appear in a court/tribunal which is situated at a place other than the place where he ordinarily practices he shall be entitled to travel, expenses for travel by air (economy class) or AC first tier or AC Second Tier by train, road mileage for the journey from his office to the airport/railway station and vice-versa and from the airport/railway station to the place of his stay. Designated ASG/SG however may travel in Economy Class /business class or as approved by the Competent Authority. He may also be entitled to reasonable actual expenses for stay in Hotel subject to production of bills, subject to a maximum of Rs. 7500/- per day.
In addition of the above the CIL or its subsidiaries may include Practice Disturbance Allowance in Schedule of Fees
- (v) The Chairman/Director (Personnel) shall have the right in exceptional cases to order for payment of fee more than the fee mentioned in the schedule keeping in view the importance of the matter in a particular case. It shall also have the power to fix the fee for eventualities which have not been mentioned in the schedule.
- (vi) No retainer fee shall be paid to any panel Advocate/law firm merely because such

advocate/firm has been empanelled.

- (vii) In case of a Law Firm, empaneled as dealt with in Clause 4 (x) above, the bills/claims should be generated by such empaneled Advocate only.

10. Right to Private Practice and Restrictions

- (i) An advocate shall have the right to private practice which should not, however, interfere with or be in conflict of interest with the efficient discharge of his duties as an empanelled advocate of the Company.
- (ii) An advocate including his junior/s shall not advise any party or accept any case against the Company or its Subsidiary or JVs of CIL subsidiaries in which he has appeared or is likely to be called upon to appear or advice.
- (iii) If the advocate happens to be a partner of a firm of lawyers or solicitors, it will be incumbent upon the firm not to entertain any case against the Company/ subsidiary/ JV arising in any court.

11. Terms and Conditions of Empanelment

- (i) An advocate shall have the right to private practice which should not, however, interfere with or be in conflict of interest with the efficient discharge of his duties as an empaneled Advocate of the Company.
- (ii) An empaneled Advocate shall not advise any party or accept any case against the Company during the period of Empanelment. It will be incumbent upon the Advocate(s) so empaneled to ensure compliance of this term by his Associates/ Junior(s) working with/ under him.
- (iii) If the advocate happens to be a partner of a firm of lawyers or solicitors, it will be incumbent upon the firm not to entertain any case against the Company arising in any court.
- (iv) Advocates engaged in matters before the coming into force of this Policy, for such matters, will be paid as per the schedule of fee already in force and entered into with them.
- (v) Conference should be limited to five. Additional conference(s), if required, shall require a separate approval of concerned GM/ HoD.
- (vi) In case CIL or any subsidiary of CIL intends to avail the services of any of the advocates empaneled by any other subsidiary of CIL then the fee payable will be as per the Schedule of that subsidiary under which the advocate is empaneled. *(Comment: Every Subsidiary shall ensure that such a clause be incorporated in their terms of empanelment.)*
- (vii) Every subsidiary of CIL may avail the services of an advocate empaneled by CIL at the same schedule of fee as applicable under the empanelment of CIL.

12. Monitoring & evaluating Advocacy:

Monitoring & evaluation is the key to shape, transform & improve advocacy. The activities & actions of empaneled advocates shall be strictly monitored & evaluated on regular basis on both qualitative (e.g. opinions, survey questionnaire & feedback) & quantitative (e.g. based on statistics).

The following parameters shall be taken into consideration for such evaluation:

- The impact/benefit of actions taken/work done.
- The recognition they received.
- Advocate's attitude towards rising to the occasion & understanding business needs of the company.
- How cost effective his actions were, time taken in briefing the matter or each case, his/ her level of understanding of the nuances of the Company.
- The total time consumed in providing legal remedy.
- His elevations in the Court & national arena.
- Response of Advocate towards the officials of the company.

An 'Evaluation Form' for assessing the Advocate on the above parameters has been annexed as

13. Disablements

Disablement on the part of the Advocate shall mean and include any of the following:

- (i) Giving false information in the application for empanelment;
- (ii) Handing over the brief or matter to another advocate without prior written permission of the Company;
- (iii) Failing to attend the hearing of the case without sufficient reason and prior information;
 - a. Not acting as per Company's instructions or going against specific instructions;
 - b. Not returning the brief when demanded or not allowing or evading to allow its inspection on demand;
- (iv) Misappropriation of the Company's funds or earmarking, using the same towards his fee without Company's permission.
- (v) Threatening, intimidating or abusing any of the Company's employees, officers, or representatives;
- (vi) Making any of his associates or juniors to appear on behalf of any of the opposite parties in cases/appeal related to Company's without prior permission;
- (vii) Committing an act tantamount to professional misconduct;
- (viii) Conviction of the Advocate in any offence resulting into arrest or detention or disbarment by the Bar Council;
- (ix) Passing on information relating to Company's case on to the opposite parties or their advocates which is likely to cause damage to the Company's interests;
- (x) Giving false or misleading information to the Company relating to the proceedings of the case; and
- (xi) Frequent adjournment being obtained or not objecting the adjournment moved by other party without sufficient reason.
- (xii) Empanelment shall be liable to be cancelled due to occurring of any of the above disablements on the part of the Advocate or as and when deemed fit by concerned CMD or Director (P & IR).

14. Ownership of Implementation

The ownership for implementation for compliance of the guidelines shall be on the GM (Legal)/HoDs of CIL and that of respective subsidiaries, as the case may be.

15. Standing Counsel

Advocate(s) may be designated as standing counsels in Supreme Court and High Court(s) who shall be responsible for accepting notices on behalf of the Company and communicating the same to the Company. However, such acceptance of notice won't give him any preferential right of engagement in the case.

Intimation to this effect may be given to the office of respective Registrar, as per requirement.

16. Removal of Difficulty

In the matter of implementation of these guidelines, if any, doubt, difficulty or anomaly arises or doubt regarding the interpretation of any of the clause of these guidelines, the same shall be placed before the GM (Legal), CIL and based on his recommendation the matter may be decided by the Director (P & IR) and his decision thereon shall be final and binding.

17. Power to exempt from operation of Policy

CMD/Director (P&IR) of CIL or concerned subsidiary, as the case may be, shall have authority to exempt with respect to any person(s) all or any of the clause(s) of this Policy absolutely or subject to any specified conditions.

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Annexure A**FORMAT OF BIO DATA FOR ADVOCATE**

- 1) Name
- 2) Date of birth, _____ Age _____ (as on)
- 3) Date of Enrolment, Name of Bar Council
(enclose copy of enrolment certificate)
- 4) Details of Experience/ and period of practice
- 5) Area of practice
- 6) Specialization, if any (constitution/taxation/service etc.)

The details of a few important cases the Advocate has dealt with/handled and reported Judgment if any.

- 7) Whether Central Govt./State Govt./PSU counsel/pleader (indicate period)]
- 8) Brief list of clients e.g. Govt./organizations/Company /PSUs
- 9) The courts where the Advocate is regularly practicing
(Enclose copy of Bar Association Membership Certificate)
- 10) Date of enrolment as an Advocate – on – record of the Supreme Court and Registration No.
- 11) Income Tax PAN number
- 12) Notable achievements:
- 13) A brief note on suitability for empanelment.

I declare that I have never been penalized by any bar council in any Disciplinary Proceedings. I also undertake to maintain absolute secrecy about the cases of the Company as required under the Act, Rules and Regulations thereunder.

Signature of Advocate

Address (office & residence/chamber) Tel.

No.

Mobile No.

Fax No.

E-mail.

Annexure B

To,

Mr -----

Advocate

Dear Sir,

Sub: Empanelment as Company's Advocate

This is with reference to your application dated ----- wherein you have evinced interest for empanelment as an advocate with the Company. We are pleased to inform that your request has been considered favorably and you are advised to give your assent for empanelment on following terms and conditions (a copy of policy for empanelment of Advocates is enclosed.)

1. You will abide by Company's terms and conditions and you will not claim any retainer fee or employment in Company's service.
2. You will not accept any case against the Company.
3. You will take necessary steps to protect the interest of the Company in matters entrusted to you from time to time.
4. Empanelment does not confer any right or claim that you alone should be entrusted with the Company's work.
5. You will personally deal with the case assigned to you in addition to coordinating and working with designated Senior Advocate, if any, engaged in some matter.
6. The Company may at any time, at its discretion, withdraw from you any proceedings/ matter/ brief and may discontinue you as Company's advocate without assigning any reason thereof and without paying any further fees.
7. You will keep Company informed about the developments in the matters entrusted to you on regular basis using all digital modes of communication and shall intimate through call if the situation so demands.
8. Unless a case is specially assigned to you by the Company, you will not on your own receive Summons / Notices of the Company's matters and even if you receive, if no Vakalatnama is given to you, you shall not otherwise deal with such cases. However, you will immediately inform the Company in this regard.

9. You shall not use Company's name or symbol, logo in your letter heads, sign boards name plates etc.
10. In case of any conduct not befitting an empaneled Advocate/ Law Firm, the Company will take appropriate action against you which may include but is not limited to filing complaint with Bar Council and recovery of financial loss caused to the Company due to your conduct.
11. In case of initiation of any administrative action by Bar Council or criminal proceedings against you, the Company may remove you from the panel even without waiting for the conclusion of such proceedings.
12. Your performance will be reviewed on yearly basis and if your services are not found up to the mark, Company may remove you from panel and the cases/ matters entrusted to you will be taken back from you.
13. You are required to maintain absolute secrecy about the cases of the Company as required under the Act, relevant rules and regulations and you shall not divulge any details to an outsider or opponent as the case may be without written consent of the Company.
14. You are requested to return the duly signed duplicate copy of this letter indicating your unconditional consent.

We look forward for better cooperation and hope for good relations with you.

Yours faithfully,

(Authorized Signatory)

Annexure C

Evaluation Form

(Each parameter may be rated from 1 to 5, 1 being lowest and 5 being highest. Comment, if any, may be written in the space provided.)

Name of the Advocate: _____

Year of Assessment: _____

Significant Cases dealt by the Advocate (if necessary) : _____

Sl. No.	Parameter	Rating				
1.	Drafting Skills Are the briefs, pleadings and opinions consistently well drafted explicit and devoid of errors?	1	2	3	4	5
2	Preparedness Is the Advocate consistently well prepared for arguments/hearings?	1	2	3	4	5
3	Expertise Does the Advocate possess/ develop the requisite expertise for specialized and complex subject matters?	1	2	3	4	5
4	Working independently and taking initiative Demonstration to handle complicated matters competently with minimal supervision.	1	2	3	4	5
5	Client Relations Does the Advocate project effort and commitment towards client satisfaction, and strives to ensure a good rapport with the client?	1	2	3	4	5
6	Responsiveness Consistence in responding within timeline keeping the client abreast of the progress.	1	2	3	4	5
7	Work Ethics	1	2	3	4	5

	Demonstration of strong work ethics and ensuring Client-Advocate privilege and confidentiality.					
8	Cost Effectiveness Efficiency of Advocate in terms of Cost to Company.	1	2	3	4	5
9	Competency to brief higher ups like AG/SG/ASG and Senior Advocates	1	2	3	4	5
10	Benefit to the Company Impact of association of the Advocate on the business of the Company.	1	2	3	4	5
	Overall Rating	1	2	3	4	5

Comments, if any:

Signature:

Name of the Evaluator:

Designation:

Department:

Date:

***Schedule of Fee for Advocates (All amounts in INR)**
(For official/internal use only)

(*This schedule of fee is applicable only for CIL. Similar schedules shall be prepared by individual subsidiaries. The schedule is subject to Clause 9(iv))

For AG/SG/ASG/Asst. SG/Advocate General

The approval of fee payable shall be obtained along with competent approval for their engagement as per their schedule of fee/ invoice.

For Senior Advocates

	Service	Supreme Court	High Court
1	Arguing before the Court	Up to 2,00,000/- per appearance	Up to 1,00,000/- per appearance
2	Conference Fee	Up to 40,000/- per conference	Up to 30,000/- per conference
3	Clerkage	Up to 10% of fee or Rs. 10,000 whichever is less	

For non effective hearings the fee payable shall be one-third of the scheduled fee.

For AOR/Law Firms/Advocates

	Service	Supreme Court	High Court	Labour Tribunal/ Other Courts
1	Arguing before the Court	Up to 25,000/- per day (Without Senior) and Up to 7,500/- per day (With Senior)	Up to 15,000/- per day (without senior) and up to 5,000/- per day (with senior)	Consolidated 20,000/- (in two instalments of 60% and 40%)
2	Conference Fee	Up to 5,000/- per conference	Up to 5,000/- per conference	
3	Drafting/Vetting	For SLP/Appeal 25,000/-	For WP 15,000/-	
	Drafting/Vetting of reply Affidavit/Counter	5,000/-	5,000/-	
	Misc. Application/ Misc. Affidavit etc.	5,000/-	5,000/-	
4	Clerkage	Up to 10% of fee or Rs. 10,000 whichever is less For non effective hearings the fee payable shall be one-third of the scheduled fee.		

P.T.O

For Legal Opinion		
1	AG/SG/ASG	The fee shall be as per their schedule of fee/ invoice.
2	Senior Advocate	Up to 1,00,000/- including conference and clerkage
3	AOR/Advocate	Up to 20,000/- including conference and clerkage. In case assisting a Senior/ASG etc - 10,000/-

Note:

1. Item 9 of Policy of Empanelment may also be referred in case of other terms related to payment to the Advocate.
2. A Standing Counsel shall be paid Rs.500/- for each notice that he is served on behalf of the Company. However, such acceptance of notice won't give him any preferential right of engagement in the case.

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