



ARBITRATION AND MEDIATION ACT 2023

Part II MEDIATION

MEDIATION

- PROVISIONS FOUND IN SECTIONS 67 to 87 OF THE ARBITRATION AND MEDIATION ACT 2023

- Has a total of 20 articles

DEFINITION

- A process HOWEVER referred
- Where parties request a third person (“the Mediator(s)”)
- To assist them in the attempt to reach an amicable settlement of their dispute arising
- Out of or related to a contractual or other legal relationship without imposing a settlement to the dispute

SCOPE

- International Commercial Mediation
- Domestic Commercial Mediation
- Domestic Civil Mediation
- Domestic and International Mediation Settlement Agreement(s)

THE SINGAPORE CONVENTION

- Singapore Convention established a regime for direct enforceability of settlement agreements resulting from mediation
- The Singapore Convention on Mediation is a multilateral treaty aiming to provide a worldwide uniform, efficient framework for the recognition and enforcement of mediated settlement agreements that resolve international commercial disputes

THE SINGAPORE CONVENTION

- The Act provides for the application of the Convention on International Settlement Agreements Resulting Mediation (Singapore Convention)
- Fifty six countries, including Nigeria, have signed to the convention by September 2023
- 11 countries have ratified the convention so far.

COMMENCEMENT

- An offer and invitation to mediate by one party in writing to the other party stating issues in dispute
- Acceptance leads to commencement
- No acceptance, no mediation
- Acceptance has to be within 30 days from date of invitation

NUMBER OF MEDIATORS

- There may be 1, 2, or 3 Mediators
- Parties must reach an agreement on the number of mediators
- Where there is more than one mediator, they act jointly

APPOINTING AUTHORITY

A large, faint watermark of the Institute of Chartered Mediators and Conciliators logo is centered in the background. The logo is circular with the text 'INSTITUTE OF CHARTERED MEDIATORS AND CONCILIATORS' around the perimeter. In the center, there is a stylized figure with arms raised, holding a shield. The figure is composed of geometric shapes in shades of green and grey.

- The parties themselves
- Recommendation of Mediation Provider
- Mediation Provider directly

AGREEMENT AS TO FEES

- Parties are obliged to bear their own costs in fees of the Mediator as well as the Mediation provider in equal shares.
- Parties may vary the provision of the Act in relation to fees
- A mediator is entitled to a fee and reimbursement of expenses incurred in connection with mediation, unless the Mediator agreed to mediate without fee

COMMUNICATION BETWEEN THE MEDIATOR(S) AND THE PARTIES

- The mediator(s) may meet with the parties jointly or separately
- Communication includes electronic communication

CONFIDENTIALITY

- All matters are confidential including the settlement agreement
- Disclosure is only allowed for the purpose of enforcement or implementation, or stopping the commission of crime

SETTLEMENT AGREEMENT

- The parties may draw up the settlement agreement by themselves
- Mediator(s) suggest and draft a settlement agreement if parties agree
- Mediator(s) cannot impose settlement on parties

TERMINATION OF MEDIATION PROCEEDINGS

- Mediation ends when the settlement agreement is signed
- Where the mediator(s) declare that there is no need to continue the mediation
- Where the parties declare that mediation should end
- Where one of the parties declares that mediation should end by informing the other party and the appointed mediator(s)

ENFORCEMENT OF SETTLEMENT AGREEMENT

- A signed settlement agreement by parties and evidence that settlement is from mediation, or
- Mediator/Mediation provider document evidencing mediation, or
- Any other evidence acceptable to the court

FORMS OF ENFORCEMENT OF SETTLEMENT AGREEMENT

- As a contract between the parties
- As consent Judgment, or
- As consent award

REFUSAL TO ENFORCE SETTLEMENT AGREEMENT

- Where a party was under some incapacity that renders the settlement agreement void, inoperative or incapable of being performed
- The agreement is not binding or is not final according to its terms, or
- The agreement has been subsequently modified

REFUSAL TO ENFORCE SETTLEMENT AGREEMENT

- The obligations in the settlement agreement have been performed, or are not clear or comprehensible
- Where granting relief would be contrary to the terms of the settlement agreement
- Where 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

QUESTIONS





**THANK YOU
FOR
LISTENING**
