The Mediation Act, 2023

(ACT NO. 32 OF 2023)

[*As on the 6th October,* 2025]

LIST OF ABBREVIATIONS USED

G.S.R.	*for*	General Statutory Rules.
S.O.	„	Statutory Order.
Notifn.	„	Notification.

THE MEDIATION ACT, 2023

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THE MEDIATION ACT, 2023

[ACTNO. 32OF 2023]

[14*th September*, 2023.]

An Act to promote and facilitate mediation, especially institutional mediation, for resolution of disputes, commercial or otherwise, enforce mediated settlement agreements, provide for a body for registration of mediators, to encourage community mediation and to make online mediation as acceptable and cost effective process and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(*1*) This Act may be called the Mediation Act, 2023.

(*2*) It shall extend to the whole of India.

(*3*) It shall come into force on such date[1] as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

CHAPTER II

APPLICATION

2. Application.—This Act shall apply where mediation is conducted in India, and—

(*i*) all or both parties habitually reside in or are incorporated in or have their place of business in India; or

(*ii*) the mediation agreement provides that any dispute shall be resolved in accordance with the provisions of this Act; or

(*iii*) there is an international mediation; or

(*iv*) wherein one of the parties to the dispute is the Central Government or a State Government or agencies, public bodies, corporations and local bodies, including entities controlled or owned by such Government and where the matter pertains to a commercial dispute; or

(*v*) to any other kind of dispute if deemed appropriate and notified by the Central Government or a State Government from time to time, for resolution through mediation under this Act, wherein such Governments, or agencies, public bodies, corporations and local bodies including entities controlled or owned by them, is a party.

3. Definitions.—In this Act, unless the context otherwise requires, —

(*a*) "commercial dispute" means a dispute defined in clause (*c*) of sub-section (*1*) of section 2 of the Commercial Courts Act, 2015 (4 of 2016);

1. 9th day of October, 2023, *vide* notification No. S.O. 4384(*E*), for Ss.1, 3, 26, Ss.31 to 38 (both inclusive), Ss. 45 to 47 (both inclusive), Ss. 50 to 54 (both inclusive), and Ss.56 to 57 (both inclusive), dated 9th October, 2023 *see* Gazette of India, Extraordinary, Part II, sec. 3(*ii*).

(*b*) "community mediator" means a mediator for the purposes of conduct of community mediation under Chapter X;

(*c*) "Council" means the Mediation Council of India established under section 31;

(*d*) ·court· means the competent court in India having pecuniary and territorial jurisdiction and having jurisdiction to decide the disputes forming the subject matter of mediation, if the same had been the subject matter of a suit or proceeding;

(*e*) "court-annexed mediation" means mediation including pre-litigation mediation conducted at the mediation centres established by any court or tribunal;

(*f*) "institutional mediation" means mediation conducted under the aegis of a mediation service provider;

(*g*) "international mediation" means mediation undertaken under this Act and relates to a commercial dispute arising out of a legal relationship, contractual or otherwise, under any law for the time being in force in India, and where at least one of the parties, is.—

(*i*) an individual who is a national of, or habitually resides in, any country other than India; or

(*ii*) a body corporate including a Limited Liability Partnership of any nature, with its place of business outside India; or

(*iii*) an association or body of individuals whose place of business is outside India; or

(*iv*) the Government of a foreign country;

(*h*) "mediation" includes a process, whether referred to by the expression mediation, pre-litigation mediation, online mediation, community mediation, conciliation or an expression of similar import, whereby parties attempt to reach an amicable settlement of their dispute with the assistance of a third person referred to as mediator, who does not have the authority to impose a settlement upon the parties to the dispute;

(*i*) "mediator" means a person who is appointed to be a mediator, by the parties or by a mediation service provider, to undertake mediation, and includes a person registered as mediator with the Council.

Explanation.—Where more than one mediator is appointed for a mediation, reference to a mediator under this Act shall be a reference to all the mediators;

(*j*) "mediation agreement" means a mediation agreement referred to in sub-section (*1*) of section 4;

(*k*) "mediation communication" means communication made, whether in electronic form or otherwise, through—

(*i*) anything said or done;

(*ii*) any document; or

(*iii*) any information provided,

for the purposes of, or in relation to, or in the course of mediation, and includes a mediation agreement or a mediated settlement agreement;

(*l)* "mediation institute" means a body or organisation that provides training, continuous education and certification of mediators and carries out such other functions under this Act;

(*m*) "mediation service provider" means a mediation service provider referred to in sub-section (*1*) of section 40;

(*n*) "mediated settlement agreement" means mediated settlement agreement referred to in sub-section (*1*) of section 19;

(*o*) "Member" means a Full-Time or Part-Time Member of the Council and includes the Chairperson;

(*p*) "notification" means notification published in the Official Gazette and the expression ''notified'' with its cognate meanings and grammatical variations shall be construed accordingly;

(*q*) "online mediation" means online mediation referred to in section 30;

(*r*) "participants" means persons other than the parties who participate in the mediation and includes advisers, advocates, consultants and any technical experts and observers;

(*s*) "party" means a party to a mediation agreement or mediation proceeding whose agreement or consent is necessary to resolve the dispute and includes their successors;

(*t*) "place of business" includes—

(*a*) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a party stores it's goods, supplies or receives goods or services or both; or

(*b*) a place where a party maintains its books of account; or

(*c*) a place where a party is engaged in business through an agent, by whatever name called;

(*u*) "pre-litigation mediation" means a process of undertaking mediation, as provided under section 5, for settlement of disputes prior to the filing of a suit or proceeding of civil or commercial nature in respect thereof, before a court or notified tribunal under sub-section (*2*) of section 5;

(*v*) "prescribed" means prescribed by rules made by the Central Government under this Act;

(*w*) "Schedule" means the Schedule annexed to this Act;

(*x*) "secure electronic signature" with reference to online mediation means, electronic signatures referred to in section 15 of the Information Technology Act, 2000 (21 of 2000); and

(*y*) "specified" means specified by regulations made by the Council under this Act.

CHAPTER III

MEDIATION

4. Mediation agreement.—(*1*) A mediation agreement shall be in writing, by or between parties and anyone claiming through them, to submit to mediation all or certain disputes which have arisen or which may arise between the parties.

(*2*) A mediation agreement may be in the form of a mediation clause in a contract or in the form of a separate agreement.

(*3*) A mediation agreement is in writing, if it is contained in or recorded as—

(*a*) any document signed by the parties;

(*b*) an exchange of communications or letters including through electronic form as provided under the Information Technology Act, 2000 (21 of 2000);

(*c*) any pleadings in a suit or any other proceedings in which existence of mediation agreement is alleged by one party and not denied by the other.

(*4*) A reference in any agreement containing a mediation clause shall constitute a mediation agreement if the agreement is in writing and the reference is such as to make the mediation clause as part of the agreement.

(*5*) The parties may agree to submit to mediation any dispute arising between them under an agreement, whether entered prior to arising of the dispute or subsequent thereto.

(*6*) A mediation agreement in case of international mediation shall refer to an agreement for resolution in matters of commercial disputes referred to in clause (*a*) of section 3.

5. Pre-litigation mediation.—(*1*) Subject to other provisions of this Act, whether any mediation agreement exists or not, the parties before filing any suit or proceedings of civil or commercial nature in any court, may voluntarily and with mutual consent take steps to settle the disputes by pre-litigation mediation in accordance with the provisions of this Act:

Provided that pre-litigation mediation in matters of commercial disputes of Specified Value shall be undertaken in accordance with the provisions of section 12A of the Commercial Courts Act, 2015 (4 of 2016), and the rules made thereunder.

(*2*) The provisions of sub-section (*1*) shall be applicable to the tribunals notified by the Central Government or a State Government, as the case may be.

(*3*) For the purposes of sub-sections (*1*) and (*2*), unless otherwise agreed upon by the parties, a mediator,—

(*i*) registered with the Council; or

(*ii*) empanelled by a court-annexed mediation centre; or

(*iii*) empanelled by an Authority constituted under the Legal Services Authorities Act, 1987 (39 of 1987); or

(*iv*) empanelled by a mediation service provider recognised under this Act,

shall conduct pre-litigation mediation.

(*4*) For conducting pre-litigation mediation under clauses (*ii*) and *(iii)* of sub-section (*3*), a party may request any person designated for this purpose by the High Courts, or an Authority constituted under the Legal Services Authorities Act, 1987 (39 of 1987), as the case may be.

(*5*) The court-annexed mediation centre and an Authority constituted under the Legal Services Authorities Act, 1987 (39 of 1987), shall maintain a panel of mediators for the purposes of pre-litigation mediation.

(*6*) Notwithstanding anything contained in sub-sections (*1*) and (*2*) and the Motor Vehicles Act, 1988 (59 of 1988), when an application for compensation arising out of an accident is made before the Claims Tribunal, if the settlement as provided for in section 149 of that Act is not arrived at between the parties, the Claims Tribunal shall refer the parties for mediation to a mediator or mediation service provider under this Act.

(*7*) Where the parties arrive at a settlement agreement under sub-section (*6*), it shall be placed before the Claims Tribunal for its consideration.

(*8*) If the parties do not reach to settlement agreement under sub-section (*6*), a non-settlement report prepared by the mediator shall be forwarded to the Claims Tribunal, which has referred the matter for mediation, for adjudication.

6.Disputes or matters not fit for mediation.—(*1*) A mediation under this Act shall not be conducted for resolution of any dispute or matter contained in the indicative list under the First Schedule:

Provided that nothing contained herein shall prevent any court, if deemed appropriate, from referring any dispute relating to compoundable offences including the matrimonial offences which are compoundable and pending between the parties, to mediation:

Provided further that the outcome of such mediation shall not be deemed to be a judgment or decree of court referred to in sub-section (*2*) of section 27, and shall be further considered by the court in accordance with the law for the time being in force.

(*2*) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, amend the First Schedule.

7. Power of court or tribunal to refer parties to mediation.—(*1*) Notwithstanding the non-settlement of dispute under sub-section (*1*) of section 5, the court or tribunal may, at any stage of proceeding, refer the parties to undertake mediation.

(*2*) If the court or tribunal refers the parties to undertake mediation, it may pass suitable interim order to protect the interest of any party if deemed appropriate.

(*3*) The parties shall not be under obligation to come to a settlement in the mediation pursuant to a reference under sub-section (*1*).

CHAPTER IV

8. Appointment of mediators.—(*1*) Unless otherwise agreed upon by the parties, a person of any nationality may be appointed as a mediator:

Provided that mediator of any foreign nationality shall possess such qualification, experience and accreditation as may be specified.

(*2*)The parties shall be free to agree upon the name of mediator and the procedure for their appointment.

(*3*) If the parties do not reach any agreement on a matter referred to in sub-section (*2*), then the party seeking initiation of mediation shall make an application to a mediation service provider for the appointment of a mediator.

(*4*) Upon receiving an application under sub-section (*3*), the mediation service provider shall, within a period of seven days, appoint,—

(*i*) the mediator as agreed by the parties; or

(*ii*) in case the parties are unable to reach agreement as to the appointment of mediator or mediator agreed by them refuses to act as mediator, a mediator from the panel maintained by it, with his consent.

(*5*) The person appointed under clause (*i*) of sub-section (*4*) shall communicate his willingness or otherwise within a period of seven days from the date of receipt of communication of such appointment.

9. Preference of parties.—The mediation service provider shall, while appointing any person from the panel of mediators maintained by it, consider his suitability and the preference of the parties for resolving the dispute.

10.Conflict of interest and disclosure.—(*1*) The person appointed as a mediator shall, prior to the conduct of mediation, disclose in writing to the parties regarding any circumstance or potential circumstance, personal, professional, financial, or otherwise, that may constitute any conflict of interest or that is likely to give rise to justifiable doubts as to his independence or impartiality as a mediator.

(*2*) During the mediation, the mediator shall, without delay, disclose to the parties in writing any conflict of interest, referred to in sub-section (*1*), that has newly arisen or has come to his knowledge.

(*3*) Upon disclosure under sub-section (*1*) or sub-section (*2*), the parties shall have the option to waive any objection if all of them express in writing, which shall be construed as the consent of parties.

(*4*) Upon disclosure under sub-section (*1*) or sub-section (*2*), if either party desires to replace the mediator, then, in case of—

(*i*) institutional mediation, such party shall apply to the mediation service provider for termination of the mandate of mediator;

(*ii*) mediation other than institutional mediation, such party shall terminate the mandate of mediator.

11. Termination of mandate of mediator.—A mediation service provider may terminate the mandate of a mediator upon—

(*i*) the receipt of application from a party under clause (*i*) of sub-section (*4*) of section 10; or

(*ii*) the receipt of information about the mediator being involved in a matter of conflict of interest from participants or any other person; or

(*iii*) his withdrawal from mediation for any reason:

Provided that termination under clause (*ii*) shall be effected if, after giving a hearing to the mediator, mediation service provider finds that there is justifiable doubt as to the independence or impartiality of the mediator and that the same has been brought to the notice of parties and that either party desires to replace the mediator.

12. Replacement of mediator.—Upon termination of the mandate of mediator—

(*i*) in case of mediation other than institutional mediation under clause (*ii*) of sub-section (*4*) of section 10, the parties may, appoint another mediator within a period of seven days from such termination; and

(*ii*) under section 11, the mediation service provider shall appoint another mediator from the panel maintained by it within a period of seven days from such termination.

CHAPTER V

MEDIATIONPROCEEDINGS

13.Territorial jurisdiction to undertake mediation.—Every mediation under this Act shall be undertaken within the territorial jurisdiction of the court or tribunal of competent jurisdiction to decide the subject matter of dispute:

Provided that on the mutual consent of the parties, mediation may be conducted at any place outside the territorial jurisdiction of the court or tribunal, or by way of online mediation.

Explanation.— For the removal of doubts, it is clarified that where the parties agree to conduct the mediation at any place outside the territorial jurisdiction or online, for the purpose of enforcement, challenge and registration of the mediated settlement agreement, the same shall be deemed to have been undertaken within the territorial jurisdiction of the court or tribunal of competent jurisdiction.

14. Commencement of mediation.—The mediation proceedings with respect to a particular dispute shall be deemed to have commenced—

(*a*) where there is an existing agreement between the parties to settle the dispute through mediation, the date on which a party or parties receives notice from the party initiating the mediation, to refer such dispute to mediation; or

(*b*) in other cases—

(*i*) where the parties have agreed to appoint a mediator of their choice for mediation and settlement of disputes between them on the date the mediator provides his consent to appointment; or

(*ii*) where one of the parties applies to a mediation service provider for settlement of disputes through mediation, the date of appointment of a mediator.

15. Conduct of mediation.—(*1*) The mediation process shall be conducted in the manner as may be specified.

(*2*) The mediator shall assist the parties in an independent, neutral and impartial manner in their attempt to reach an amicable settlement of their dispute.

(*3*) The mediator shall at all times be guided by the principles of objectivity and fairness and protect the voluntariness, confidentiality and self-determination of the parties, and the standards for professional and ethical conduct as may be specified.

(*4*) The mediation process may include the mediator taking such measures as may be considered appropriate, taking into account the circumstances of the case, including meeting with parties or participants, jointly or separately, as frequently as deemed fit by the mediator, both in order to convene the mediation, and during the mediation for the orderly and timely conduct of the process and to maintain its integrity.

(*5*) The mediator shall not be bound by the Code of Civil Procedure, 1908 (5 of 1908), or the Indian Evidence Act, 1872 (1 of 1872).

(*6*) The mediator with the consent of the parties shall determine the language or languages to be used in the mediation process.

16. Role of mediator.—(*1*) The mediator shall attempt to facilitate voluntary resolution of the dispute by the parties and communicate the view of each party to the other to the extent agreed to by them, assist

them in identifying issues, advancing better understanding, clarifying priorities, exploring areas of the responsibility of the parties to take decision regarding their claims.

(*2*) The parties shall be informed expressly by the mediator that he only facilitates in arriving at a decision to resolve a dispute and that he shall not impose any settlement nor give any assurance that the mediation may result in a settlement.

17. Role of mediator in other proceedings.—The mediator shall not—

(*a*) act as an arbitrator or as a representative or counsel of a party in any arbitral or judicial proceeding in respect of a dispute that is the subject matter of the mediation proceedings;

(*b*) be presented by the parties as a witness in any arbitral or judicial proceeding.

18. Time-limit for completion of mediation.—(*1*) Notwithstanding anything contained in any other law for the time being in force, mediation under this Act shall be completed within a period of one hundred and twenty days from the date fixed for the first appearance before the mediator.

(*2*) The period for mediation mentioned under sub-section (*1*) may be extended for a further period as agreed by the parties, but not exceeding sixty days.

19.Mediated settlement agreement.—(*1*) A mediated settlement agreement includes an agreement in writing between some or all of the parties resulting from mediation, settling some or all of the disputes between such parties, and authenticated by the mediator:

Provided that the terms of the mediated settlement agreement may extend beyond the disputes referred to mediation.

Explanation.— A mediated settlement agreement which is void under the Indian Contract Act, 1872 (9 of 1872), shall not be deemed to be lawful settlement agreement within the meaning of mediated settlement agreement.

(*2*) Where a mediated settlement agreement is reached between the parties with regard to all or some of the disputes, the same shall be reduced in to writing and signed by the parties.

(*3*) Subject to the provisions of section 26, the mediated settlement agreement signed,—

(*i*) in case of institutional mediation, shall be submitted to the mediator, who shall, after authenticating the same, forward it with a covering letter signed by him, to the mediation service provider and also provide a copy to the parties;

(*ii*) in all other cases, shall be submitted to the mediator who shall, after authenticating the mediated settlement agreement, provide a copy to all the parties.

(*4*) The parties, may, at any time during the mediation process, make an agreement with respect to any of the disputes which is the subject matter of mediation.

(*5*) Any mediated settlement agreement under this section includes a settlement agreement resulting from online mediation.

20. Registration of mediated settlement agreement.—(*1*) For the purposes of record, mediated settlement agreement arrived at between the parties, other than those arrived in a court or tribunal referred mediation or award of Lok Adalat or final award of the Permanent Lok Adalat under section 21 or section 22E of the Legal Services Authorities Act, 1987 (39 of 1987), may, at the option of parties, be registered with an Authority constituted under the said Act, or any other body as may be notified by the Central Government, in such manner as may be specified and such Authority or body shall issue a unique registration number to such settlement agreements:

Provided that the mediated settlement agreement under this section may be registered with such Authority or the body situated within the territorial jurisdiction of the court or tribunal of competent jurisdiction to decide the subject matter of dispute.

Explanation.—For the removal of doubts, it is clarified that nothing contained in this sub-section shall affect the rights of parties to enforce the mediated settlement agreement under section 27 or challenge the same under section 28.

(*2*) The registration referred to in sub-section (*1*) may be made by the parties or mediation service provider within a period of one hundred and eighty days from the date of receipt of authenticated copy of mediated settlement agreement:

Provided that mediated settlement agreement may be allowed to be registered after the expiry of period of one hundred and eighty days on payment of such fee as may be specified in consultation with the Authority or any other body referred to in sub-section (*1*).

21. Non-settlement report.—Subject to the provisions of section 26, where no agreement is arrived at between the parties, within the time period as provided under section 18, or where, the mediator is of the view that no settlement is possible, he shall,—

(*i*) in the case of institutional mediation, submit a non-settlement report to the mediation service provider in writing;

(*ii*) in all other cases, prepare a non-settlement report and provide a signed copy to all the parties:

Provided that the report referred to in this section shall not disclose the cause of non- settlement, or any other matter or thing referring to their conduct, during mediation.

22. **Confidentiality.—**(*1*) Subject to the other provisions of this Act, the mediator, mediation service provider, the parties and participants in the mediation shall keep confidential all the following matters relating to the mediation proceedings, namely: —

(*i*) acknowledgements, opinions, suggestions, promises, proposals, apologies and admissions made during the mediation;

(*ii*) acceptance of, or willingness to, accept proposals made or exchanged in the mediation;

(*iii*) documents prepared solely for the conduct of mediation or in relation thereto;

(*iv*) any other mediation communication.

(*2*) No audio or video recording of the mediation proceedings shall be made or maintained by the parties or the participants including the mediator and mediation service provider, whether conducted in person or online to ensure confidentiality of the conduct of mediation proceedings.

(*3*) No party to the mediation shall in any proceeding before a court or tribunal including arbitral tribunal, rely on or introduce as evidence any information or communication set forth in clauses (*i*) to (*iv*) of sub-section (*1*), including any information in electronic form, or verbal communication and the court or tribunal including arbitral tribunal shall not take cognizance of such information or evidence.

(*4*) The provisions of this section shall not prevent the mediator from compiling or disclosing general information concerning matters that have been subject of mediation, for research, reporting or training purposes, if the information does not expressly or indirectly identify a party or participants or the specific disputes in the mediation.

Explanation.—For the removal of doubts, it is hereby clarified that nothing contained in this section shall apply to the mediated settlement agreement where its disclosure is necessary for the purpose of registration, enforcement and challenge.

23. Admissibility and privilege against disclosure.—(*1*) No mediator or participant in the mediation, including experts and advisers engaged for the purpose of the mediation and persons involved in the administration of the mediation, shall at any time be permitted, or compelled to disclose to any court or tribunal, or in any adjudicatory proceedings, by whatever description, any communication in mediation, or to state the contents or conditions of any document or nature or conduct of parties during mediation including the content of negotiations or offers or counter offers with which they have become acquainted during the mediation:

Provided that nothing in this section and section 22 shall protect from disclosure, information sought or provided to prove or dispute a claim or complaint of professional misconduct of mediator or malpractice based on conduct occurring during the mediation.

(*2*) There shall be no privilege or confidentiality that will attach to—

(*a*) a threat or statement of a plan to commit an offence punishable under any law for the time being in force;

(*b*) information relating to domestic violence or child abuse; and

(*c*) statements made during a mediation showing a significant imminent threat to public health or safety.

24.Termination of mediation.—The mediation proceedings under this Act shall be deemed to terminate—

(*a*) on the date of signing and authentication of the mediated settlement agreement; or

(*b*) on the date of the written declaration of the mediator, after consultation with the parties or otherwise, to the effect that further efforts at mediation are no longer justified; or

(*c*) on the date of the communication by a party or parties in writing, addressed to the mediator and the other parties to the effect that the party wishes to opt out of mediation;

(*d*) on the expiry of time limit under section 18.

25. Cost of mediation.—(*1*) The cost of mediation, other than community mediation shall be such as may be specified.

(*2*) Unless otherwise agreed by the parties, all costs of mediation, including the fees of the mediator and the charges of the mediation service provider shall be borne equally by the parties.

26. Proceedings of Lok Adalat and Permanent Lok Adalat not to be affected.—The provisions of this Act shall not apply to the proceedings conducted by Lok Adalat and Permanent Lok Adalat under the Legal Services Authorities Act, 1987 (39 of 1987).

CHAPTER VI

ENFORCEMENT OF MEDIATED SETTLEMENT AGREEMENT

27. Enforcement of mediated settlement agreement.—(*1*) A mediated settlement agreement resulting from a mediation signed by the parties and authenticated by the mediator shall be final and binding on the parties and persons claiming under them respectively and enforceable as per the provisions of sub-section (*2*).

(*2*) Subject to the provisions of section 28, the mediated settlement agreement shall be enforced in accordance with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), in the same manner as if it were a judgment or decree passed by a court, and may, accordingly, be relied on by any of the parties or persons claiming through them, by way of defence, set off or otherwise in any legal proceeding.

28.Challenge to mediated settlement agreement.—(*1*) Notwithstanding anything contained in any other law for the time being in force, in any case in which the mediated settlement agreement is arrived at between the parties and is sought to be challenged by either of the parties, such party may file an application before the court or tribunal of competent jurisdiction.

(*2*) A mediated settlement agreement may be challenged only on all or any of the following grounds, namely:—

(*i*) fraud;

(*ii*) corruption;

(*iii*) impersonation;

(*iv*) where the mediation was conducted in disputes or matters not fit for mediation under section 6.

(*3*) An application for challenging the mediated settlement agreement shall not be made after ninety days have elapsed from the date on which the party making that application has received the copy of mediated settlement agreement under sub-section (*3*) of section 19:

Provided that if the court or tribunal, as the case may be, is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of ninety days, it may entertain the application within a further period of ninety days.

29. Limitation.—Notwithstanding anything contained in the Limitation Act, 1963 (36 of 1963) or in any other law for the time being in force, in computing the period of limitation fixed for any proceeding relating to disputes in respect of which a mediation has been undertaken under this Act, the period from the date of commencement of mediation under section 14, and up to,—

(*i*) submission of report under section 21; or

(*ii*) termination of mediation under section 24, shall be excluded.

CHAPTER VII

ONLINE MEDIATION

30. Online mediation.—(*1*) Online mediation including pre-litigation mediation may be conducted at any stage of mediation under this Act, with the written consent of the parties including by the use of electronic form or computer networks but not limited to an encrypted electronic mail service, secure chat rooms or conferencing by video or audio mode or both.

(*2*) The process of online mediation shall be in such manner as may be specified.

(*3*) The conduct of online mediation shall be in the circumstances, which ensure that the essential elements of integrity of proceedings and confidentiality are maintained at all times and the mediator may take such appropriate steps in this regard as he deems fit.

(*4*) Subject to the other provisions of this Act, the mediation communications in the case of online mediation shall, ensure confidentiality of mediation.

CHAPTER VIII

MEDIATION COUNCIL OF INDIA

31. Establishment and incorporation of Mediation Council.—(*1*) The Central Government shall, by notification, establish for the purposes of this Act, a Council to be known as the Mediation Council of India to perform the duties and discharge the functions under this Act.

(*2*) The Council shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to enter into contract, and shall, by the said name, sue or be sued.

(*3*) The head office of the Council shall be at Delhi or at such other place as may be notified by the Central Government.

(*4*) The Council may, in consultation with the Central Government, establish offices at other places in India and abroad.

32. Composition of Council.—(*1*) The Council shall consist of the following members, namely:—

(*a*) a person of ability, integrity and standing having adequate knowledge and professional experience or shown capacity in dealing with problems relating to law, alternative dispute resolution preferably mediation, public affairs or administration to be appointed by the Central Government—Chairperson;

(*b*) a person having knowledge and experience in law related to mediation or alternative dispute resolution mechanisms, to be appointed by the Central Government—Member;

(*c*) an eminent person having experience in research or teaching in the field of mediation and alternative dispute resolution laws, to be appointed by the Central Government—Member;

(*d*) Secretary to the Government of India in the Department of Legal Affairs, Ministry of Law and Justice or his representative not below the rank of Joint Secretary—Member, *ex officio*;

(*e*) Secretary to the Government of India in the Department of Expenditure, Ministry of Finance or his representative not below the rank of Joint Secretary—Member, *ex officio;*

(*f*) Chief Executive Officer—Member-Secretary, *ex officio*; and

(*g*) one representative of a recognised body of commerce and industry, chosen by the Central Government—Part-Time Member.

(*2*) The Members of the Council, other than *ex officio* members, shall hold office as such, for a term of four years from the date on which they enter upon their office and shall be eligible for re-appointment:

Provided that no Member other than *ex officio* Member shall hold office after he has attained the age of seventy years, in the case of Chairperson, and sixty-seven years, in the case of other Members:

Provided further that if the Chairperson is appointed on Part-Time basis, then, at least one of the Members appointed under clauses (*b*) or (*c*) shall be a Full-Time Member.

(*3*) The salaries, allowances and other terms and conditions of Members other than *ex officio* Members shall be such as may be prescribed.

(*4*) The [1][Part-Time Member] shall be entitled to such travelling and other allowances as may be prescribed.

33. Vacancies, etc., not to invalidate proceedings of Council.—No act or proceeding of the Council shall be invalid merely by reason of—

(*a*) any vacancy or any defect, in the constitution of the Council;

(*b*) any defect in the appointment of a person as a Member of the Council; or

(*c*) any irregularity in the procedure of the Council not affecting the merits of the case.

34. Resignation.—The Member may, by notice in writing, under his hand addressed to the Central Government, resign his office:

Provided that the Member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earlier.

35.Removal.—The Central Government may, remove any Member from his office, if he—

(*a*) is an undischarged insolvent; or

(*b*) has engaged at any time, during his term of office, in any paid employment without the permission of the Central Government; or

(*c*) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(*d*) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(*e*) has so abused his position as to render his continuance in office prejudicial to the public interest; or

(*f*) has become physically or mentally incapable of acting as a Member:

Provided that where a Member is proposed to be removed on any ground, he shall be informed of charges against him and given an opportunity of being heard in respect of those charges.

1. Subs. by Notification No. S.O. 4506(E), for " Me).

36. Appointment of experts and constitution of Committees.—The Council may, appoint such experts and constitute such committees of experts as it may consider necessary to discharge its functions on such terms and conditions as may be specified.

37. Secretariat and Chief Executive Officer of Council.—(*1*) There shall be a Chief Executive Officer of the Council, who shall be responsible for the day to day administration and implementation of the decisions of the Council.

(*2*) The qualification, appointment and other terms and conditions of service of the Chief Executive Officer shall be such as may be specified.

(*3*) There shall be a Secretariat to the Council consisting of such number of officers and employees as may be specified.

(*4*) The qualification, appointment and other terms and conditions of the service of the employees and other officers of the Council shall be such as may be specified.

(*5*) The Central Government shall provide such number of officers and employees as may be necessary for the functioning of the Council till regulations are made under this section.

38. Duties and functions of Council.—The Council shall—

(*a*) endeavour to promote domestic and international mediation in India through appropriate guidelines;

(*b*) endeavour to develop India to be a robust centre for domestic and international mediation;

(*c*) lay down the guidelines for the continuous education, certification and assessment of mediators by the recognised mediation institutes;

(*d*) provide for the manner of conduct of mediation proceedings, under sub-section (*1*) of section 15;

(*e*) provide for manner of registration of mediators and renew, withdraw, suspend or cancel registration on the basis of conditions as may be specified;

(*f*) lay down standards for professional and ethical conduct of mediators under sub-section (*3*) of section 15;

(*g*) hold trainings, workshops and courses in the area of mediation in collaboration with mediation service providers, law firms and universities and other stakeholders, both Indian and international, and any other mediation institutes;

(*h*) enter into memoranda of understanding or agreements with domestic and international bodies or organisations or institutions;

(*i*) recognise mediation institutes and mediation service providers and renew, withdraw, suspend or cancel such recognition;

(*j*) specify the criteria for recognition of mediation institutes and mediation service providers;

(*k*) call for any information or record of mediation institutes and mediation service providers;

(*l*) lay down standards for professional and ethical conduct of the mediation institutes and mediation service providers;

(*m*) publish such information, data, research studies and such other information as may be required;

(*n*) maintain an electronic depository of the mediated settlement agreements made in India and for such other records related thereto in such manner as may be specified; and

(*o*) perform any other function as may be assigned to it by the Central Government.

39. Monitoring and reporting.—(*1*) The Council shall, as soon as practicable after the end of each year or at such other intervals as directed by the Central Government, prepare a report on the implementation of the provisions of this Act during the year or such interval and forward a copy thereof to the Central Government.

(*2*) The Central Government may take such additional measures as it deems necessary to supplement the functioning of the Council and for the effective implementation of the provisions of the Act.

CHAPTER IX

MEDIATION SERVICE PROVIDERS AND MEDIATION INSTITUTES

40. Mediation service provider.—(*1*) "mediation service provider" includes—

(*a*) a body or an organisation that provides for the conduct of mediation under this Act and the rules and regulations made thereunder and is recognised by the Council; or

(*b*) an Authority constituted under the Legal Services Authorities Act, 1987 (39 of 1987); or (*c*) a court-annexed mediation centre; or

(*d*) any other body as may be notified by the Central Government:

Provided that the bodies referred to in clauses (*b*), (*c*) and (*d*) shall be deemed to be mediation service providers recognised by the Council.

(*2*) The mediation service provider shall be recognised by the Council in the manner as may be specified.

41. Functions of mediation service providers.—The mediation service providers shall perform the following functions, namely:—

(*a*) accredit mediators and maintain panel of mediators;

(*b*) provide the services of mediator for conduct of mediation;

(*c*) provide all facilities, secretarial assistance and infrastructure for the efficient conduct of mediation;

(*d*) promote professional and ethical conduct amongst mediators;

(*e*) facilitate registration of mediated settlement agreements in accordance with the provisions of section 20; and

(*f*) such other functions as may be specified.

42. Mediation institutes.—The Council shall recognize mediation institutes to perform such duties and exercise such functions as may be specified.

CHAPTER X

COMMUNITY MEDIATION

43. Community mediation.—(*1*) Any dispute likely to affect peace, harmony and tranquillity amongst the residents or families of any area or locality may be settled through community mediation with prior mutual consent of the parties to the dispute.

(*2*) For the purposes of sub-section (*1*), any of the parties shall make an application before the concerned Authority constituted under the Legal Services Authorities Act, 1987 (39 of 1987) or District Magistrate or Sub-Divisional Magistrate in areas where no such Authority has been constituted, for referring the dispute to mediation.

(*3*) In order to facilitate settlement of a dispute for which an application has been received under sub-section (*2*), the concerned Authority constituted under the Legal Services Authorities Act, 1987 (39 of 1987) or the District Magistrate or Sub-Divisional Magistrate, as the case may be, shall constitute panel of three community mediators.

(*4*) For the purposes of this section, the Authority or District Magistrate or the Sub-Divisional Magistrate, as the case may be, shall notify a permanent panel of community mediators, which may be revised from time to time.

(*5*) The following persons may be included in the panel referred to in sub-section (*4*)—

(*a*) person of standing and integrity who are respectable in the community;

(*b*) any local person whose contribution to the society has been recognised;

(*c*) representative of area or resident welfare associations;

(*d*) person having experience in the field of mediation; and

(*e*) any other person deemed appropriate.

(*6*) While making panel referred to in sub-section (*4*) the representation of women or any other class or category of persons may be considered.

44. Procedure for community mediation.—(*1*) Any community mediation shall be conducted by the panel of three community mediators referred to in sub-section (*3*) of section 43 who shall devise suitable procedure for the purpose of resolving the dispute.

(*2*) The community mediators shall endeavour to resolve disputes through community mediation and provide assistance to parties for resolving disputes amicably.

(*3*) In every case where a settlement agreement is arrived at through community mediation under this Act, the same may be reduced into writing with the signature of the parties and authenticated by the community mediators, a copy of which be provided to the parties and in cases where no settlement agreement is arrived at, a non-settlement report may be submitted by the community mediators to the Authority or the District Magistrate or the Sub-Divisional Magistrate, as the case may be, and to the parties.

(*4*) Any settlement agreement arrived at under this Chapter shall be for the purpose of maintaining the peace, harmony and tranquillity amongst the residents or families of any area or locality but shall not be enforceable as a judgment or decree of a civil court.

(*5*) The provisions of section 20 shall, *mutatis mutandis* apply, in relation to the registration of mediated settlement agreement under this section.

CHAPTER XI

MISCELLANEOUS

45. Mediation Fund.—(*1*) There shall be a fund to be called "Mediation Fund" (hereinafter referred to as the "Fund") for the purposes of promotion, facilitation and encouragement of mediation under this Act, which shall be administered by the Council.

(*2*) There shall be credited to the Fund the following, namely:—

(*a*) all monies provided by the Central Government;

(*b*) all fees and other charges received from mediation service provider, mediation institutes or bodies or persons;

(*c*) all monies received by the Council in the form of donations, grants, contributions and income from other sources;

(*d*) grants made by the Central Government or the State Government for the purposes of the Fund;

(*e*) amounts deposited by persons as contributions to the Fund;

(*f*) amounts received in the Fund from any other source; and

(*g*) interest on the above or other income received out of the investment made from the Fund.

(*3*) The Fund shall be applied towards meeting the salaries and other allowances of Member, Chief Executive Officer, Officers and employees and the expenses of the Council including expenses incurred in the exercise of its powers and discharge of its duties under this Act.

46. Accounts and audit.—(*1*) The Council shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance sheet, in such form and manner as may be prescribed in consultation with the Comptroller and Auditor-General of India.

(*2*) The accounts of the Council shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Council to the Comptroller and Auditor-General of India.

(*3*) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Council shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the Council.

(*4*) The accounts of the Council as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

47. Power of Central Government to issue directions.—(*1*) Without prejudice to the foregoing provisions of this Act, the Council shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the views of the Council shall be taken into consideration before any direction is given under this sub-section.

(*2*) The decision of the Central Government whether a question is one of policy or not shall be final.

48. Power to frame schemes or guidelines.—Subject to the provisions of this Act, the Central Government or the State Government or any of its entity or agency, as the case may be, may frame any schemes or guidelines, for resolution of any dispute through mediation or conciliation in cases where the Central Government or the State Government or any of its entity or agency is one of the parties and in such cases mediation or conciliation may be conducted in accordance with such schemes or guidelines.

49. Mediated settlement agreement where Government or its, agency, etc., is a party.— Notwithstanding anything contained in this Act, no dispute including a commercial dispute, wherein the Central Government or State Government or any of its agencies, public bodies, corporations and local bodies including entities controlled or owned by them is a party, the settlement agreement arrived at shall be signed only after obtaining the prior written consent of the competent authority of such Government or any of its entity or agencies, public bodies, corporations and local bodies, as the case may be.

50. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Central Government or a State Government or any officer of such Government, or the Member or Officer or employee of the Council or a mediator, mediation institutes, mediation service providers, which is done or is intended to be done in good faith under this Act or the rules or regulations made thereunder.

51. Power to make rules.—(*1*) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may make provision for—

(*a*) the salaries and allowances and the terms and conditions of the Members under sub-section (*3*) of section 32;

(*b*) the travelling and other allowances payable to the [1][Part-Time Member] under sub-section (*4*) of section 32;

(*c*) the form and manner of annual statement of accounts, including the balance sheet under sub-section (*1*) of section 46; and

(*d*) any other matter which is to be, or may be prescribed.

1. Subs. by Notification No. S.O. 4506(E), for "Member" (w.e.f. 13-10-2023).

52. Power to make regulations.—(*1*) The Council may, with the previous approval of the Central Government, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may make provision for—

(*a*) qualification, experience and accreditation for mediators of foreign nationality under the proviso to sub-section (*1*) of section 8;

(*b*) manner of conducting mediation proceeding under sub-section (*1*) of section15;

(*c*) standards for professional and ethical conduct of mediators under sub-section (*3*) of section 15;

(*d*) manner of registration of mediated settlement agreement under sub-section (*1*) of section 20;

(*e*) fees for registration of mediated settlement agreement under the proviso to sub-section (*2*) of section 20;

(*f*) cost of mediation under sub-section (*1*) of section 25;

(*g*) manner of process of conducting online mediation under sub-section (*2*) of section 30;

(*h*) the terms and conditions of experts and committees of experts under section 36;

(*i*) qualifications, appointment and other terms and conditions of service of the Chief Executive Officer under sub-section (*2*) of section 37;

(*j*) the number of officers and employees of the Secretariat of the Council under sub-section (*3*) of section 37;

(*k*) the qualification, appointment and other terms and conditions of the employees and other officers of the Council under sub-section (*4*) of section 37;

(*l*) conditions for registration of mediators and renewal, withdrawal, suspension or cancellations of such registrations under clause (*e*) of section 38;

(*m*) criteria for recognition of mediation institutes and mediation service providers under clause (*j*) of section 38;

(*n*) manner of maintenance of electronic depository of mediated settlement agreement under clause (*n*) of section 38;

(*o*) manner for recognition of mediation service provider under sub-section (*2*) of section 40;

(*p*) such other functions of mediation service provider under clause (*f*) of section 41;

(*q*) duties and functions to be performed by mediation institutes under section 42; and

(*r*) any other matter in respect of which provision is necessary for the performance of functions of the Council under this Act.

53. Laying.—Every notification issued under sub-section (*2*) of section 6, sub-section (*2*) of section 55, rule and regulation made under this Act shall be laid, as soon as may be after it is issued or made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, rule or regulation or both Houses agree that the notification, rule or regulation should not be issued or made, the notification, rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification, rule or regulation.

54. Power to remove difficulties.—(*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of five years from the date of commencement of this Act.

(*2*) Every order made under sub-section (*1*) shall be laid, as soon as may be after it is made, before each House of Parliament.

55. Provisions of Act to have overriding effect on mediation or conciliation contained in other laws.—(*1*) Subject to the enactments mentioned in the Second Schedule, the provisions of this Act shall have overriding effect for conduct of mediation or conciliation notwithstanding anything inconsistent therewith contained in any other law for the time being in force, and any instrument having force of law.

(*2*) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, amend the Second Schedule and thereupon it shall be deemed to have been amended accordingly.

56. Act not to apply to pending proceedings.—This Act shall not apply to, or in relation to, any mediation or conciliation commenced before the coming into force of this Act.

57. Transitory provision.—The rules in force governing the conduct of court-annexed mediation shall continue to apply until regulations are made under sub-section (*1*) of section 15:

Provided that the rules shall continue to apply in all court-annexed mediation pending as on the date of coming into force of the regulations.

58. Amendment of Act 9 of 1872.—The Indian Contract Act, 1872, shall be amended in the manner specified in the Third Schedule.

59.Amendment of Act 5 of 1908.—The Code of Civil Procedure, 1908, shall be amended in the manner specified in the Fourth Schedule.

60. Amendment of 39 of 1987.— The Legal Services Authorities Act, 1987,shall be amended in the manner specified in the Fifth Schedule.

61.Amendment of 26 of 1996.—The Arbitration and Conciliation Act, 1996, shall be amended in the manner specified in the Sixth Schedule.

62.Amendment of 27 of 2006.—The Micro, Small and Medium Enterprises Development Act, 2006, shall be amended in the manner specified in the Seventh Schedule.

63.Amendment of 18 of 2013.—The Companies Act, 2013, shall be amended in the manner specified in the Eighth Schedule.

64.Amendment of 4 of 2016.—The Commercial Courts Act, 2015, shall be amended in the manner specified in the Ninth Schedule.

65.Amendment of 35 of 2019.— The Consumer Protection Act, 2019, shall be amended in the manner specified in the Tenth Schedule.

THE FIRST SCHEDULE

(*See* section 6)

DISPUTES OR MATTERS NOT FIT FOR MEDIATION

1. Disputes which by virtue of any law for the time being in force may not be submitted for mediation.

2. Disputes relating to claims against minors, deities; persons with intellectual disabilities under paragraph 2 of the Schedule and person with disability having high support needs as defined in clause (*t*) of section 2 of the Rights of Persons with Disabilities Act, 2016 (49 of 2016); persons with mental illness as defined in clause (*s*) of sub-section (*1*) of section 2 of the Mental Healthcare Act, 2017 (10 of 2017); persons of unsound mind, in relation to whom proceedings are to be conducted under Order XXXII of the Code of Civil Procedure, 1908 (5 of 1908); and suits for declaration of title against Government; declaration having effect of right *in rem*.

3. Disputes involving prosecution for criminal offences.

4. Complaints or proceedings, initiated before any statutory authority or body in relation to registration, discipline, misconduct of any practitioner, or other registered professional, such as legal practitioner, medical practitioner, dentist, architect, chartered accountant, or in relation to any other profession of whatever description, which is regulated under any law for the time being in force.

5. Disputes which have the effect on rights of a third party who are not a party to the mediation proceedings except only in matrimonial disputes where the interest of a child is involved.

6. Any proceeding in relation to any subject matter, falling within any enactment, over which the Tribunal constituted under the National Green Tribunal Act, 2010 (19 of 2010), has jurisdiction.

7. Any dispute relating to levy, collection, penalties or offences, in relation to any direct or indirect tax or refunds, enacted by any State legislature or the Parliament.

8. Any investigation, inquiry or proceeding, under the Competition Act, 2002 (12 of 2003), including proceedings before the Director General, under the Act; proceedings before the Telecom Regulatory Authority of India, under the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) or the Telecom Disputes Settlement and Appellate Tribunal established under section 14 of that Act.

9. Proceedings before appropriate Commissions, and the Appellate Tribunal for Electricity, under the Electricity Act, 2003 (36 of 2003).

10. Proceedings before the Petroleum and Natural Gas Regulatory Board, and appeals therefrom before the Appellate Tribunal under the Petroleum and Natural Gas Regulatory Board Act, 2006 (19 of 2006).

11. Proceedings before the Securities and Exchange Board of India, and the Securities Appellate Tribunal, under the Securities and Exchange Board of India Act, 1992 (15 of 1992).

12. Land acquisition and determination of compensation under land acquisition laws, or any provision of law providing for land acquisition.

13. Any other subject matter of dispute which may be notified by the Central Government.

THE SECOND SCHEDULE

(*See* section 55)

1. The Industrial Disputes Act, 1947 (14 of 1947).

2. The Brahmaputra Board Act, 1980 (46 of 1980).

3. The Cine-workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981 (50 of 1981).

4. The Family Courts Act, 1984 (66 of 1984).

5. The Legal Services Authorities Act, 1987 (39 of 1987).

6. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (56 of 2007).

7. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013).

8. The Finance Act, 20l6 (28 of 2016).

9. The Industrial Relations Code, 2020 (35 of 2020).

THE THIRD SCHEDULE

(*See* section 58)

In section 28 of the Indian Contract Act, 1872 (9 of 1872), for *Exception* 1 and *Exception* 2, the following shall be substituted, namely: —

"Exception 1.—**Saving of contract to refer to arbitration or mediation dispute that may arise.—** This section shall not render illegal a contract, by which two or more persons agree that any dispute which may arise between them in respect of any subject or class of subjects shall be referred to resolution through arbitration or mediation.

Exception 2.—**Saving of contract to refer questions that have already arisen.—**Nor shall this section render illegal any contract in writing, by which two or more persons agree to refer to arbitration or mediation any question between them which has already arisen, or affect any provision of any law in force for the time being as to references to arbitration or mediation.".

THE FOURTH SCHEDULE

(*See*section 59)

In the Code of Civil Procedure, 1908 (5 of 1908),—

(*i*)under Part V, under the heading SPECIAL PROCEEDINGS, the sub-heading "ARBITRATION" shall be omitted;

(*ii*) for section 89, the following section shall be substituted, namely:—

89. Settlement of disputes outside the Court.—Where it appears to the Court that the dispute between the parties may be settled and there exists elements of settlement which may be acceptable to the parties, the Court may—

(*a*) refer the dispute to arbitration, and thereafter, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply as if the proceedings for arbitration were referred for settlement under the provisions of that Act; or

(*b*) refer the parties to mediation, to the court-annexed mediation centre or any other mediation service provider or any mediator, as per the option of the parties, and thereafter the provisions of the Mediation Act, 2023 shall apply as if the proceedings for mediation were referred for settlement under the provisions of that Act; or

(*c*) refer the dispute to Lok Adalat, in accordance with the provisions of sub-section (*1*) of section 20 of the Legal Services Authorities Act, 1987 (39 of 1987) and thereafter, all other provisions of that Act shall apply in respect of the dispute;

(*d*) effect compromise between the parties and shall follow such procedure as deemed fit for judicial settlement.

THE FIFTH SCHEDULE

(*See* section 60)

In the Legal Services Authorities Act, 1987 (39 of 1987), in section 4, for clause (*f*), the following clause shall be substituted, namely:—

"(*f*) encourage the settlement of disputes, including online by way of negotiations, arbitration, mediation and conciliation;".

THE SIXTH SCHEDULE

(*See* section 61)

In the Arbitration and Conciliation Act, 1996 (26 of 1996),—

(*a*) in section 43D,—

(*i*) in sub-section (*1*), the words "mediation, conciliation" shall be omitted;

(ii) in sub-section (*2*), in clauses (*e*), (*f*) and (*i*), the words "and conciliation" wherever they occur shall be omitted;

(*b*) for sections 61 to 81, the following sections shall be substituted, namely:—

61. Reference of conciliation in enactments.—(*1*) Any provision, in any other enactment for the time being in force, providing for resolution of disputes through conciliation in accordance with the provisions of this Act, shall be construed as reference to mediation as provided under the Mediation Act, 2023.

(*2*) Conciliation as provided under this Act and the Code of Civil Procedure, 1908 (5 of 1908), shall be construed as mediation referred to in clause (*h*) of section 3 of the Mediation Act, 2023.

62. Saving.—Notwithstanding anything contained in section 61, any conciliation proceeding initiated in pursuance of sections 61 to 81 of this Act as in force before the commencement of the Mediation Act, 2023, shall be continued as such, as if the Mediation Act, 2023, had not been enacted.

THE SEVENTH SCHEDULE

(*See* section 62)

In the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006), for section 18, the following section shall be substituted, namely:—

"18. Reference to Micro and Small Enterprises Facilitation Council.—(*1*) Notwithstanding anything contained in any other law for the time being in force, any party to a dispute may, with regard to any amount due under section 17, make a reference to the Micro and Small Enterprises Facilitation Council.

(*2*) On receipt of a reference under sub-section (*1*), the Council shall either conduct mediation itself or refer the matter to any mediation service provider as provided under the Mediation Act, 2023.

(*3*) The conduct of mediation under this section shall be as per the provisions of the Mediation Act, 2023.

(*4*) Where the mediation initiated under sub-section (*3*) is not successful and stands terminated without any settlement between the parties, the Council shall either itself take up the dispute for arbitration or refer it to any institution or centre providing alternative dispute resolution services for such arbitration and the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996), shall, then apply to the dispute as if the arbitration was in pursuance of an arbitration agreement referred to in sub-section (*1*) of section 7 of that Act.

(*5*) Notwithstanding anything contained in any other law for the time being in force, the Micro and Small Enterprises Facilitation Council or the centre providing alternative dispute resolution services shall have jurisdiction to act as an Arbitrator or mediator under this section in a dispute between the supplier located within its jurisdiction and a buyer located anywhere in India.".

THE EIGHTH SCHEDULE

(*See* section 63)

In the Companies Act, 20l3 (18 of 2013), for section 442, the following section shall be substituted, namely:—

"442. Reference to mediation.—(*1*) Any of the parties to a proceedings before the Central Government, Tribunal or the Appellate Tribunal may, at any time apply to the Central Government, Tribunal or the Appellate Tribunal, as the case may be, in such form along with such fees, if any, as may be prescribed, for referring the matter pertaining to such proceedings for mediation and the Central Government, Tribunal or the Appellate Tribunal, as the case may be, shall refer the matter to mediation to be conducted under the provisions of the Mediation Act, 2023.

(*2*) Nothing in this section shall prevent the Central Government, Tribunal or the Appellate Tribunal before which any proceeding is pending from referring any matter pertaining to such proceeding *suo motu* to mediation to be conducted under the provisions of the Mediation Act, 2023 as the Central Government, Tribunal or the Appellate Tribunal, deems fit.

(*3*) The mediator or mediation service provider shall file the mediated settlement agreement arrived at between the parties with the Central Government or the Tribunal or the Appellate Tribunal under the Act.

(*4*) The Central Government or the Tribunal or the Appellate Tribunal shall pass an order or judgment making the said mediated settlement agreement as part thereof.

(*5*) The fee of the mediator shall be such as may be prescribed."

THE NINTH SCHEDULE

(*See* section 64)

In the Commercial Courts Act, 2015 (4 of 2016),—

(*a*) for Chapter IIIA, the following Chapter shall be substituted, namely:—

"CHAPTER IIIA

PRE-LITIGATION MEDIATION AND SETTLEMENT

12A. Pre-litigation Mediation and Settlement.—(*1*) A suit, which does not contemplate any urgent interim relief under this Act, shall not be instituted unless the plaintiff exhausts the remedy of pre-litigation mediation in accordance with such manner and procedure as may be prescribed by rules made by the Central Government.

(*2*) For the purposes of pre-litigation mediation, the Central Government may, by notification, authorise—

(*i*) the Authority, constituted under the Legal Services Authorities Act, 1987 (39 of 1987); or

(*ii*) a mediation service provider as defined under clause (*m*) of section 3 of the Mediation Act, 2023.

(*3*) Notwithstanding anything contained in the Legal Services Authorities Act, 1987 (39 of 1987), the Authority or mediation service provider authorised by the Central Government under sub-section (*2*) shall complete the process of mediation within a period of one hundred and twenty days from the date of application made by the plaintiff under sub-section (*1*):

Provided that the period of mediation may be extended for a further period of sixty days with the consent of the parties:

Provided further that, the period during which the parties spent for pre-litigation mediation shall not be computed for the purposes of limitation under the Limitation Act, 1963 (36 of 1963).

(*4*) If the parties to the commercial dispute arrive at a settlement, the same shall be reduced into writing and shall be signed by the parties and the mediator.

(*5*) The mediated settlement agreement arrived at under this section shall be dealt with in accordance with the provisions of sections 27 and 28 of the Mediation Act, 2023.";

(*b*) in section 21A, in sub-section (*2*), for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) the manner and procedure of pre-litigation mediation under sub-section (*1*) of section 12A;".

THE TENTH SCHEDULE

(*See* section 65)

In the Consumer Protection Act, 2019 (35 of 2019),—

(*a*) in section 2, clauses (*25*) and (*26*) shall be omitted;

(*b*) for section 37, the following sections shall be substituted, namely:—

"37. Reference to mediation.—The District Commission or State Commission or the National Commission, as the case may be, [1][may] at any stage of proceedings refer the disputes for settlement by mediation under the Mediation Act, 2023.

37A. Settlement through mediation.—(*1*) Pursuant to mediation, if an agreement is reached between the parties with respect to all of the issues involved in the consumer dispute or with respect to only some of the issues, the terms of such agreement shall be reduced to writing accordingly, and signed by the parties to such dispute or their authorised representatives.

(*2*) The mediator shall prepare a settlement report of the settlement and forward the signed agreement along with such report to the concerned Commission.

(*3*) Where no agreement is reached between the parties within the specified time or the mediator is of the opinion that settlement is not possible, he shall prepare his report accordingly and submit the same to the concerned Commission.

37B. Recording settlement and passing of order.—(*1*) The District Commission or the State Commission or the National Commission, as the case may be, shall, within seven days of the receipt of the settlement report, pass suitable order recording such settlement of consumer dispute and dispose of the matter accordingly.

(*2*) Where the consumer dispute is settled only in part, the District Commission or the State Commission or the National Commission, as the case may be, shall record settlement of the issues which have been so settled and continue to hear other issues involved in such consumer dispute.

(*3*) Where the consumer dispute could not be settled by mediation, the District Commission or the State Commission or the National Commission, as the case may be, shall continue to hear all the issues involved in such consumer dispute.";

(*c*) in section 38, in sub-section (*1*), the words "or in respect of cases referred for mediation on failure of settlement by mediation," shall be omitted;

(*d*) in section 41, the third proviso shall be omitted;

(*e*) Chapter V shall be omitted;

(*f*) in section 101, in sub-section (*2*),—

(*i*) clause (*r*) shall be omitted;

(*ii*) clause (*zf*) shall be omitted;

(*g*) in section 102, in sub-section (*2*), clause (*p*) shall be omitted;

(*h*) in section 103, in sub-section (*2*), clauses (*c*) to (*h*) shall be omitted.

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1. Subs. by Notification no. S.O. 4506(E) for "shall either on an application by the parties" (w.e.f. 13-10-2023).

STATEMENT OF OBJECTS AND REASONS

An effective dispute resolution process has a significant impact on the economy and doing business in the country, thereby promoting ease of living for citizens, access to justice and rule of law. The rapidly changing society and progress in various areas not limited to economic, industrial or financial sectors, demand commensurate expeditious settlement of dispute between the parties, which at present is time consuming. Thus, there is a need to further promote Alternative Dispute Resolution (ADR), inter alia, by institutional mediation. The ADR mechanism of mediation though finds mention in various existing laws, but as on date, there is no comprehensive law governing the various aspects of mediation.

2. Mediation results in amicable resolution of disputes in civil, commercial, family and matrimonial matters and fosters collaborative approach, reduces the burden on the courts, and preserves relationships amongst disputants. Therefore, bringing a comprehensive mediation law and providing for online mediation may serve the interests of all the stakeholders as effective alternative mechanism for resolving disputes.

3. The Bill covering the various aspects of mediation seeks to promote mediation as a preferred mode of ADR, inter alia, providing for—

(*i*) subsuming conciliation under Part III of the Arbitration and Conciliation Act, 1996, in mediation as per international practice of using the terms "conciliation" and "mediation" interchangeably;

(*ii*) compulsory pre-litigation mediation in matters of civil or commercial dispute, before parties approach a court or a tribunal as provided;

(*iii*) conduct of online mediation;

(*iv*) an indicative list of matters which are not fit for mediation under the First Schedule;

(*v*) mediation that will take place within the territorial jurisdiction of the court or tribunal of competent jurisdiction, unless parties agree otherwise or undertake mediation in online mode;

(*vi*) a period of one hundred and eighty days, for completing the mediation process which is further extendable to a maximum period of one hundred and eighty days with the mutual consent of the parties;

(*vii*) the mediated settlement agreement resulting from mediation which will be final and binding and will be enforceable in accordance with the provisions of Code of Civil Procedure, 1908, in the same manner as if it were a judgment or decree of a Court;

(*viii*) establishment of Mediation Council of India, objects of which would be, inter alia, to promote mediation and to develop India as a robust centre for domestic and international mediation, make regulations for registration of mediators, grade mediation service providers, specify criteria for recognition of mediation institutes and mediation service providers, to hold training workshops and courses in the area of mediation, etc.; and

(*ix*) conduct of community mediation with consent of parties for disputes which are likely to affect peace, harmony and tranquility amongst the residents or families of any area or locality.

4. The Bill seeks to achieve the above objectives.

KIREN RIJIJU.

NEW DELHI;
The 14th December, 2021.