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# Mediation Act, 2023

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ACT NUMBER	YEAR ENACTED
<b>Act No. 32 of 2023</b>	<b>2023</b>

### KEY PROVISIONS

- 1 Section 5 — Pre-litigation mediation mandatory before filing suit in civil and commercial disputes (with exceptions)
- 2 Section 27 — Mediated settlement agreements are enforceable as court decrees
- 3 Section 31 — Establishment of the Mediation Council of India as a regulatory body
- 4 Section 18 — Mediation must be completed within 120 days, extendable by 60 days
- 5 Section 22 — Online mediation expressly recognised and permitted
- 6 Section 41 — Mediation Service Providers to be registered with the Mediation Council
- 7 Section 46 — Community mediation for disputes affecting peace and harmony in a locality

## BACKGROUND

The Mediation Act, 2023 was enacted to promote and facilitate mediation — including online mediation — as a preferred mode of dispute resolution in India. The Act provides for enforcement of mediated settlement agreements, establishes the Mediation Council of India, and creates a framework for registration and accreditation of mediators and mediation service providers. The Act received Presidential assent on September 15, 2023.

India's judicial system is burdened with over 5 crore (50 million) pending cases across all courts as of 2024. The Supreme Court alone has over 80,000 pending cases, while High Courts carry a backlog of over 60 lakh cases. Alternative Dispute Resolution (ADR) mechanisms — arbitration, conciliation, mediation, and Lok Adalats — have long been recognised as essential for reducing this burden. While arbitration was governed by the Arbitration and Conciliation Act, 1996, mediation had no standalone statutory framework until this Act.

Previously, mediation was practiced under various scattered provisions — Section 89 of the Code of Civil Procedure (now replaced by BNSS), the Commercial Courts Act, 2015, the Consumer Protection Act, 2019, and the Companies Act, 2013. The Mediation Act, 2023 consolidates and expands this framework into a comprehensive statute. India is also a signatory to the United Nations Convention on International Settlement Agreements Resulting from Mediation (the Singapore Convention), which the Act enables India to implement domestically.

## KEY CONCEPTS

- **Pre-litigation mediation (Section 5):** Before filing a suit in court, parties must attempt mediation. This is mandatory unless the dispute involves urgent interim relief, criminal prosecution, actions against the Government under specific statutes, or matters listed in the First Schedule (e.g., disputes relating to claims against minors, persons of unsound mind, or where urgent relief is required). If mediation fails or one party does not participate, the court proceedings can begin.
- **Mediated settlement agreement (Section 27):** An agreement reached through mediation is final, binding, and enforceable as a judgment or decree of a court. This gives mediated outcomes the same legal force as court orders, removing uncertainty about enforcement.
- **Mediation Council of India (Section 31):** A body established by the Central Government to regulate mediation in India. Functions include recognition of mediation service providers, accreditation of mediators, setting professional and ethical standards, and reviewing the working of mediation institutions. The Chairperson and members are appointed by the Central Government.
- **Online mediation (Section 22):** Mediation proceedings can be conducted via audio-visual electronic means. This is particularly significant for cross-border disputes, disputes involving parties in different cities, and situations where physical attendance is impractical.
- **Community mediation (Section 46):** A panel of three mediators can conduct mediation in disputes that affect the peace, harmony, and tranquility of a locality. This is designed for neighbourhood disputes, public nuisance issues, and minor community conflicts that do not warrant formal litigation.
- **Confidentiality (Section 24):** All mediation proceedings and communications are confidential. They cannot be disclosed in any subsequent legal proceedings, arbitration, or before any court. This is essential for building trust in the mediation process.

## IMPORTANT PROVISIONS

- **Section 5 — Pre-litigation Mediation:** Parties must attempt mediation before approaching courts in civil and commercial disputes. A party may file a suit directly only if the matter falls under the First Schedule exceptions (urgent interim relief, fraud, criminal matters, etc.) or if the other party fails to participate in mediation within the stipulated time.

- **Section 18 — Timeline:** Mediation proceedings must be completed within 120 days from the date fixed for the first appearance of the parties before the mediator. This can be extended by 60 days with mutual consent of the parties (total maximum: 180 days). If mediation fails within this period, parties are free to approach courts.
- **Section 27 — Enforceability:** A mediated settlement agreement signed by the parties and authenticated by the mediator is enforceable as a decree of a court under the Code of Civil Procedure. For international mediation, the agreement is enforceable in accordance with the provisions applicable to enforcement of foreign awards.
- **Section 31 — Mediation Council of India:** Composition includes a Chairperson (retired Supreme Court or High Court judge, or an eminent person with experience in mediation), two full-time members, three ex-officio members (Secretary, Dept. of Legal Affairs; Secretary, Dept. of Expenditure; a Chief Justice nominee), and one part-time member.
- **Section 41 — Registration of Mediation Service Providers:** Institutions providing mediation services must register with the Mediation Council. Unregistered providers cannot conduct formal mediation under the Act.
- **Section 46 — Community Mediation:** Any dispute likely to affect the peace and harmony of a locality can be resolved through a panel of three community mediators. The settlement is not binding unless parties expressly agree to be bound.

## LANDMARK JUDGMENTS

- **Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (2010):** The Supreme Court classified disputes suitable for ADR mechanisms under Section 89 CPC. The Mediation Act codifies and expands this classification.
- **Salem Advocate Bar Association v. Union of India (2005):** The Supreme Court mandated courts to refer suitable cases to mediation under Section 89 CPC. The Act creates a standalone framework for this, replacing the ad hoc approach.
- **M/s Patil Automation Pvt. Ltd. v. Rakheja Engineers Pvt. Ltd. (2022):** The Supreme Court held that mediation clauses in commercial contracts should be taken seriously. The Mediation Act gives such clauses statutory backing.

## RECENT AMENDMENTS / DEVELOPMENTS

- **Mediation Council of India:** The Government notified the constitution of the Mediation Council of India in 2025. The rules for mediator accreditation and institutional registration are being finalised. As of 2025, India has over 4.4 crore (44 million) pending cases across courts, underscoring the urgency of operationalising mediation infrastructure.

- **Singapore Convention:** India signed the United Nations Convention on International Settlement Agreements Resulting from Mediation (Singapore Convention) on August 7, 2019. The Mediation Act enables domestic implementation, though India has not yet ratified the Convention as of March 2026.
- **Commercial mediation growth:** The Delhi High Court Mediation and Conciliation Centre, the Mumbai Centre for International Arbitration (MCIA), and NITI Aayog's Online Dispute Resolution (ODR) initiative are actively promoting mediation under the new Act. Several High Courts have begun referring commercial disputes to mediation in line with the Act.
- **Bar Council concerns:** Some Bar Associations have expressed concern that mandatory pre-litigation mediation may reduce litigation work for advocates. The Act addresses this by allowing legal representatives to participate in mediation.

## UPSC RELEVANCE

*Mediation Act, 2023 — Section 18 timeline (120+60 days); Mediation Council of India composition (Section 31); Singapore Convention on Mediation (signed 2019, not yet ratified); pre-litigation mediation requirement (Section 5); community mediation panel size (3 mediators, Section 46). **Mains GS-2:** Access to justice; pendency crisis (5 crore+ cases); ADR mechanisms and their statutory framework; judicial reforms; online dispute resolution; comparison of mediation with arbitration and Lok Adalat. **Interview:** "Is mandatory pre-litigation mediation a practical solution for a country where legal awareness is low and power asymmetries between parties can undermine fair mediation outcomes?"*

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