

**[AS PASSED BY THE MAJLIS-E-SHOORA (PARLIAMENT)]**

**A**

**BILL**

*to provide for alternative dispute resolution*

**WHEREAS** the State is required to ensure inexpensive and expeditious justice;

**AND WHEREAS** an alternative dispute resolution system can facilitate settlement of disputes expeditiously without resort to formal litigation;

It is hereby enacted as follows:—

**1. Short title, extent and commencement.**— (1) This Act may be called the Alternative Dispute Resolution Act, 2017.

(2) It shall extend to the Islamabad Capital Territory.

(3) It shall come into force at once.

**2. Definitions.**— In this Act, unless there is anything repugnant in the subject or context,—

(a) 'Alternative Dispute Resolution (ADR)' means a process in which parties resort to resolving a dispute other than by adjudication by Courts and includes, but is not limited to, arbitration, mediation, conciliation and neutral evaluation;

(b) 'ADR Centre' means the ADR Centre notified by the Federal Government for the purposes of this Act;

(c) 'arbitration' means a process by which parties submit a dispute to the decision of a Neutral person or persons appointed by mutual consent or under a statutory or contractual provision;

(d) 'award' means an arbitration award;

(e) 'conciliation' means a process in which a neutral person encourages the parties to resolve their civil or commercial disputes voluntarily including by advising on possible solutions and terms of settlement;

(f) 'Court' means any court, tribunal or quasi-judicial fora having original jurisdiction;

- (g) 'Government' means the Federal Government;
- (h) 'High Court' means the High Court concerned;
- (i) 'mediation' means a process in which a Mediator facilitates dispute resolution by encouraging communication and negotiation between the parties, in order for them to arrive at a mutually satisfactory agreement;
- (j) 'Neutral' includes an arbitrator, conciliator, evaluator and mediator or any other impartial person who is included in the panel;
- (k) 'panel' means the panel of Neutrals notified under section 4;
- (l) 'prescribed' means prescribed by rules made under this Act;
- (m) 'rules' means the rules made under this Act;
- (n) 'Schedule' means a Schedule annexed to this Act; and
- (o) 'settlement' means the agreement reached between the parties as a result of successful ADR, other than an award.

**CHAPTER I  
CIVIL MATTERS**

**3. Reference to ADR.—** (1) The Court, on the first date after appearance of all parties, shall refer every civil matter mentioned in the Schedule for ADR except where—

- (a) any of the parties to the dispute do not agree for ADR ;
- (b) the Court, having regard to the facts and circumstances of the case, is satisfied that there is no possibility of resolution of the dispute through ADR; or
- (c) an intricate question of law or fact is involved.

(2) Before referral to ADR, the Court may frame issues with the consent of the parties for facilitating the settlement of the dispute:

Provided that the Neutral may frame additional issues if so required during the course of ADR proceedings, with the consent of the parties.

(3) The Court, on application of any party to the dispute before it, with the consent of all parties, may refer any civil matter mentioned in the Schedule to ADR at any stage of the proceedings.

(4) This section shall not apply where *ex parte* proceedings are subsisting against the defendant or the respondent:

Provided that even if such proceedings are set aside, the case shall not be referred to ADR unless the Court, keeping in view the stage of the proceedings of the case or any agreement of the parties, decides otherwise.

**4. Panel of Neutrals.—** (1) The Government, after consultation with the High Court, shall notify in the official Gazette a panel of Neutrals for each district from amongst lawyers with at least seven years practising experience, retired Judges, retired civil servants, , *ulema*, jurists, technocrats and experts and such other persons of repute and integrity having such qualifications and experience as may be prescribed:

Provided that due representation shall be given to women, having prescribed qualifications and experience, in the panel of neutrals.

(2) The Government may arrange such training courses for Neutrals as may be prescribed.

(3) The Government may, in the like manner as provided in sub-section (1), amend the panel by adding or modifying any entry therein or omitting any entry therefrom.

(4) The Government may not remove a Neutral once he is seized of the matter referred to him unless both parties agree on his replacement.

**5. Appointment of Neutrals.—** While referring the matter for ADR, the Court shall appoint a Neutral or any other person agreed upon by the parties or refer the matter to an ADR Centre:

Provided that where the parties neither agree on a Neutral nor any other person, the Court shall appoint a Neutral in its discretion:

Provided further that where one or both of the parties to the dispute are women, the Neutral shall preferably be a woman.

**6. Referral to ADR Centre.—** The Court may, with the consent of the parties, refer the matter to an ADR Centre:

Provided that if the case is referred to an ADR Centre and one or both of the parties to the dispute are women, the case shall preferably be dealt with by a team including a woman.

**7. Appearance of parties.—** Upon referring the matter for ADR, the Court shall direct the parties to appear before the Neutral or ADR Centre, as the case may be, on the date and time fixed by the Court.

**8. Reference to ADR before legal proceedings.—** (1) If the parties agree on ADR before initiating the proceedings in the Court, they may make an application to the Court or an ADR Centre for resolution of their dispute through ADR.

(2) On receipt of an application under sub—section (1), the Court or ADR Centre, as the case may be, shall refer the matter to a Neutral or such other person as may be agreed upon by the parties.

(3) The provisions of this Act shall *mutatis mutandis* apply to the proceedings under this section.

**9. ADR proceedings.--** (1) The parties to the dispute shall take part in the ADR proceedings in person or through duly authorized representatives or attorneys.

(2) A Neutral appointed by the Court or an ADR Centre to whom the matter is referred for mediation, conciliation or other mode of ADR shall dispose of the matter within a period of thirty days:

Provided that the Court or the ADR Centre, as the case may be, may for sufficient cause extend this period for further fifteen days on a request made by the Neutral.

(3) If the matter is referred to an Arbitrator, he shall complete the process within sixty days:

Provided that the Court may for sufficient cause extend this period for further thirty days on a request made by the Arbitrator.

(4) The Court may, from time to time, give such directions as it deems fit regarding the conduct of the ADR and the same shall be binding on the parties and the Neutral.

(5) Any party who fails to attend or who requests an adjournment in any ADR proceedings or fails to comply with a deadline stipulated either by the Court or by the Neutral or does any other act which has the effect of delaying the ADR proceedings, shall be liable to pay costs to the other party as may be determined by the Neutral.

**10. Settlement and award.—** (1) If as a result of the mediation or conciliation a settlement is reached between the parties, the Neutral shall record such settlement, duly witnessed and signed by him and by the parties or their duly authorized representatives or attorneys and submit it to the Court which shall pronounce judgment and pass decree in terms of the settlement.

(2) If the settlement relates only to part of the dispute, the Court shall pass order in terms of such settlement, while adjudicating upon the remaining part.

(3) The Arbitrator on determination of the dispute shall render a written award, duly signed by him and by the parties or their duly authorized representatives or attorneys and submit it to the Court which shall pronounce judgment and pass decree in terms of the award.

(4) If the Neutral was appointed by an ADR Centre before initiation of legal proceedings, he shall submit the settlement or award, duly witnessed and signed by him and by the parties or their duly authorized representatives or attorneys, to the said Centre which shall submit the same to the Court and the Court shall pronounce judgment and pass decree in terms of the settlement or award.

(5) If the parties have themselves resorted to ADR and a settlement is reached between them, they may make application to the Court to make the same Rule of the Court. The Court, if satisfied that the matter has been voluntarily settled and the document recording the settlement has been duly witnessed and signed by the parties, shall pronounce judgment and pass decree in terms of the settlement.