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Mediation Council of India Notified Three Years After the Act That Created It

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Mediation Council of India Notified Three Years After the Act That Created It

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✓ Every fact web-verified against primary sources

On **August 27, 2026**, the **Department of Legal Affairs, Ministry of Law and Justice**, notified the establishment of the **Mediation Council of India**, with its head office at **Delhi**, in exercise of powers under **Section 31(1) of the Mediation Act, 2023 (Act No. 32 of 2023)**. The notification states that the Central Government “establishes a Council for the purposes of the said Act, to be called as the Mediation Council of India.”

WHAT WAS NOTIFIED

This is an **executive notification constituting a statutory body**, not a fresh enactment. The Council was created in the Act of 2023; what happened on August 27 is that the Government finally brought it into existence.

As reported, the composition is:

POSITION	NUMBER
Chairperson	1
Full-time Members	2
Ex-officio Members	2
Ex-officio Member-Secretary	1
Part-time Member	1

Terms are of **four years**, with age ceilings of **70 for the Chairperson** and **67 for other Members**.

The date of the notification and its statutory basis are firm. The composition detail above rests on a single legal-press report; the gazette text itself was not retrievable at the time of writing. Treat the numbers as reported rather than as verified from the primary instrument.

WHAT THE COUNCIL IS FOR

The Council is the **regulator of the mediation ecosystem**. Its statutory functions include:

- **Registering mediators** and laying down qualifications and standards
- **Recognising, renewing, cancelling or suspending Mediation Service Providers**
- Maintaining an **electronic depository of mediated settlement agreements**
- Laying down professional and ethical conduct standards

It is a **body corporate** with perpetual succession and a common seal.

WHY THE THREE-YEAR GAP IS THE REAL STORY

The **Mediation Act, 2023** received assent in **September 2023**. Its central innovations were two.

First, pre-litigation mediation. Parties are required to attempt mediation before filing certain civil or commercial suits, whether or not there is a mediation agreement between them.

Second, enforceability. A **mediated settlement agreement** is given the status of a **judgment or decree of a court**, enforceable in the same manner, which removes the historic weakness of mediation outcomes being merely contractual.

Both depend on there being **accredited, regulated mediators and recognised service providers**. Neither can function properly without a body to accredit them, set standards and hold the register.

That body took about three years to constitute. The Act existed; its machinery did not. This is a clean, citable example of an **implementation deficit**: the gap between the enactment of a law and its operation.

CRITICAL ANALYSIS

The case for mediation is sound and the pendency numbers make it urgent. Indian courts carry a case backlog in the tens of millions. Mediation resolves disputes faster, at lower cost, with outcomes the parties designed themselves, and with relationships more often intact. For commercial disputes in particular, the case is close to unanswerable.

But the critique deserves equal space in a good answer.

Mandatory pre-litigation mediation is a filter, and filters have costs. Compelling a party to mediate before approaching a court adds a step, and where one party is simply using delay as a strategy, it adds a delay. The Act's answer is a time limit; whether that holds in practice is an **empirical** question nobody can yet answer.

Power asymmetry is the deeper problem. A court proceeding is **adversarial** precisely to protect the weaker party: there are rules of evidence, a judge, an appeal. Mediation is consensual and confidential, which is its strength between commercial equals and its weakness between a bank and a borrower, an employer and a worker, or a corporation and an individual consumer. **The mediator's training and ethics are the only safeguard**, which is exactly why the accreditation function that has been dormant for three years matters so much.

And ADR does not automatically reduce pendency. It reduces pendency only if it diverts cases that would otherwise have been filed. If it becomes an additional procedural stage that most disputes pass through before being filed anyway, it adds cost to the system rather than removing load. The evidence on this from other jurisdictions is mixed.

A national depository of settlement agreements is quietly significant. Once mediated settlements are enforceable as decrees, a searchable register is what prevents forum-shopping, duplicate settlements and fraudulent enforcement. It is the least discussed function and possibly the most consequential.

UPSC RELEVANCE

GS Paper 2: Statutory, regulatory and various quasi-judicial bodies; structure, organisation and functioning of the Judiciary; mechanisms and institutions for redressal; government policies and interventions and issues arising from their implementation.

Prelims angle: the Act number, the head office, the enabling section and the distinction between the four principal ADR mechanisms are all directly examinable.

Mains angle: *"A law is not operative on the date of its assent but on the date its institutions function."* Use the Mediation Council alongside other examples of delayed institutional constitution to argue that implementation capacity, not legislative intent, is India's binding constraint on reform.

★ FACTS CORNER — KNOWLEDGE PEDIA

THE NOTIFICATION:

Dated 27 August 2026, by the Department of Legal Affairs, Ministry of Law and Justice.

Made under Section 31(1) of the Mediation Act, 2023 (Act No. 32 of 2023).

Head office: Delhi. The Council is a body corporate with perpetual succession and a common seal.

The parent Act received assent in September 2023; the Council was constituted roughly three years later.

THE MEDIATION ACT, 2023:

Introduced pre-litigation mediation for specified civil and commercial disputes.

A mediated settlement agreement has the status of a judgment or decree of a court and is enforceable as such.

Establishes the Mediation Council of India to register mediators and to recognise, renew, cancel or suspend Mediation Service Providers.

Provides for an electronic depository of mediated settlement agreements.

India signed the Singapore Convention on Mediation (United Nations Convention on International Settlement Agreements Resulting from Mediation, 2019) in 2019; the Act was framed with that framework in view.

THE FOUR PRINCIPAL ADR MECHANISMS, AND HOW THEY DIFFER:

Arbitration: a third party hears both sides and delivers a binding award. Governed by the Arbitration and Conciliation Act, 1996.

Conciliation: a third party actively proposes terms of settlement; the parties may accept or reject.

Mediation: a neutral facilitates the parties in reaching their own agreement; the mediator does not decide or propose an outcome.

Lok Adalat: a statutory forum under the Legal Services Authorities Act, 1987, whose award is deemed a decree of a civil court and is final, with no appeal.

CONSTITUTIONAL AND STATUTORY HOOKS:

Article 39A: equal justice and free legal aid, a Directive Principle inserted by the 42nd Amendment, 1976.

Section 89, Code of Civil Procedure, 1908, inserted in 1999 and effective from 2002, empowers a court to refer a dispute to arbitration, conciliation, judicial settlement including Lok Adalat, or mediation.

NALSA, the National Legal Services Authority, is constituted under the Legal Services Authorities Act, 1987; its Patron-in-Chief is the Chief Justice of India.

Commercial Courts Act, 2015, as amended in 2018, already made pre-institution mediation mandatory for commercial disputes not seeking urgent interim relief.

WATCH THE TRAP:

Mediation is not conciliation. A conciliator may propose terms of settlement; a mediator only facilitates the parties in reaching their own. This distinction is frequently tested.

A Lok Adalat award is final and non-appealable; a mediated settlement agreement under the 2023 Act may be challenged on limited grounds such as fraud, corruption or impersonation.

The Mediation Council of India is a statutory body created by the 2023 Act, not a constitutional body and not a court.

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