

No. 4 of 2008.

National Court (Amendment) Act 2008.

Certified on : 08.08.08



No. of 2008.

National Court (Amendment) Act 2008.

ARRANGEMENT OF SECTIONS.

New Part 11A -

- "7A. DEFINITION."
- "7B. POWER TO ORDER MEDIATION, ETC.",
- "7C. CONDUCT OF MEDIATION."
- "7D. CONCLUSION OF MEDIATION."
- "7E. MEDIATION RULES."



No. . . of 2008.

AN ACT

entitled

National Court (Amendment) Act 2008.

Being an Act to amend the *National Court Act* (Chapter 38) to provide procedures for alternative dispute resolution through mediation and for related purposes,

MADE by the National Parliament.

NEW PART 11A.

The Principal Act is amended by adding immediately after Part II. the following new Part:-

"PART 11A. – MEDIATION.

"7A. Definition.

"In this Part, unless the contrary intention appears -

"mediation" includes all forms of dispute resolution other than the formal court process;

"mediator" means a person appointed to facilitate a mediation ordered under Section 7B and conducts a mediation under Section 7C of this Act.

"7B. POWER TO ORDER MEDIATION, ETC.,

"(1) In addition to the jurisdiction vested in the Court by Section 166 of the *Constitution*, and any other law, the Court -

- (a) may order a resolution of a dispute or a matter before it by mediation for an amicable resolution of the dispute; or
- (b) may order or direct a proceeding or any part of the proceeding to be inquired into and resolved by an appropriately qualified and experienced person or an expert in the issue.

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"(2) At any stage of a proceeding, the Court may, whether with or without the consent of the parties, order that the proceeding or a part of the proceeding before it be referred to mediation.

"(3) Where the Court decides to refer a matter to mediation the presiding judge -

- (a) may, with the consent of the parties, conduct the mediation; or
- (b) may with the parties' consent appoint a mediator of their choice to conduct the mediation; or
- (c) may failing the consent of the parties appoint a mediator from the Court's list of approved mediators.

"(4) At the time of ordering mediation, the Court shall stipulate the time frame within which the mediation should be progressed and be finalized and issue such directions or orders as it considers necessary for the purpose of the ordered mediation, including appropriate orders as to the costs of the mediation.

"(5) Unless the Court otherwise orders, an order for mediation shall not operate as a stay of the proceedings nor shall it be a cause for delaying in getting the case ready for trial.

"(6) For the purposes of Subsection (3)(c) herein, the Court shall develop and maintain a list of appropriately qualified and experienced mediators.

"7C. CONDUCT OF MEDIATION.

"(1) The mediation process shall endeavour to identify the issues in dispute, develop options, consider alternatives and endeavour to enable the parties to reach a resolution of the whole or the part of the dispute the subject of the mediation and referral.

"(2) Except as all the parties who attended the mediation in writing agree, no evidence shall be admitted in the Court proceeding or any other proceedings of anything said or done by any person at the mediation.

"(3) A mediator acting bona fide shall have the same immunity from prosecution as a judge of the Court.

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"7D. CONCLUSION OF MEDIATION.

- "(1) The mediator shall report to the Court -
- (a) on the progress of the mediation at any stage of the mediation; and
 - (b) at the termination of the mediation or at the expiry period allowed for the mediation, the outcome of the mediation.

"(2) The mediator shall not make any report to the Court other than a report under Subsection (1) herein.

"(3) Where a mediation results in a settlement, the Court may with the consent of the parties embody the terms of the settlement in a consent order disposing of the proceedings or that part of the proceeding to which it relates.

"(4) If the mediation does not result in a settlement of the relevant proceeding, the proceeding shall continue to trial before a judge other than the judge who mediated the dispute.

"7E. MEDIATION RULES.

"The judges may make rules of the Court to further elaborate and provide for the conduct of mediation, maintaining of appropriate standards and guidelines for mediation, qualification and training of mediators by appropriately qualified mediators and remuneration or fee for mediators."

I hereby certify that the above is a fair print of the *National Court (Amendment) Act 2008* which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *National Court (Amendment) Act 2008* was made by the National Parliament on 21 May 2008.

Speaker of the National Parliament.