

Draft Mediation Bill, 2021

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	THE MEDIATION BILL, 2021	Line No.	Remarks
	An Act to promote, encourage and facilitate mediation especially institutional mediation for resolution of disputes commercial and otherwise, enforce domestic and international mediation settlement agreements, provide for a body for registration of mediators, to encourage community mediation and to make online mediation as an acceptable and cost effective process and for matters connected therewith or incidental thereto	1	
	Whereas the practice of mediation for resolving a wide range of disputes has gained popularity worldwide over the last few decades amongst individuals, corporate users, governments, judiciary, lawyers etc.	2	
	And whereas it is accepted that the use of mediation results in better resolution, fosters collaborative problem solving, reduces the burden on the courts, is cost and time effective, and preserves relationships amongst disputants	3	
	Whereas India has a long history of consensual dispute resolution and has in recent years made rapid advances in the use of structured mediation, especially in the court annexed mediation schemes of the Supreme Court, High Courts and Subordinate courts.	4	
	Whereas the United Nations Commission on International Trade And Law (UNCITRAL) has adopted UNCITRAL model law on International Commercial Mediation and United Nations Convention on International Settlement Agreements resulting from Mediation, on 20 December 2018.	5	
	Whereas to strengthen the legal framework on international dispute settlement, India on 7th August 2019 became one of the first signatories to the United Nations Convention on Enforcement of International Settlement Agreements resulting from Mediation, also known as "The Singapore Convention".	6	
	And whereas UNCITRAL has brought a Model Law for giving effect to the Singapore Convention, it is considered expedient that India gives effect to the Singapore Convention by providing for provisions under a standalone mediation law for enforcement of	7	

	international settlement agreements resulting from mediation.		
	And whereas a robust and effective mediation system greatly enhances the ease of doing business in India thus improving the country's attractiveness as a destination for foreign investment and collaboration.	8	
	And whereas there is a strong need for a comprehensive uniform legislation for mediation in India which will cover the multiple aspects of its practice, encourage mediation including community mediation, and provide the platform of mediation for settling a wide range of disputes including domestic and cross-border commercial disputes, matrimonial, and other personal disputes.	9	
	And whereas it is also expedient to enact legislation to give mediation settlements the status of an order, judgment and decree besides establishing the Mediation Council of India and provide for recognition of mediation service providers.	10	
	Be it enacted by Parliament in the Seventy-Second Year of the Republic of India as follows:-	11	
Short title, extent and commencement	1. (1) This Act may be called the Mediation Act, 2021.	12	
	(2) The provisions of this Act shall come into force on such date(s) as the Central Government may, by notification(s) in the official gazette, 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 in to force of that provision.	13	
	(3) It extends to the whole of India.	14	
	PART I DOMESTIC MEDIATION CHAPTER 1 Applicability and Definitions	15	
Applicability	2. (1) This Part shall apply where mediation is conducted in India and	16	
	(i) all or both parties habitually reside in or are incorporated in or have their business in India; or	17	
	(ii) the mediation agreement provides that this Act (or any other domestic law or procedure thereunder providing for mediation) will apply to	18	

	the mediation; or		
	(iii) is an international mediation as defined in this Part.	19	
	" <i>Explanation 1:</i> If a party has more than one place of business, the place of business is that which has the closest relationship to the mediation agreement."	20	
	(2) A mediated settlement agreement made under this Part shall be considered a domestic mediated settlement agreement.	21	
Definitions	3. In this Part unless the context otherwise requires:	22	
	(a) "Council" means the Mediation Council of India established under section 35 of this Act.	23	
	(b) (i) "Court" for the purpose of mediation under this Part means the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its Ordinary Original Civil Jurisdiction, having jurisdiction to decide the disputes forming the subject matter of mediation if the same had been the subject matter of a suit. (ii) in the case of international mediation. the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the mediation if the same had been the subject-matter of a suit, and in other cases. a High Court having jurisdiction to hear appeals from decrees of courts subordinate to that High Court."	24	
	(c) "International Mediation" means a mediation undertaken under this Act and relates to a commercial disputes arising out of legal relationships contractual or otherwise under the law in force in India and where at least one of the parties, at the time of conclusion of that agreement, is-	25	
	(i) an individual who is a national of, or habitually resides in, any country other than India; or	26	
	(ii) a body corporate including Limited Liability Partnership of any nature, with its place of business outside India; or	27	
	(iii) an association or body of individuals whose	28	

	place of business is outside India; or		
	(iv) the Government of a foreign country.	29	
	<i>Explanation-</i> If a party has more than one place of business, the place of business is that which has the closest relationship to the mediation agreement.”	30	
	(d) “Mediation” means mediation as referred to in section 4.	31	
	(e) "Mediator" means an individual who is appointed to be a mediator to undertake mediation and includes a person registered as mediator with the Council.	32	
	<i>Explanation:</i> Where more than one mediator is appointed for a mediation, reference to a mediator under this Act is a reference to all the mediators.	33	
	(f) “Mediation agreement” means mediation agreement as referred to in section 5	34	
	(g) "Mediation Communication", whether made electronically or otherwise, means (i) anything said or done; (ii) any document prepared; 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.	35	
	(h) "Mediation Institutes" means a body or organization that provides training and continuous education and certification of mediators and carry out such other functions as may be specified by the Council by way of regulations.	36	
	(i) "Mediation Service Provider" means a body or organization that provides for the conduct of mediation and have in place procedures and Rules to govern the conduct of mediation in conformity with this Act and are recognised by the Council.	37	
	<i>Explanation:</i> the term mediation service provider includes Lok Adalats and Permanent Lok Adalats constituted under the National Legal Services Authorities Act 1987 or mediation centre annexed to court, tribunal and such other bodies as may be specified by the Council by way of regulations.	38	

	(j) "Mediated Settlement Agreement" means settlement agreement as referred to in sub-section (1) of section 21.	39	
	(k) "Online mediation" means online mediation as referred to in section 32.	40	
	(l) "Participants" means persons other than the parties who participate in the mediation and includes advisors, consultants and counsel, and any technical experts and observers.	41	
	(m) "Party" means a party to a mediation agreement or mediation proceedings whose agreement or consent is necessary to resolve the dispute and includes their successors.	42	
	(n) "Pre litigation Mediation" means a process of undertaking mediation, as provided under section 6 of this Act, for settlement of disputes before the filing of a suit or proceedings of any nature in respect thereof, before the Court or Tribunal of competent jurisdiction.	43	
	(o) "Prescribed" means prescribed by the Rules under this Act.	44	
	(p) "Regulations" means regulations made by the Council.	45	
	(q) "Secure Electronic Signature" with reference to online mediation means electronic signatures as provided for under section 15 of the Information Technology Act 2000 (Act no. 21 of 2000)	46	
	(r) <i>Ad-hoc mediation</i> means a mediation which is not administered by any mediation service provider.	47	
	(s) "Tribunal" means a tribunal constituted under any special law including an arbitral tribunal to hear the dispute in first instance but does not include an appellate tribunal.	48	
	CHAPTER 2 MEDIATION	49	
Mediation	4. "Mediation" means a process, whether referred to by the expression mediation, pre-litigation mediation, online mediation, conciliation or an expression of similar import, whereby parties request a third person or persons ("the mediator") to assist them in their attempt to reach an amicable settlement of the dispute.	50	

Mediation Agreement	5. (1) Mediation Agreement means an agreement in writing, by or between parties or any one claiming through them, to submit to mediation all or certain disputes which have arisen or which may arise in respect of any relationship whether contractual or otherwise.	51	
	(2) A mediation agreement may be in the form of a mediation clause in a contract or in the form of a separate agreement.	52	
	(3) 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/letters including through electronic and digital means as provided for by the Information Technology Act, 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; (d) Reference in any agreement containing a mediation clause would constitute a mediation agreement if the agreement is in writing and the reference is such as to make the mediation as part of the Agreement.	53	
	(5) The parties to a dispute may agree to submit to mediation any dispute arising between them under an agreement whether executed prior to arising of dispute or subsequent thereto.	54	
	(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 (c) of section 3.	55	
Pre litigation Mediation and Settlement	6. (1) Subject to other provisions of this Act, irrespective of the existence of any mediation agreement or otherwise, any party before filing any suit or proceeding in any Court or Tribunal shall, take steps to settle the disputes by pre litigation mediation in accordance with the provisions of this Act.	56	
	(2) Unless otherwise agreed upon by the parties, a mediator registered with the Mediation Council of India	57	

	or a Court Annexed Mediation Center or a Mediation Service Provider recognized under the provisions of this Act are authorized to conduct pre-litigation mediation.		
Cases not fit for mediation	7. (1) Mediation under this Part shall not be conducted for resolution of any dispute in relation to matters listed in Schedule-II of this Act.	58	
	(2) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, amend the Second Schedule and thereupon the Second Schedule shall be deemed to have been amended accordingly.	59	
	(3) A copy of every notification proposed to be issued under sub-section (2), shall be laid in draft 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 disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by the both Houses of Parliament.	60	
Interim relief by Court or Tribunal	8. (1) If exceptional circumstances exist, a party may, before the commencement of or during the continuation of mediation proceedings under this Part, file an application before a Court or Tribunal of competent jurisdiction for seeking urgent interim measures.	61	
	(2) The Court or Tribunal shall after granting or rejecting urgent-interim relief, as the case may be, refer the parties to undertake mediation to resolve the dispute, if deemed appropriate.	62	
Power of Court or Tribunal to refer parties to mediation	9. (1) Notwithstanding anything contained in any other law for the time being in force, a Court or Tribunal, before which an action is brought in a matter which is the subject of an agreement to submit to mediation shall, if a party to such agreement or any person claiming through or under him, so applies not later than the date of submitting his first statement on the substance of the dispute, refer the parties to mediation as per the	63	

	provisions of this Act, unless it finds that <i>prima facie</i> no valid agreement exists, or there is good reason why, notwithstanding such agreement, the parties should not be referred to mediation.		
	(2) If the Court or Tribunal directs the parties to go through the process of mediation, it may pass suitable interim orders to protect the interest of the parties.	64	
	(3) A direction to the parties to go through the process of mediation shall not impose any obligation on them to come to a settlement in the mediation.	65	
	(4) The settlement arrived at under this Section shall have the same status and effect as if it was an order, judgment or decree of a Court or Tribunal and shall be thereupon executable as such.	66	
	CHAPTER 3 MEDIATOR	67	
Appointment of mediator	10. (1) Unless otherwise agreed by the parties, a person of any nationality may be a mediator. Provided that mediator of any foreign nationality shall possess such equivalent qualification, experience and accreditation as may be specified for domestic mediators by the Council by way of regulations.	68	
	(2) The parties are free to agree on a procedure for appointing the mediator or mediators.	69	
	(3) If the parties reach no agreement on a procedure referred to in sub-section (2), then the party seeking to initiate mediation shall make an application to a mediation service provider for the appointment of a mediator.	70	
	(4) Upon receiving application under sub-section (3), the mediation service provider shall, within a period of 7 days, appoint (i) the mediator as agreed by the parties; or (ii) the mediator from the panel maintained by it, in case the parties are unable to reach agreement as to the appointment of mediator or mediator agreed by the parties refuses to act as a mediator.	71	
	(5) Where the mediator is appointed under clause (i) of sub section (4), the mediation service provider shall seek acceptance of appointment from the person so	72	

	appointed as mediator within 7 days of the appointment.		
	(6) The person appointed under clause (i) of sub section (4) shall communicate his willingness within 7 days from the date of receipt of notice of such appointment under sub-section (5).	73	
Preference	11. The mediation service provider shall, while appointing any person from the panel of mediators maintained by it, consider his suitability and views of the parties for resolving the subject-matter of dispute.	74	
Conflict of Interest and Disclosure	12. (1) When a person is appointed as a mediator, that person shall, prior to the commencement of the mediation, disclose in writing to the parties about any circumstances or potential circumstances, personal, professional or financial, that may constitute conflict of interest or that is likely to give rise to justifiable doubts as to such mediator's independence or impartiality in the conduct of the mediation process.	75	
	(2) From the time of appointment and during the mediation proceeding, the mediator shall, without delay, disclose to the parties in writing any conflict of interest that has newly arisen or come to his knowledge as stated in sub-section (1).	76	
	(3) Upon disclosure under sub-section (1) or (2), the parties have the option to waive any objection if all of them express the same in writing and the same shall be construed as the consent of parties to continue with the same mediator and if he is willing to so continue.	77	
	(4) Upon disclosure under sub-section (1) or (2) if the parties agree to replace the Mediator then in case of:- (i) institutional mediation, parties shall apply to the mediation service provider for termination of the mandate of mediator; or (ii) <i>ad-hoc</i> mediation, the parties shall terminate the mandate of mediator.	78	
Termination of mandate of mediator	13. (1) A mediation service provider, may terminate the mandate of a mediator: (i) upon the receipt of application from the parties	79	

	<p>under clause (i) of sub-section (4) of section 12; or</p> <p>(ii) upon the receipt of information about the mediator being involved in a matter of conflict of interest from participants or any other person; or.</p> <p>(iii) Where he withdraws from office for any reason.</p> <p>Provided that termination under clause (ii) shall be effected only if, after giving a hearing to the mediator, mediation service provider finds that there is a justifiable doubt as to the mediator's independence or impartiality and that the same has been brought to the notice of parties and the parties agrees to replace the mediator.</p>		
	(2) Upon the receipt of information under sub-section (1), the parties have the option to waive any objection if all of them express the same in writing and the same shall be construed as the consent of parties to continue with the same mediator and if he is willing to so continue.	80	
Replacement of mediator	<p>14. Upon termination of mediator-</p> <p>(i) in case of <i>ad-hoc</i> mediation under clause (ii) of sub-section (4) of section 12, the parties may, by mutual consent, appoint another mediator within a period of 7 days from such termination; and</p> <p>(ii) in case of institutional mediation under section 13 the mediation service provider shall appoint another mediator from the panel maintained by it within 7 days from such termination.</p>	81	
	<p>CHAPTER 4</p> <p>MEDIATION PROCESS</p>	82	
Territorial Jurisdiction	<p>15. The Mediation under this Act shall take place within the territorial jurisdiction of the Court or Tribunal of competent jurisdiction to decide the subject matter of dispute.</p> <p>Provided that on the mutual consent of the parties mediation proceedings can be conducted at any place</p>	83	

	outside the territorial jurisdiction referred to in this section.		
	(2) In case the mediated settlement agreement is reached between the parties as specified under sub-section (2) of section 21 then the same shall be registered within the territorial jurisdiction of the Court or Tribunal of competent jurisdiction to decide the subject matter of dispute in accordance with the sub-section (7) of section 21.	84	
Commencement of mediation	16. The mediation proceedings under this part with respect to a particular dispute shall be deemed to have commenced from the date fixed for the first appearance of the parties before the mediator.	85	
Conduct of mediation	17. (1) Mediation under this Act, whether institutional or <i>ad-hoc</i> , shall be conducted in accordance with the provisions of this Act.	86	
	(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.	87	
	(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, ethical conduct specified by the Council.	88	
	(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 and/or participants, jointly and/or separately, as frequently as deemed fit by the mediator, both in order to convene the mediation, and during the mediation for the orderly conduct of the process and to maintain its integrity.	89	
	(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).	90	
	(6) The mediator with the consent of the parties shall determine the language or languages to be used in the mediation process.	91	
Role of Mediator	18. The mediator shall attempt to facilitate voluntary resolution of the dispute(s) by the parties, and	92	

	communicate the view of each party to the other to the extent agreed to by them, assist them in identifying issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise and generating options in an attempt to resolve the dispute(s), emphasizing that it is the responsibility of the parties to take decision which affect them.		
Parties alone responsible for taking decision.	19. (1) The parties shall be informed expressly that the mediator only facilitates in arriving at a decision to resolve the dispute(s) and that he may not impose any settlement nor give any assurance that the mediation will result in a settlement.	93	
	(2) Subject to other provisions of this Act, a party may withdraw from the mediation at any time.	94	
Time-limit completion for mediation	20. (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 ninety days from the date of commencement of mediation.	95	
	(2) The period for mediation prescribed under sub-section (1) may be extended for a further period of ninety days with the consent of parties.	96	
Mediated Settlement Agreement	21. (1) “Mediated Settlement Agreement” means and includes an agreement or interim 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. <i>Explanation.</i> — 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.	97	
	(2) Where a Mediated Settlement Agreement referred to in sub-section (1) is reached between the parties in regard to all the issues or some of the issues, the same shall be reduced in writing and signed by the parties.	98	
	(3) Subject to provisions of section 26 and 27, the	99	

	<p>agreement of the parties so signed</p> <p>(i) in case of institutional mediation shall be submitted to the mediator who shall, after authenticating the settlement agreement, forward the same with a covering letter signed by him, to the mediation service provider and also provide a copy of the same to the parties.</p> <p>(ii) in all other cases, shall be submitted to the mediator who shall, after authenticating the settlement agreement, provide a copy of the mediated settlement agreement to all the parties .</p>		
	<p>(4) Subject to provisions of section 26 and 27, where no agreement is arrived at between the parties, within the time period specified in section 20 or where, the mediator is of the view that no settlement is possible, -</p> <p>(i) The Mediator shall submit a report to this effect to the mediation service provider in writing in case of institutional mediation.</p> <p>(ii) In all other cases the mediator shall prepare a report to this effect and provide a signed copy to all the parties.</p> <p>Provided that the report referred to in clause (i) or (ii) above shall not disclose the clause for failure of the parties, to reach a settlement, or any other matter or thing referring to their conduct, during mediation.</p>	100	
	<p>(5) The parties, may, at any time during the mediation process, make an interim or partial agreement with respect to any of the issues forming part of the subject matter of the mediation.</p>	101	
	<p>(6) Any mediated Settlement Agreement under this section shall also include a settlement agreement resulting from online mediation and duly signed by the parties by way of secure electronic signature or otherwise and authenticated by the mediator in the like manner.</p>	102	
	<p>(7) For the purpose of record, mediated settlement agreement arrived at between the parties other than those arrived in Court annexed mediation centres or</p>	103	

	<p>under section 21 and 22E of the Legal Services Authorities Act, 1987 shall be registered with the Authorities constituted under the Legal Services Authorities Act, 1987 and such Authorities shall issue a unique registration number to such settlements as specified by regulations to be made by the Authorities.</p> <p>Provided that the mediated settlement agreement reached between the parties under sub-section (2) shall be registered within the territorial jurisdiction of the Court or Tribunal of competent jurisdiction to decide the subject matter of dispute.</p>		
	<p>(8) Registration referred to in sub-section (7) shall be made by either of the parties, mediator or mediation service provider within a period of ninety days from the date of receipt of copy of mediated settlement agreement:</p> <p>Provided that mediated settlement agreement may be registered after expiry of period of ninety days on payment of such fee as may be specified by the Authorities by way of regulations.</p>	104	
Confidentiality	<p>22. (1) Subject to the exceptions provided in this Act, the mediator, the parties and participants in the mediation shall keep confidential the following matters relating to the mediation proceedings:</p>	105	
	<p>(i) acknowledgements, opinions, suggestions, promises, proposals, apologies and admissions made during the mediation;</p>	106	
	<p>(ii) acceptance of or willingness to accept proposals made or exchanged in the mediation;</p>	107	
	<p>(iii) documents prepared solely for the purpose of mediation.</p>	108	
	<p>(2) Notwithstanding anything contained in any other law for the time being in force, the mediator, the mediation service provider and the parties to the mediation agreement shall maintain confidentially of all mediation proceedings except mediated settlement agreement.</p>	109	
	<p>(3) Any audio or video recording of the mediation proceedings shall be kept confidential by the parties and the participants including the mediator.</p>	110	

	<p>(4) No party to the mediation shall in any proceedings before a Court or Tribunal, rely on or introduce as evidence any information or communication set forth in clauses (i) to (iii) of subsection (1), including any information in electronic form, or verbal communication and the Court or Tribunal shall not take cognizance of such information or evidence.</p> <p>Provided that evidence or information that is otherwise admissible or subject to discovery in proceedings will not become inadmissible or protected from discovery solely by reason of its disclosure or use in a mediation.</p>	111	
Admissibility, Privilege against Disclosure	<p>23. (1) No mediator or participant in the mediation, including experts and advisors 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 whatsoever 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.</p> <p>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 or malpractice based on conduct occurring during the mediation.</p>	112	
	<p>(2) The provisions of this section will not prevent the mediator from compiling or disclosing general information concerning matters that have been subject to 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.</p>	113	
	<p>(3) There is no privilege or confidentiality that will attach to:</p>	114	
	<p>(a) a threat or statement of a plan to commit an</p>	115	

	offence punishable under law;		
	(b) information relating to domestic violence or child abuse; and	116	
	(c) statements made during a mediation showing a significant imminent threat to public health or safety.	117	
Termination of Mediation	24. (1) The mediation proceedings under this part shall terminate:	118	
	(a) On the date of signing and authentication of the Mediated Settlement Agreement; or	119	
	(b) By a declaration of the mediator, after consultation with the parties, to the effect that further efforts at mediation are no longer justified, on the date of the declaration; or,	120	
	(c) On the date of the communication by a party or parties to the mediation in writing, addressed to the mediator and the other parties to the effect that the party wishes to opt out of mediation. Provided that the parties have to attend at least one mediation session before giving such communication.	121	
	(a) On completion of time period as provided under section 20 without parties reaching any settlement agreement.	122	
Depository of mediated settlement agreements.	25. Deleted	123	
Court annexed mediation	26. For the purpose of court annexed mediation the procedure of conducting mediation shall be such as may be determined under the practice directions or rules framed by the Supreme Court or the concerned High Courts.	124	
Mediation by Lok Adalat and Permanent Lok Adalat	27. Mediation conducted by Lok Adalat and Permanent Lok Adalat shall be in accordance with the provisions of Legal Services Authorities Act, 1987 and the rules or regulations made thereunder.	125	
	CHAPTER 5 STATUS OF MEDIATED SETTLEMENT AGREEMENT	126	
Status of mediated settlement agreement	28. (1) A mediated settlement agreement resulting from a mediation under this part signed by the parties and	127	

	<p>authenticated by the mediator shall be final and binding on the parties and persons claiming under them respectively and enforceable in law.</p> <p>(2) Subject to the provisions of section 29, it shall be enforced in accordance with the provisions of the Code of Civil Procedure, 1908, in the same manner as if it were a judgment and/ or decree passed by a court, and may accordingly be relied on by any of parties or persons claiming through them, by way of defense, set off or otherwise in any legal proceedings.</p>		
Challenge to mediated settlement agreement	29. (1) Notwithstanding anything contained in any other law, in any case in which the mediated settlement agreement is arrived between the parties and is sought to be challenged by either of the parties, he may apply to the Court or Tribunal of competent jurisdiction before which the subject-matter of dispute or other proceeding would lie.	128	
	<p>(2) A mediated settlement agreement can be challenged only on all or any of the following ground of:</p> <p>(i) Fraud; or</p> <p>(ii) Corruption; or</p> <p>(iii) Gross impropriety; or</p> <p>(iv) Impersonation.</p>	129	
	<p>(3) An application for challenging the mediated settlement agreement may not be made after three months have elapsed from the date on which the party making that application has received the copy of mediated settlement agreement under section 21(3) of this Act.</p> <p>Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter.</p>	130	
Costs	30. 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.	131	
Exclusion of limitation	31. Notwithstanding anything contained in the	132	

	<p>Limitation Act, 1963 or in any other law for the time being in force, in computing the period of limitation specified for any proceedings in respect of which a mediation has been undertaken under this Part, the period from the date of commencement of mediation under section 16 until</p> <p>(i) termination of the mandate of mediator under clause (ii) of sub-section (4) of section 12 in case of <i>ad-hoc</i> mediation; or</p> <p>(ii) termination of the mandate of mediator under sub-section (1) of section 13 in case of institutional mediation; or</p> <p>(iii) submission of report under sub-section (4) of section 21</p> <p>shall be excluded.</p>		
	<p>CHAPTER 6 ONLINE MEDIATION</p>	133	
Online mediation	<p>32.(1) Online Mediation means conducting mediation including pre-litigation mediation as defined in this Act by the use of applications and computer networks but not limited to an encrypted email service, secure chat rooms and conferencing by video or audio mode or both.</p> <p>(2) The process of online mediation shall be in such manner as may be specified by the Council by way of regulations, in the light of provisions of Information Technology Act, 2000.</p> <p>(3) The conduct of online mediation shall be in circumstances, which ensure that the essential elements of integrity of proceedings and confidentiality are maintained at all times and Mediator may take such appropriate steps in this regard as the circumstances may require to achieve such end.</p> <p>(4) All provisions of this Act shall apply to online mediation proceedings.</p>	134	
Use of online mediation	<p>33. Online mediation may be resorted to either wholly or in part at any stage of mediation process with the written consent of the parties.</p>	135	

Service production documents and of	34. Mediation communications in the case of online mediation shall, unless otherwise specified by Council by way of regulations, be as provided by the provisions of the Information Technology Act 2000 or any other law for the time being in force and shall ensure the basic principles of party autonomy and confidentiality.	136	
	CHAPTER 7 MEDIATION COUNCIL OF INDIA	137	
Establishment and Incorporation of Mediation Council of India	35. (1) The Central Government shall, by notification in the Official gazette, establish for the purposes of this Act, a Council to be known as Mediation Council of India to perform duties and discharge functions specified under this Act.	138	
	(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 moveable and immovable, and to enter into contract, and shall, by the said name, sue or be sued.	139	
	(3) The head office of the Council shall be at Delhi or at such other place as may be notified by the Central Government.	140	
	(4) The Council may, in consultation with the Central Government, establish offices at other places in India and abroad.	141	
Composition of the Mediation Council of India	36. (1) The Council shall consist of the following members:	142	
	(a) A person who has been, a Judge of the Supreme Court or, Chief Justice of a High Court or, a Judge of a High Court or an eminent person, having special knowledge and experience in the conduct or administration of mediation, to be appointed by the Central Government–Chairperson;	143	
	(b) a person having knowledge and experience in law related to alternate dispute resolution mechanisms, to be appointed by the Central Government–Full Time Member;	144	
	(c) an eminent academician having experience in research and teaching in the field of mediation and alternate dispute resolution laws, to be appointed by the	145	

	Central Government- Full Time 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, <i>ex officio</i> ;	146	
	(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, <i>ex officio</i> ; and	147	
	(f) Chief Executive Officer-Member-Secretary, <i>ex officio</i> .	148	
	(2) The Chairperson and Members of the Council, other than <i>ex officio</i> 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 Chairperson or Member, other than <i>ex officio</i> Member, shall hold office as such after he has attained the age of seventy years in the case of Chairperson and sixty-seven years in the case of Member.	149	
	(3) The salaries, allowances and other terms and conditions of the Chairperson and Members referred to in clauses (b) and (c) of sub-section (1) shall be such as may be prescribed by the Central Government.	150	
Vacancies, etc., not to invalidate proceedings of Council.	37. 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 acting as a Chairperson or Member of the Council; or (c) any irregularity in the procedure of the Council not affecting the merits of the case.	151	
Resignation of Members.	38. The Chairperson or the Full-time Member may, by notice in writing, under his hand addressed to the Central Government, resign his office: Provided that the Chairperson or the Full-time 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	152	

	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.		
Removal of Chairperson or Member.	39. (1) The Central Government may, remove a Chairperson or 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 Chairperson or 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 Chairperson or Member.	153	
	Provided that where a Chairperson or 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.	154	
Appointment of experts and constitution of Committees thereof.	40. 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 by the regulations.	155	
Secretariat of the Council	41. (1) There shall be a Chief Executive Officer of the Council, who shall be responsible for day-to-day administration of the Council.	156	
	(2) The qualifications, appointment and other terms and conditions of the service of the Chief Executive Officer shall be such as may be specified by regulations by the Council.	157	
	(3) The Chief Executive Officer shall discharge such functions and perform such duties as may be specified by the regulations.	158	
	(4) There shall be a Secretariat to the Council consisting of such number of officers and employees as may be	159	

	prescribed by the Central Government.		
	(5) The qualifications, 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 by Council by way of regulations. ?	160	
Duties and Functions of the Mediation Council of India	42. (1) The Council shall have the powers and functions, as provided in sub-section (2), for the purposes of this Act.	161	
	(2) For the purposes of performing the duties and discharging the functions under this Act, the Council shall - (a) endeavor to develop India to be a robust centre for domestic and international mediation; (aa) endeavor to promote domestic and international mediation in India through appropriate policies and guidelines. (b) frame regulations and guidelines for the conduct of mediation;	162	
	(c) perform the following functions with regard to Mediators: (i) frame policies and lay down norms, qualification and experience for accreditation of mediators as may be specified by regulations ; (ii) lay down the guidelines for the continuous education, certification and assessment of mediators by the recognised mediation institutes; (iii) lay down norms for registration of mediators. (iv) register mediators and renew, withdraw, suspend or cancel such registrations on the basis of conditions as may be specified in the regulations; (v) lay down by way of regulations standards for professional ethical conduct of mediators;	163	
	(d) perform the following functions with regard to	164	

	<p>training and education of mediators:</p> <p>(i) hold training workshops and courses in the area of mediation in collaboration with mediation service providers, law firms and universities both Indian and International, and any other mediation institutions; and</p> <p>(ii) enter into MoUs/ agreements with domestic and international bodies or organisations or institutions in this regard;</p>		
	<p>(e) perform the following functions with regard to Mediation Institutions and Mediation Service Providers:</p> <p>(i) recognition of Mediation Institutions and Mediation Service Providers and renew, withdraw, suspend or cancel such recognition ;</p> <p>(ii) specify the criteria for recognition of Mediation Institutions and Mediation Service Providers;</p> <p>(iii) lay down norms for the grading of Mediation Service Providers;</p> <p>(iv) call for any information or record of Mediation Institutions and Mediation Service Providers;</p> <p>(v) lay down standards for professional ethical conduct of the Mediation Institution, and Mediation Service Provider;</p>	165	
	<p>(f) publish such information, data, research studies and such other information as may be required;</p>	166	
	<p>(g) To 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 by the regulations.</p>	167	
	<p>(h) perform any other act or function as may be decided by the Central Government or in furtherance of the objectives of the Act.</p>	168	
	<p>CHAPTER 8</p> <p>MEDIATION SERVICE PROVIDER AND</p> <p>MEDIATION INSTITUTES</p>	169	
Mediation Service Providers	<p>43. The mediation service provider recognised by the Council as per the provisions of this Act shall be graded by the Council in accordance with the Regulations made by it in this behalf.</p>	170	
Functions of Mediation Service	<p>44. The Mediation Service Providers shall perform the</p>	171	

Providers	<p>following functions, namely -</p> <ul style="list-style-type: none"> (a) Accreditation of mediators and maintain panel of mediators. (b) to provide the services of mediator for conduct of mediation. (c) to provide all facilities, secretarial assistance and infrastructure for the efficient conduct of mediations. (d) to promote good professional and ethical conduct amongst mediator. (e) Registration of mediated settlement agreement in accordance with the provisions of section 21. (f) Filing of mediated settlement agreement in depository as per the provisions of section 25 of this Act. (g) Such other functions as may be provided by the Council by way of regulations. 		
Mediation Institutes	45. The Council shall recognise Mediation Institutes in accordance with the regulations made by it in this behalf.	172	
Functions of Mediation Institutes	46. The Mediation Institutes shall function as per the regulations made by the Council.	173	
	PART II COMMUNITY MEDIATION	174	
Community mediation	47. (1) Any dispute likely to affect peace, harmony and tranquility amongst the residents or families of any area or locality may be settled through community mediation.	175	
	<p>(2) In order to facilitate settlement of a dispute under sub-section (1), following authorities shall have power to notify panel of mediators which may be revised from time to time as per need:</p> <ul style="list-style-type: none"> (i) The State Legal Service Authority, District Legal Service Authority or Taluka Legal Service Authority, as the case may be; (ii) For the purpose of settling the disputes through community mediation, on an application filed by any party of community dispute, the District Magistrate or Sub-Divisional Magistrate may constitute a panel of mediators for facilitating the 	176	

	binding settlement of such dispute.		
	(3) The following persons may be included in the panel notified pursuant to sub-section (2); (a) persons of standing and integrity who are respected in the community. (b) Any local person including a state awardee whose contribution to the society has been recognised by the State (c) Representative of area/resident welfare associations. (d) Any other person deemed appropriate.	177	
	(4) While making panel pursuant to sub-section (3) the representation of women may also be considered.	178	
Procedure for Community mediation	48. (1) The mediators shall endeavor for resolving disputes through community based mediation and provide assistance to parties for resolving disputes amicably.	179	
	(2) Any community based mediation shall be conducted by a panel of community mediators who shall devise suitable procedure for the purpose of resolving the dispute.	180	
	(3) In every case where a mediated settlement agreement is arrived at through mediation the same may be recorded in writing with signature of the party or parties and authenticated by the mediators and in other cases a failure report may be submitted to State/District/Taluka Legal Services Authority / District Magistrate/ Sub Divisional Magistrate, as the case may be.	181	
	(4) The mediated settlement agreement signed by the parties and authenticated by the Mediators shall be dealt in the manner as provided under sub-section (7) of section 21 of this Act.	182	
	PART III ENFORCEMENT OF INTERNATIONAL COMMERCIAL SETTLEMENT AGREEMENTS RESULTING FROM MEDIATION	183	
	CHAPTER 1 INTERNATIONAL COMMERCIAL SETTLEMENT AGREEMENTS-THE	184	

SINGAPORE CONVENTION			
Definitions	49. In this Part, unless the context otherwise requires, “mediated settlement agreement” means an settlement agreement on differences between persons arising out of legal relationships, whether contractual or not, considered as commercial under the law in force in India, made on or after the <u>(date of ratification of UNISA)</u> in pursuance of an agreement in writing for mediation to which the Convention set forth in the First Schedule applies.	185	
	Provided that the provisions of this Part shall not apply to settlement agreements to which Union of India is a party, or to which any governmental agencies or any person acting on behalf of a governmental agency is a party.	186	
International Mediation Settlement Agreement	50. (1) Subject to the provisions of section 52 settlement Agreements shall be treated as binding for all purposes and shall be enforceable under this Part against the persons or any person claiming through or under them, as between whom it was made.	187	
	(2) The Settlement Agreement be relied upon by any of the said persons by way of defence, set-off or otherwise in any legal proceedings in India and any reference in this Part to enforce the International Commercial Mediation Settlement Agreement shall be construed and include reference to the same.	188	
Enforcement	51. (1) The Party applying for the enforcement of a Settlement Agreement shall, at the time of the application, produce before the High Court - (a) the Settlement Agreement or a copy thereof duly attested by the institution that administered the mediation in any of the manner required by law of the country in which it was made; and (b) such other evidence as may be required by the High Court to prove that the Settlement Agreement is covered under the Convention.	189	
	(2) If the Settlement Agreement and other evidence to be produced in terms of sub-section (1) is in a foreign language, the parties seeking to enforce the Settlement Agreement shall produce a translation into English duly	190	

		certified as correct by a diplomatic or consular agent of the country to which that party belongs; or certified as correct in such other manner as may be sufficient according to the law in force in India.		
		(3) Subject to sub-section (1) and (2) above a party to an international settlement agreement may — (a) apply to the High Court to record the agreement as an order of court for the purposes of invoking the agreement in any court proceedings in India involving a dispute concerning a matter that the party to the international settlement agreement claims was already resolved by the agreement, in order to prove that the matter has already been resolved; or	191	
		(b) in any proceedings in the High Court,— (i) to which the party to the international settlement agreement is a party; and (ii) which involves a dispute concerning a matter that the party claims was already resolved by the agreement, apply to the High Court to take the agreement on record in the proceedings in order to prove that the matter has already been resolved.	192	
		<i>Explanation-</i> In this Part, "High Court" means the High Court having original jurisdiction to decide the questions forming the subject matter of the Settlement Agreement if the same had been subject matter of a suit on its original civil jurisdiction and in other cases, in the High Court having jurisdiction to hear appeals from judgments and decrees of Courts subordinate to such High Court.	193	
Conditions Enforcement Settlement Agreement	For of	52. (1) Enforcement of a Settlement Agreement may be refused at the request of the party against whom it is sought to be enforced only if that party furnishes to the High Court proof that— (a) parties to the Mediation Agreement were, under the law applicable to them, under some incapacity or the said Agreement was null and void, inoperative or incapable of being performed under the law to which the parties have subjected it; or	194	

	<p>failing any indication thereon, under the law of the country where the International Mediation Settlement Agreement is sought to be enforced ; or</p> <p>(b) Is not binding, or is not final, according to its terms; or</p> <p>(c) Has been subsequently modified; or</p> <p>(d) The obligations in the settlement agreement have been performed or are not clear or comprehensible; or</p> <p>(e) Granting relief would be contrary to the terms of the settlement agreement; or</p> <p>(f) There was a serious breach by the mediator of standards applicable to the mediator or the mediation without which breach that party would not have entered into the settlement agreement; or</p> <p>(g) There was a failure by the mediator to disclose to the parties, circumstances that raise justifiable doubts as to the mediator's impartiality or independence and such failure to disclose had a material impact or undue influence on a party without which failure that party would not have entered into the settlement agreement;</p> <p>Provided that, if decisions on the matters submitted to mediation can be separated from those not submitted, that part of the Settlement Agreement which contains settlement on matters submitted to Mediation shall be enforced;</p>		
	<p>(2) Enforcement of the Settlement Agreement may also be refused if the High Court finds -</p> <p>(a) the subject matter of disputes is not capable of settlement by mediation under the law of India; or</p> <p>(b) the Settlement Agreement was induced or effected by fraud or corruption</p> <p>(c) It is in contravention with the public policy of India;</p>	195	
	<p><i>Explanation 1.</i>—For the avoidance of any doubt, it is clarified that a mediated settlement agreement is in conflict with the public policy of India, only if,—</p>	196	

	<ul style="list-style-type: none"> (i) the making of the settlement agreement was induced or affected by fraud or corruption; or (ii) it is in contravention with the fundamental policy of Indian law; or (iii) it is in conflict with the most basic notions of morality or justice. 		
Saving	53. Nothing in this Part shall prejudice any rights of any person under the Settlement Agreement or pending enforcement proceedings in India of any Settlement Agreement or of availing the said remedy as if this chapter had not been enacted.	197	
	PART IV MISCELLANEOUS	198	
Mediation Fund	54. (1) There shall be a fund to be called 'Mediation Fund' (hereinafter referred to as 'Fund') for the purposes of promotion, facilitation and encouragement of mediation under this Act. The fund shall be administered by the Council.	199	
	<p>(2) There shall be credited to the fund the following, namely:</p> <ul style="list-style-type: none"> (a) grants made by the Central Government or the State Government for the purposes of the Fund; (b) amounts deposited by persons as contributions to the Fund; (c) amounts received in the Fund from any other source; (d) interest on the above or other income received out of the investment made from the Fund. 	200	
	(3) 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.	201	
Power of the Central Government to Issue Directions	55. (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	202	

	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.	203	
Protection of Action taken in Good Faith	56. No suit, prosecution or other legal proceedings shall lie against the Government of India or any of its officer, or the Chairperson, Member or Officer of the Council or the 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 there under.	204	
Power to make rules	57. (1) The Central Government may, by notification in the official gazette, make rules for carrying out the provisions of this Act.	205	
	(2) In particular, and without prejudice to the generality of the foregoing power, such rules may make provision for— <ul style="list-style-type: none"> (a) the terms and conditions and the salaries and allowances payable to the Chairperson and Full-time Members under section 36(3); (b) the number of officers and employees of the Secretariat of the Council under section 41(4); (c) any other matter in respect of which provision is to be made under this Act. 	206	
Power to make Regulations	58. (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.	207	
	(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may make provision for— <ul style="list-style-type: none"> (a) Bodies that may be specified mediation service provider under 3 (i). (b) Specify qualification, experience and accreditation for mediators of foreign nationality under section 10(1). (c) Maintenance of Depository of mediated settlement agreements under section 25. (d) Specify manner of process of conducting online mediation under section 32. 	208	

	<ul style="list-style-type: none"> (e) Mediation communication under section 34. (f) Terms and conditions of Committees of experts under section 40. (g) qualifications, appointment and other terms and conditions of the service of the Chief Executive Officer under section 41(2). (h) Functions of Chief Executive Officer under section 41(3). (i) the qualifications, experience, method of selection and the functions of the employees and other officers of the Council under section 41(5). (j) Manner of conduct of mediation under section 42(2)(b). (k) frame policies and lay down norms, qualification and experience for accreditation of mediators under section 42(2)(c)(i). (l) Specify conditions for registration of mediators and renewal, withdrawal, suspension or cancellations of such registrations under section 42(2)(c)(iv). (m) lay down standards for professional ethical conduct of mediators under section 42(2)(c)(v). (n) Norms for grading of mediation service provider under section 43. (o) Recognition of mediation institutes under section 45. (p) Functions to be performed by mediation institutes under section 46. (q) any other matter in respect of which provision is necessary for the performance of functions of the Council under this Act. 		
<p>Rules and Regulations to be laid before Parliament</p>	<p>59. Every rule and regulation made under this Act shall be laid, as soon as may be after it is 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 rule or regulation or both Houses agree that the rule or</p>	<p>209</p>	

	regulation should not be made, the 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 rule or regulation.		
Power to remove difficulties	60. (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 three years from the date of commencement of this Act.	210	
	(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.	211	
Act not in derogation.-	61. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law providing for mediation for the time being in force.	212	
Appointed Dates, Repeal and Savings	62. This Act shall not apply to, or in relation to, any mediation commenced before the coming into force of this Act.	213	
Amendment to Indian Contract Act, 1872	63. The Indian Contract Act, 1872, shall be amended in the manner specified in the Schedule III appended to this Act.	214	
Amendment to Arbitration and Conciliation Act, 1996	64. The Arbitration and Conciliation Act, 1996 shall be amended in the manner specified in the Schedule IV appended to this Act.	215	
Amendments to the Code of Civil Procedure, 1908	65. The Code of Civil Procedure, 1908 shall be amended in the manner specified in the Schedule V appended to this Act.	216	
Amendments to the Commercial Courts Act, 2015	66. The Commercial Courts Act, 2015 shall be amended in the manner specified in the Schedule VI appended to this Act.	217	
Amendments to the Legal Service Authorities Act, 1987	67. The Legal Service Authorities Act, 1987 shall be amended in the manner specified in the Schedule VII appended to this Act.	218	

	<p style="text-align: center;">SCHEDULE I</p> <p style="text-align: center;">United Nations Convention on International Settlement Agreements Resulting from Mediation (See Section 49)</p> <p style="text-align: center;">Preamble</p> <p><i>The Parties to this Convention,</i></p> <p><i>Recognizing</i> the value for international trade of mediation as a method for settling commercial disputes in which the parties in dispute request a third person or persons to assist them in their attempt to settle the dispute amicably,</p> <p><i>Noting</i> that mediation is increasingly used in international and domestic commercial practice as an alternative to litigation,</p> <p><i>Considering</i> that the use of mediation results in significant benefits, such as reducing the instances where a dispute leads to the termination of a commercial relationship, facilitating the administration of international transactions by commercial parties and producing savings in the administration of justice by States,</p> <p><i>Convinced</i> that the establishment of a framework for international settlement agreements resulting from mediation that is acceptable to States with different legal, social and economic systems would contribute to the development of harmonious international economic relations,</p> <p><i>Have agreed</i> as follows:</p>	219	
	<p style="text-align: center;">Article 1. Scope of application</p> <p>1. This Convention applies to an agreement resulting from mediation and concluded in writing by parties to resolve a commercial dispute (“settlement</p>	220	

	<p>agreement”) which, at the time of its conclusion, is international in that:</p> <p>(a) At least two parties to the settlement agreement have their places of business in different States; or</p> <p>(b) The State in which the parties to the settlement agreement have their places of business is different from either:</p> <p>(i) The State in which a substantial part of the obligations under the settlement agreement is performed; or</p> <p>(ii) The State with which the subject matter of the settlement agreement is most closely connected.</p>		
	<p>2. This Convention does not apply to settlement agreements:</p> <p>(a) Concluded to resolve a dispute arising from transactions engaged in by one of the parties (a consumer) for personal, family or household purposes;</p> <p>(b) Relating to family, inheritance or employment law.</p>	221	
	<p>3. This Convention does not apply to:</p> <p>(a) Settlement agreements:</p> <p>(i) That have been approved by a court or concluded in the course of proceedings before a court; and</p> <p>(ii) That are enforceable as a judgment in the State of that court;</p> <p>(b) Settlement agreements that have been recorded and are enforceable as an arbitral award.</p>	222	
	<p style="text-align: center;">Article 2. Definitions</p> <p>1. For the purposes of article 1, paragraph 1:</p> <p>(a) If a party has more than one place of business, the relevant place of business is that which has the closest relationship to the dispute resolved by the settlement agreement, having regard to the circumstances known to, or contemplated by, the parties at the time of the conclusion of the settlement agreement;</p> <p>(b) If a party does not have a place of business, reference is to be made to the party’s habitual residence.</p>	223	

	2. A settlement agreement is “in writing” if its content is recorded in any form. The requirement that a settlement agreement be in writing is met by an electronic communication if the information contained therein is accessible so as to be useable for subsequent reference.	224	
	3. “Mediation” means a process, irrespective of the expression used or the basis upon which the process is carried out, whereby parties attempt to reach an amicable settlement of their dispute with the assistance of a third person or persons (“the mediator”) lacking the authority to impose a solution upon the parties to the dispute.	225	
	Article 3. General principles 1. Each Party to the Convention shall enforce a settlement agreement in accordance with its rules of procedure and under the conditions laid down in this Convention.	226	
	2. If a dispute arises concerning a matter that a party claims was already resolved by a settlement agreement, a Party to the Convention shall allow the party to invoke the settlement agreement in accordance with its rules of procedure and under the conditions laid down in this Convention, in order to prove that the matter has already been resolved.	227	
	<p style="text-align: center;">Article 4. Requirements for reliance on settlement agreements</p> <p>1. A party relying on a settlement agreement under this Convention shall supply to the competent authority of the Party to the Convention where relief is sought:</p> <ul style="list-style-type: none"> (a) The settlement agreement signed by the parties; (b) Evidence that the settlement agreement resulted from mediation, such as: <ul style="list-style-type: none"> (i) The mediator’s signature on the settlement agreement; (ii) A document signed by the mediator indicating that the mediation was carried out; (iii) An attestation by the institution that administered the mediation; or 	228	

	(iv) In the absence of (i), (ii) or (iii), any other evidence acceptable to the competent authority.		
	<p>2. The requirement that a settlement agreement shall be signed by the parties or, where applicable, the mediator is met in relation to an electronic communication if:</p> <p>(a) A method is used to identify the parties or the mediator and to indicate the parties' or mediator's intention in respect of the information contained in the electronic communication; and</p> <p>(b) The method used is either:</p> <p>(i) As reliable as appropriate for the purpose for which the electronic communication was generated or communicated, in the light of all the circumstances, including any relevant agreement; or</p> <p>(ii) Proven in fact to have fulfilled the functions described in subparagraph (a) above, by itself or together with further evidence.</p>	229	
	3. If the settlement agreement is not in an official language of the Party to the Convention where relief is sought, the competent authority may request a translation thereof into such language.	230	
	4. The competent authority may require any necessary document in order to verify that the requirements of the Convention have been complied with.	231	
	5. When considering the request for relief, the competent authority shall act expeditiously.	232	
	<p>Article 5. Grounds for refusing to grant relief</p> <p>1. The competent authority of the Party to the Convention where relief is sought under article 4 may refuse to grant relief at the request of the party against whom the relief is sought only if that party furnishes to the competent authority proof that:</p> <p>(a) A party to the settlement agreement was under some incapacity;</p> <p>(b) The settlement agreement sought to be relied upon:</p> <p>(i) Is null and void, inoperative or incapable of</p>	233	

	<p>being performed under the law to which the parties have validly subjected it or, failing any indication thereon, under the law deemed applicable by the competent authority of the Party to the Convention where relief is sought under article 4;</p> <p>(ii) Is not binding, or is not final, according to its terms; or</p> <p>(iii) Has been subsequently modified;</p> <p>(c) The obligations in the settlement agreement:</p> <p>(i) Have been performed; or</p> <p>(ii) Are not clear or comprehensible;</p> <p>(d) Granting relief would be contrary to the terms of the settlement agreement;</p> <p>(e) There was a serious breach by the mediator of standards applicable to the mediator or the mediation without which breach that party would not have entered into the settlement agreement; or</p> <p>(f) There was a failure by the mediator to disclose to the parties circumstances that raise justifiable doubts as to the mediator's impartiality or independence and such failure to disclose had a material impact or undue influence on a party without which failure that party would not have entered into the settlement agreement.</p>		
	<p>2. The competent authority of the Party to the Convention where relief is sought under article 4 may also refuse to grant relief if it finds that:</p> <p>(a) Granting relief would be contrary to the public policy of that Party; or</p> <p>(b) The subject matter of the dispute is not capable of settlement by mediation under the law of that Party.</p>	234	
	<p>Article 6. Parallel applications or claims</p> <p>If an application or a claim relating to a settlement agreement has been made to a court, an arbitral tribunal or any other competent authority which may affect the relief being sought under article 4, the competent authority of the Party to the Convention where such relief is sought may, if it considers it proper, adjourn the</p>	235	

	decision and may also, on the request of a party, order the other party to give suitable security.		
	<p style="text-align: center;">Article 7. Other laws or treaties</p> <p>This Convention shall not deprive any interested party of any right it may have to avail itself of a settlement agreement in the manner and to the extent allowed by the law or the treaties of the Party to the Convention where such settlement agreement is sought to be relied upon.</p>	236	
	<p style="text-align: center;">Article 8. Reservations</p> <p>1. A Party to the Convention may declare that: (a) It shall not apply this Convention to settlement agreements to which it is a party, or to which any governmental agencies or any person acting on behalf of a governmental agency is a party, to the extent specified in the declaration; (b) It shall apply this Convention only to the extent that the parties to the settlement agreement have agreed to the application of the Convention.</p>	237	
	2. No reservations are permitted except those expressly authorized in this article.	238	
	3. Reservations may be made by a Party to the Convention at any time. Reservations made at the time of signature shall be subject to confirmation upon ratification, acceptance or approval. Such reservations shall take effect simultaneously with the entry into force of this Convention in respect of the Party to the Convention concerned. Reservations made at the time of ratification, acceptance or approval of this Convention or accession thereto, or at the time of making a declaration under article 13 shall take effect simultaneously with the entry into force of this Convention in respect of the Party to the Convention concerned. Reservations deposited after the entry into force of the Convention for that Party to the Convention shall take effect six months after the date of the deposit.	239	
	4. Reservations and their confirmations shall be deposited with the depositary.	240	
	5. Any Party to the Convention that makes a	241	

	reservation under this Convention may withdraw it at any time. Such withdrawals are to be deposited with the depositary, and shall take effect six months after deposit.		
	<p style="text-align: center;">Article 9. Effect on settlement agreements</p> <p>The Convention and any reservation or withdrawal thereof shall apply only to settlement agreements concluded after the date when the Convention, reservation or withdrawal thereof enters into force for the Party to the Convention concerned.</p>	242	
	<p style="text-align: center;">Article 10. Depositary</p> <p>The Secretary-General of the United Nations is hereby designated as the depositary of this Convention.</p>	243	
	<p style="text-align: center;">Article 11. Signature, ratification, acceptance, approval, accession</p> <p>1. This Convention is open for signature by all States in Singapore, on 7 August 2019, and thereafter at United Nations Headquarters in New York.</p>	244	
	2. This Convention is subject to ratification, acceptance or approval by the signatories.	245	
	3. This Convention is open for accession by all States that are not signatories as from the date it is open for signature.	246	
	4. Instruments of ratification, acceptance, approval or accession are to be deposited with the depositary.	247	
	<p style="text-align: center;">Article 12. Participation by regional economic integration organizations</p> <p>1. A regional economic integration organization that is constituted by sovereign States and has competence over certain matters governed by this Convention may similarly sign, ratify, accept, approve or accede to this Convention. The regional economic integration organization shall in that case have the rights and obligations of a Party to the Convention, to the extent that that organization has competence over matters governed by this Convention. Where the number of Parties to the Convention is relevant in this Convention,</p>	248	

	the regional economic integration organization shall not count as a Party to the Convention in addition to its member States that are Parties to the Convention.		
	2. The regional economic integration organization shall, at the time of signature, ratification, acceptance, approval or accession, make a declaration to the depositary specifying the matters governed by this Convention in respect of which competence has been transferred to that organization by its member States. The regional economic integration organization shall promptly notify the depositary of any changes to the distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.	249	
	3. Any reference to a “Party to the Convention”, “Parties to the Convention”, a “State” or “States” in this Convention applies equally to a regional economic integration organization where the context so requires.	250	
	4. This Convention shall not prevail over conflicting rules of a regional economic integration organization, whether such rules were adopted or entered into force before or after this Convention: (a) if, under article 4, relief is sought in a State that is member of such an organization and all the States relevant under article 1, paragraph 1, are members of such an organization; or (b) as concerns the recognition or enforcement of judgments between member States of such an organization.	251	
	Article 13. Non-unified legal systems	252	
	1. If a Party to the Convention has two or more territorial units in which different systems of law are applicable in relation to the matters dealt with in this Convention, it may, at the time of signature, ratification, acceptance, approval or accession, declare that this Convention is to extend to all its territorial units or only to one or more of them, and may amend its declaration by submitting another declaration at any time.		
	2. These declarations are to be notified to the depositary and are to state expressly the territorial units to which the Convention extends.	253	

	<p>3. If a Party to the Convention has two or more territorial units in which different systems of law are applicable in relation to the matters dealt with in this Convention:</p> <p>(a) Any reference to the law or rule of procedure of a State shall be construed as referring, where appropriate, to the law or rule of procedure in force in the relevant territorial unit;</p> <p>(b) Any reference to the place of business in a State shall be construed as referring, where appropriate, to the place of business in the relevant territorial unit;</p> <p>(c) Any reference to the competent authority of the State shall be construed as referring, where appropriate, to the competent authority in the relevant territorial unit.</p>	254	
	<p>4. If a Party to the Convention makes no declaration under paragraph 1 of this article, the Convention is to extend to all territorial units of that State.</p>	255	
	<p style="text-align: center;">Article 14. Entry into force</p> <p>1. This Convention shall enter into force six months after deposit of the third instrument of ratification, acceptance, approval or accession.</p>	256	
	<p>2. When a State ratifies, accepts, approves or accedes to this Convention after the deposit of the third instrument of ratification, acceptance, approval or accession, this Convention shall enter into force in respect of that State six months after the date of the deposit of its instrument of ratification, acceptance, approval or accession. The Convention shall enter into force for a territorial unit to which this Convention has been extended in accordance with article 13 six months after the notification of the declaration referred to in that article.</p>	257	
	<p style="text-align: center;">Article 15. Amendment</p> <p>1. Any Party to the Convention may propose an amendment to the present Convention by submitting it to the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the Parties to the Convention with a request that they indicate whether they favour a</p>	258	

	conference of Parties to the Convention for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the Parties to the Convention favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations.		
	2. The conference of Parties to the Convention shall make every effort to achieve consensus on each amendment. If all efforts at consensus are exhausted and no consensus is reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the Parties to the Convention present and voting at the conference.	259	
	3. An adopted amendment shall be submitted by the depositary to all the Parties to the Convention for ratification, acceptance or approval.	260	
	4. An adopted amendment shall enter into force six months after the date of deposit of the third instrument of ratification, acceptance or approval. When an amendment enters into force, it shall be binding on those Parties to the Convention that have expressed consent to be bound by it.	261	
	5. When a Party to the Convention ratifies, accepts or approves an amendment following the deposit of the third instrument of ratification, acceptance or approval, the amendment shall enter into force in respect of that Party to the Convention six months after the date of the deposit of its instrument of ratification, acceptance or approval.	262	
	Article 16. Denunciations	263	
	1. A Party to the Convention may denounce this Convention by a formal notification in writing addressed to the depositary. The denunciation may be limited to certain territorial units of a non-unified legal system to which this Convention applies.		
	2. The denunciation shall take effect 12 months after the notification is received by the depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation shall take	264	

	<p>effect upon the expiration of such longer period after the notification is received by the depositary. The Convention shall continue to apply to settlement agreements concluded before the denunciation takes effect.</p> <p>DONE in a single original, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic.</p>		
	<p style="text-align: center;">SCHEDULE II [Refer section 7] DISPUTES WHICH MAY NOT BE FIT FOR RESOLUTION THROUGH MEDIATION UNDER PART 1</p> <p>(i) Disputes of serious and specific allegations of fraud, fabrication of documents, forgery, impersonation, coercion.</p> <p>(ii) Disputes relating to claims against minors, deities, persons with intellectual disabilities, [under clause (2) of the schedule and persons with disability having high support needs (as defined in Section 2 (t)] of the Rights of Persons with Disabilities Act, 2016, persons with mental illness, as defined by Section 2 (s) of the Mental Health Care Act, 2017, persons of unsound mind, in relation to whom proceedings are to be conducted under Order 32 Code of Civil Procedure, 1908 and suits for declaration of title against government.</p> <p>(iii) Disputes involving prosecution for non-compoundable criminal offences except with the permission of the court.</p> <p>(iv) Disputes matters which are prohibited under any law or is in conflict with public policy or is opposed to basic notions of morality or justice;</p> <p>(v) Complaints or proceedings, initiated before any statutory authority or body, in relation to registration, discipline, misconduct of any practitioner, or other registered professional, of whatever description, such as legal practitioner,</p>	265	

	<p>medical practitioner, dentist, architect, chartered accountant, or any in relation to any other profession, which is regulated by provisions of law.</p> <p>(vi) Disputes which have the effect on rights of a third party who are not a party to the mediation proceedings.</p> <p>(vii) Any dispute relating to the validity of a patent, or proceedings relating to applications for compulsory licensing under the Patent Act, 1970;</p> <p>(viii) Any dispute or proceeding in relation to validity of registration under the Copyright Act, 1957, or application for grant of license, or fixation of any fee under the said Act;</p> <p>(ix) Any proceeding in relation to any subject matter, falling within any enactment, over which the tribunal constituted under the National Green Tribunals Act, 2010, has jurisdiction;</p> <p>(x) 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 of India;</p> <p>(xi) Any investigation, inquiry or proceeding, under the Competition Act, 2002, 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 or Telecom Disputes Settlement and Appellate Tribunal (TDSAT),</p> <p>(xii) Proceedings before appropriate Commissions, and the Appellate Tribunal for Electricity, under the Electricity Act, 2003;</p> <p>(xiii) 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;</p> <p>(xiv) Proceedings before the Securities Exchange Board of India, and the Securities Appellate</p>		
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	<p>Tribunal, under the Securities Exchange Board of India Act, 1992;</p> <p>(xv) Land acquisition and determination of compensation under land acquisition laws, or any provision of law providing for land acquisition;</p> <p>(xvi) Any other subject-matter of dispute which may be notified by the Central Government in the Official Gazette.</p> <p><i>Explanation:</i> The above list is indicative and not exhaustive.</p>		
	<p style="text-align: center;">SCHEDULE-III (See Section 63)</p> <p>Contract Act, 1872:</p> <p>For Exception 1 to Section 28 of the Contract Act, 1872 the following shall be substituted:</p> <p>Exception I: Saving of contract to refer to mediation or arbitration dispute that may arise:</p> <p>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 subject shall be referred to resolution through arbitration or mediation.</p>	266	
	<p style="text-align: center;">SCHEDULE- IV (See Section 64)</p> <p>Amendments to Arbitration and Conciliation Act, 1996</p> <p>1. Part III of the Arbitration and Conciliation Act, 1996 containing Section 61-81 shall be substituted as follows:</p> <p>“61. (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 Arbitration and Conciliation Act, 1996 shall be construed as</p>	267	

	<p>reference to mediation as provided for under the Mediation Act, 2021.</p> <p>(2) The Conciliation as provided for under this Act or the code of Civil procedure shall be construed as mediation as defined in the Mediation Act, 2021.</p> <p>62. Saving.- Notwithstanding anything contained in section 61 any conciliation proceedings initiated under part III of the Arbitration and Conciliation Act, 1996 before the commencement of the Mediation Act, 2021 shall be continued as such and the Mediation Act, 2021 shall not have any bearing on status and effect of any settlement arrived through such conciliation proceedings.”</p>		
	<p style="text-align: center;">SCHEDULE- V (See Section 65)</p> <p>Amendment to the Code of Civil Procedure, 1908.</p> <p>1. For section 89 following shall be substituted:</p> <p>“89. Settlement of disputes outside the Court.—</p> <p>(1) Where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties, the Court may at the first instance or at any stage thereafter, refer the parties for a possible settlement through :-—</p> <p style="padding-left: 40px;">(a) arbitration;</p> <p style="padding-left: 40px;">(b) conciliation or mediation;</p> <p style="padding-left: 40px;">(c) judicial settlement including settlement through Lok Adalat.</p> <p>(2) Where a dispute has been referred—</p> <p style="padding-left: 40px;">(a) for arbitration, 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;</p> <p style="padding-left: 40px;">(b) for conciliation or mediation, the provisions of the Mediation Act, 2021 shall apply as if the</p>	268	

	<p>proceedings for conciliation or mediation were referred for settlement under the provisions of that Act;</p> <p>(c) to Lok Adalat, the Court shall refer the same to the Lok Adalat in accordance with the provisions of sub-section (1) of section 20 of the Legal Services Authority Act, 1987 (39 of 1987) and all other provisions of that Act shall apply in respect of the dispute so referred to the Lok Adalat;</p> <p>(d) for judicial settlement, the Court shall effect a compromise between the parties and shall follow such procedure as may be prescribed by the Central Government.</p>		
	<p style="text-align: center;">SIXTH SCHEDULE (See Section 66)</p> <p style="text-align: center;">Commercial Courts Act, 2015</p> <p>1. After sub-section (1) of Section 12-A following sub-section shall be inserted as follows:</p> <p>“(1A) Pre institution mediation may be conducted online or otherwise.”</p> <p>2. Sub-section (2) of the Section 12-A shall be substituted and read as follows:</p> <p>“(2) For the purposes of pre-institution mediation, the Central Government may, by notification, authorise</p> <p>(i) the Authorities constituted under the Legal Services Authorities Act, 1987 (39 of 1987); or</p> <p>(ii) any other mediation service provider as defined under the Mediation Act, 2021.”</p>	269	
	<p style="text-align: center;">SEVENTH SCHEDULE (See Section 67)</p> <p style="text-align: center;">Legal Services Authorities Act, 1987</p> <p>1. Clause (f) of section 4 of the Act shall be substituted as follows:</p>	270	

	<p>“(f) encourage the settlement of disputes, including by online mode, by way of negotiations, arbitration, mediation and conciliation;”</p> <p>2. After clause (f) following clause may be inserted: “(fa) provide for registration of mediated settlement agreement arrived at between parties under the provisions of Mediation Act, 2021.”</p> <p>3. In sub-section (2) of section 7 of the Act after clause (c) following clause shall be inserted: “(ca) provide by way of regulation for registration of mediated settlement agreement arrived at between parties under section 21 (7) of Mediation Act, 2021. (cb) specify, by way of regulation, fee for registration of mediated settlement agreement under section 21 (8) of Mediation Act, 2021”</p> <p>4. In sub-section (2) of section 10 of the Act after clause (b) following clauses shall be inserted: “(ba) provide, by way of regulation, for registration of mediated settlement agreement arrived at between parties under section 21 (7) of Mediation Act, 2021. (bb) specify, by way of regulation, fee for registration of mediated settlement agreement under section 21 (8) of Mediation Act, 2021”</p>		
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