

# The Consumer Protection (Mediation) Regulations, 2020

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# The Consumer Protection (Mediation) Regulations, 2020<sup>1</sup>

In exercise of the powers conferred by Section 103 of the **Consumer Protection Act, 2019** (35 of 2019), the National Consumer Disputes Redressal Commission, with the previous approval of the Central Government, hereby makes the following Regulations, namely—

**1. Short title and commencement.**—(1) These regulations may be called the **Consumer Protection (Mediation) Regulations, 2020**.

(2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definitions.**—(1) In these regulations, unless the context otherwise requires,—

- (a) “Act” means the Consumer Protection Act, 2019 (35 of 2019);
- (b) “Consumer Commission” means a District Consumer Disputes Redressal Commission established in a District under Section 28 of the Act, a State Consumer Disputes Redressal Commission established in a State under Section 42 of the Act or the National Consumer Disputes Redressal Commission established under Section 53 of the Act;
- (c) “Mediation Cell” means a Consumer Mediation Cell established under sub-section (1) of Section 74 and includes the Consumer Mediation Cell attached to the regional benches of the National Commission.
- (d) “party” means a party to a consumer dispute or any other proceeding pending before a Consumer Commission.
- (e) “rules” mean the rules made under the Act;
- (f) “section” means a section of the Act;
- (g) “settlement” means a settlement arrived at in the course of a mediation proceeding in respect of all or some of the issues involved in a consumer dispute pending before a Consumer Commission.

(2) The words and expressions used herein and not defined, but defined in the Act or the rules shall have the meaning as assigned to them in the Act or in the rules, as the case may be.

**3. Eligibility for empanelment as mediator.**—The following persons shall be eligible to be empanelled with a Mediation Cell—

- (i) retired Judges of Supreme Court of India;
- (ii) retired Judges of the High Courts;
- (iii) retired Members of a Consumer Commission;

1. National Consumer Disputes Redressal Commission, Noti. No. F. No. A-105/MR/NCDRC/2020, dated July 24, 2020 and published in the Gazette of India, Extra., Part III, Section 4, dated 24th July, 2020, pp. 6-9, No. 281

- (iv) retired District and Session Judges, retired Additional District and Session Judges or other retired Members of the Higher Judicial Services of a State;
- (v) retired Judicial officers, having experience of not less than ten years;
- (vi) an advocate with a minimum experience of ten years at Bar;
- (vii) the mediators empanelled with the Mediation Cell of the Supreme Court of India, High Court or a District Court;
- (viii) a person having experience of at least five years in mediation or conciliation;
- (ix) experts or other professionals with at least fifteen years' experience or retired senior bureaucrats or retired executives.

**4. Disqualifications for empanelment.**—(1) The following persons shall be disqualified for being empanelled as a Mediator, namely—

- (i) a person who has been adjudged as insolvent;
- (ii) person against whom criminal charges involving moral turpitude are framed by a criminal court and are pending;
- (iii) a person who has been convicted by a criminal court for any offence involving moral turpitude;
- (iv) a person against whom disciplinary proceedings have been initiated by the appropriate disciplinary authority and are pending or have resulted in a punishment.

(2) A person who is or has been interested in or connected with the subject matter of the consumer dispute or is related to or has been associated or connected in any manner, including in a professional capacity, with any of the parties to the consumer disputes or any of their associates, affiliates, promoters, holding companies, subsidiaries companies, partners, directors or employees, shall be disqualified for being nominated as a mediator in that case.

**5. Procedure for empanelment of mediator.**—(1) Each Consumer Commission shall invite applications from eligible persons for empanelment as mediators, by publication of a notice in at least one English and one vernacular newspaper widely circulated in its jurisdiction.

(2) The applications received by the Mediation Cell for empanelment as mediator shall be scrutinized and the list of eligible applications shall be placed before the selection committee constituted under sub-section (1) of Section 75.

(3) The Selection Committee shall determine its procedure for making its recommendation and, after taking into account the suitability, integrity as well as relevant experience of the candidates, recommend a panel to be maintained by the Mediation Cell.

(4) The panel of mediation shall consist of not more than such number of persons in the Mediation Cells attached to a Consumer Commission as may be decided by the President of that Consumer Commission.

(5) The consent of the persons whose names are included in the panel shall be obtained before empanelling them.

(6) The Mediation Cell shall be headed by the President of the Consumer Commission.

**6. Removal of mediator.**—If a mediator is discovered to be disqualified or he in any manner misconducts himself as a mediator or he is otherwise found unsuitable to continue as a mediator, the Mediation Cell may remove his name from the panel of mediators after giving an opportunity of hearing to him.

**7. Re-empowerment of mediator.**—Only such mediators shall be eligible for re-empowerment who, in the opinion of the Mediation Cell, have successfully and efficiently discharged their functions as empanelled mediators and such re-empowerment is made on the basis of the recommendation of the Selection Committee.

**8. Fee of mediators.**—(1) A consolidated fee, in a successful mediation shall be paid to the mediator, who conducts the mediation proceedings, from the time of reference till their conclusion.

(2) The fee of the mediator empanelled with a Consumer Commission, including costs of secretarial assistance and other ancillary expenses, shall be fixed by the President of the respective Consumer Commission, case wise, considering the nature of the dispute.

(3) In an unsuccessful mediation, half of the aforesaid fee will be paid to the mediator.

(4) The fee of the mediator shall be shared equally by the two sets of parties.

(5) The mediator who successfully conducts part of the proceedings will be paid such fee as may be fixed by the President of the Consumer Commission.

(6) The fee shall be deposited in advance, with the Mediation Cell.

(7) If a party does not deposit his share of the fee or the cost of mediation, the Consumer Commission may, on the application of the mediator or any other party, direct the party in default to deposit the same within a week, and if—

(i) he fails to deposit such fee or cost, the Consumer Commission may permit the other parties to deposit the same and recover the said amount, from the party in default, in the manner prescribed for the execution of a money decree by a Civil Court;

(ii) no other party deposits the share of the party in default, the Consumer Commission may terminate the mediation proceedings.

**9. Training.**—The mediators shall be given appropriate training in conducting mediation by such experts as may be nominated by the Mediation Cell and it shall be obligatory for them to attend such training.

**10. Code of conduct.**—(1) The empanelled mediators shall not communicate, directly or indirectly with any of the parties or their associates, affiliates, promoters, holding companies, subsidiaries companies, directors, partners or employees or with any of their counsel during pendency of the mediation proceedings, except during the course of the mediation, in the presence of the parties or their counsel.

(2) The empanelled mediator shall not accept any gift or hospitality from any of the parties or their associates, affiliates, promoters, holding companies, subsidiaries companies, directors, partners or employees or any of their counsel.

(3) In addition to the disclosure required under clauses (a) and (b) of Section 77 each mediator shall disclose the following information before commencement of the mediation in a case assigned to him, namely—

- (i) whether he has or in the past had any personal, business or professional relationship or connection with any of the parties to the consumer dispute or other proceedings or any person associated or connected in any manner, to any of the parties or their associates, affiliates, parent companies, subsidiaries companies, directors, partners or employees;
- (ii) whether there exists any circumstance which may give rise to be reasonable doubt as to his independence and impartiality.

**11. Mediation proceedings.**—(1) The mediation shall be conducted in the presence of the parties or their authorised representatives or counsel.

(2) The mediation shall stand terminated on expiry of three months from the date of first appearance before the mediator unless the time for completion of mediation is extended by the Consumer Commission, in which case it shall stand terminated on expiry of such extended time.

(3) The parties shall be entitled to appear before the mediator in person or through their respective counsel or authorised representatives.

(4) The mediator shall be guided by the principles of natural justice and fair play but shall not be bound by the provisions of the Code of Civil Procedure, 1908 (5 of 1908) or the Indian Evidence Act, 1872 (1 of 1872).

(5) If a party does not participate in the mediation proceedings, the Consumer Commission may direct such a party to participate in the proceedings.

(6) The parties shall provide all such information to the mediator as may be reasonably required by him for conducting the mediation proceedings.

(7) The record of the proceedings shall be prepared by the mediator on every date and shall be signed by the parties or their Counsel, authorised representatives or Attorneys.

(8) The agreement executed between the parties shall be submitted by the mediator, to the Consumer Commission, in a sealed cover, with a forwarding letter.

(9) If no agreement is executed between the parties, within the time prescribed in these regulations, the mediator shall intimate so, to the Consumer Commission, without in any manner disclosing as to what transpired during the mediation proceedings, what was the stand taken by the parties or why the agreement could not be reached.

**12. Role of mediator.**—(1) The mediator shall attempt to facilitate a voluntary resolution of the disputes between the parties, assist them in removing the misunderstandings, if any, and generating options to resolve their disputes, but shall not impose any term or any settlement upon the parties.

(2) The mediator shall explain the terms of the agreement, to the parties, before obtaining their respective signatures on it.

**13. Confidentiality.**—(1) The parties and the mediator shall maintain confidentiality in respect of the events that transpire during the mediation proceedings and shall not use or rely upon any information, document etc. produced, the proposals and admissions made or the views expressed during the mediation proceedings.

(2) There shall be no audio or video recording of the mediation proceedings.

**14. Communications.**—The mediator shall not communicate with the Consumer Commission except by way of his report, with copies to all the parties.

**15. Immunity.**—(1) No mediator shall be liable for any civil or criminal proceedings, for any act done or omitted to be done bonafidely by him, in his capacity as a mediator.

(2) The mediator shall not be summoned by a party to appear in a Court or other forum, to testify in regard to any information received or the action taken by him during the mediation proceedings.

**16. Reports.**—(1) Every Mediation Cell shall submit a quarterly report to the District Commission, the State Commission or the National Commission to which it is attached, containing the following information, namely—

- (a) a list of its empanelled mediators, including experience and qualifications of each of them;
- (b) the number of cases pending before it at the beginning of the quarter;
- (c) the number of cases referred to it during the quarter;
- (d) the number of cases disposed of during the quarter;
- (e) the number of cases pending at the end of the quarter;
- (f) the number of cases assigned to each mediator, the number of cases disposed of by him during the quarter and the number of cases in which the mediation referred to him was successful;
- (g) the number of cases in which the mediation was not successful;
- (h) the fee paid to each mediator during the quarter.

(2) The report shall be submitted within one month of the end of each quarter.