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Government of India

National Consumer Disputes Redressal Commission

New Delhi, the ……………..

**NOTIFICATION**

G.S.R. ... - 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, 2019.

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

**2.  Definitions.**- 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, a State Consumer Disputes Redressal Commission or the National Consumer Disputes Redressal Commission;

(c)   "rules" means the rules made under the Act;

(d)    "section" means a section of the Act:

(e)     words and expressions used in these regulations and not defined herein but defined  either in the Act or in the rules shall have the same meaning respectively assigned to them either in the Act or in the rules, as the case may be.

**3. Procedure for empanelment of mediators**.--

1. The National Commission or the State Commission shall invite applications from persons interested in getting empanelled as mediators and possessing the requisite qualifications specified in Regulation 4.
2. The District Commission shall invite applications from persons interested in getting empanelled as mediators and possessing the requisite qualifications specified in Regulation 5.
3. A person who intends to get empanelled as mediator and possesses the requisite qualifications shall apply to the respective Consumer Commission in Form -1.
4. Application received under sub-rule (1) and sub-rule (2), if rejected by the Consumer Commission, it shall record the reasons in writing for the same.
5. The National Commission, the State Commission or the District Commission, as the case may be, shall prepare a panel of experts willing and eligible to be appointed as mediators in the respective Consumer Commissions and such panel shall be placed on the websites of the National Commission and the State Commissions, Ministry of Consumer Affairs and on State Government website.

**4. Qualifications for Mediators for National Commission and State Commission.---** A person shall not be qualified for being empanelled as a mediator in the State Commission or the National Commission unless he is a person of ability, integrity, and standing and has adequate knowledge and experience in dealing with problems relating consumer issues and unless he--

1. has been a District and Sessions Judge ; or
2. has been a Member or Registrar of a Tribunal or Commission or Lok Adalat constituted at the National or State level under any law for the time being in force ; or
3. has been an officer in the Indian Corporate Law Service or Indian Legal Service; or
4. is a qualified legal practitioner for not less than seven years ; or
5. is or has been a professional for at least seven years of continuous practice as Chartered Accountant or Cost Accountant or Company Secretary ; or
6. has been a Member of any State Commission ; or
7. is an expert in mediation or conciliation who has successfully undergone training in mediation or conciliation; and has minimum experience of at least five years; or
8. retired member of a Regulatory Authority.

**5. Qualifications for Mediator for District Commission**.--In the case of District Commission, a person shall not be qualified for being empanelled as mediator unless he is a person of ability, integrity, and standing and has adequate knowledge and experience in dealing with problems relating consumer issues and unless he –

1. has been a District and sessions Judge.
2. is an expert in mediation or conciliation who has successfully undergone training in mediation or conciliation with minimum experience of at least three years; or
3. is a retired Government official from service departments having consumer interface; or
4. is a retired Member of a State Commission, District Commission or Legal Services Authority, or any Regulatory Authorities; or
5. is a retired official of legal department; or
6. is a qualified legal practitioner for not less than 5 years.
7. is or has been a professional for at least five years of continuous practice as Chartered Accountant or Cost Accountant or Company Secretary ; or
8. has been an officer in the Indian Corporate Law Service or Indian Legal Service; or

**6.** **Disqualifications of a Mediator.--** A person shall be disqualified for appointment as a mediator if he—

1. has been convicted by a criminal court for any offence involving moral turpitude or against whom criminal charges involving moral turpitude are framed by a criminal court and are pending; or
2. is an undischarged insolvent or has applied to be adjudicated as an insolvent and his application is pending; or
3. is of unsound mind and stands so declared by a competent court; or
4. has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or
5. has been punished in any disciplinary proceeding, by the appropriate disciplinary authority ; or
6. is interested or connected with the subject-matter of dispute(s) or is related to any one of the parties or to those who represent them, which is likely to affect prejudicially the discharge by him of his functions as a mediator; or
7. has such other disqualifications as may be prescribed by the Central/ State Government from time to time

**7. Deletion from the panel of mediators.--**The Consumer Commission shall, by recording reasons in writing and after giving an opportunity of being heard, remove any person from the panel of mediators.

**8. Withdrawing name from panel.--**Any person who intends to withdraw his name from the panel of mediators may make an application to the Consumer Commission concerned indicating the reasons for such withdrawal and the Consumer Commission shall take a decision on such application within fifteen days of receipt of such application and update the panel accordingly.

**9. Training of Mediators:-** Accreditation is necessary for empanelment of a mediator with consumer commission mediation panels. The mediators selected for empanelment in consumer commissions shall undergo a basic training of 40 hours under the Centre for Consumer Studies, Indian Institute for Public Administration, New Delhi or any other institute designated by the Central Government. The expenses for the training will be borne by the Central government .The trained mediators will be issued certificate of accreditation by the Centre for Consumer Studies or the designated institute, as the case may be.

**10. Duration of training:-T**he duration of training should be a minimum of 40 hours.

**11. Nature of training:-**  Training shall consists of :-

 (i) Theory

(ii) Exercises like role play and demonstration.

(iii) Practical training of mediating a few actual disputes under the guidance of a trainer or a trained mediator.

**12. CURRICULUM**

The curriculum for training shall include:-

* 1. Concept and process of Mediation.
	2. Evolution and Legislative History of mediation in India.
	3. Conflict management and resolution.
	4. Concept of Mediation.
	5. Types of Mediation.
	6. Advantages of Mediation.
	7. Difference between Mediation and other modes of Dispute Resolution.
	8. Stages of Mediation.
	9. Negotiation.
	10. Communication.
	11. Impasse management.
	12. Role of Mediator.
	13. Ethics and code of Conduct for Mediator.
	14. Role of Referral Judges.
	15. Role of Parties and their authorized representatives.
	16. Enforcement of settlement agreement.
	17. The Mediation Rules

**13. Initiation of mediation.--**

1. Where it appears to the Commission that there exist elements of a settlement which may be acceptable to the parties, the Consumer Commission shall refer the same for mediation.
2. Any party to the complaint or any other proceedings that wishes to commence mediation may do so by sending a written request to the District Commission or the State Commission or the National Commission, as the case may be, in Form 2.
3. A request for mediation, shall contain---
4. a brief explanation of the nature of the dispute; the estimated value of any disputed amounts and any relief or outcome sought by the requesting party;
5. the names, addresses (including e-mail addresses), and contact numbers (including telephone and facsimile) of all parties to the dispute and any legal or other representatives involved, so far as known to the requesting party; and
6. the proposal for the appointment of a mediator, which may include suggested qualifications, such as language, skills or mediation experience on the subject-matter.
7. The party or parties filing the request shall simultaneously send a copy of the request to all other parties, unless the request has been filed jointly by all parties.
8. The request of the party or parties shall be accompanied with a fee of **five hundred rupees**.

**14.   Appointment of mediator.-**

1. Parties to a dispute or any other proceeding may agree on the name of the sole mediator for mediating between them.
2. Where parties are unable to agree on a sole mediator, the District Commission, the State Commission or the National Commission, as the case may be, shall nominate/appoint the mediator, as it deems fit.

**15. Withdrawal of appointment.--** Upon information furnished by the mediator under Regulation 8 or under Section 77 of the Act or upon any other information received from the parties or other persons, if the Consumer Commission in which the complaint or proceeding is pending, is satisfied, that the said information has raised a reasonable doubt as to the mediator’s independence or impartiality, it may withdraw the appointment and replace him by another mediator.

**16. Procedure of mediation.--**

(a)       The parties shall agree on the procedure to be followed by the mediator in the conduct of the mediation proceedings.

(b)       Where the parties do not agree on any particular procedure to be followed by the mediator, the mediator shall follow the procedure hereinafter mentioned, namely:

1. he shall fix, in consultation with the parties, a time schedule, the dates and the time of each mediation session, where all parties have to be present;
2. he shall hold the mediation at the Mediation Cell attached to the National Commission, the State Commission or the District Commission, as the case may be;
3. he may conduct joint or separate meetings with the parties;
4. each party shall, within ten days before a session, provide to the mediator a brief memorandum setting forth the issues, which according to it, need to be resolved, and its position in respect to those issues and all information reasonably required for the mediator to understand the issues; such memoranda shall also be mutually exchanged between the parties.

However, in suitable/appropriate cases, the period of ten days may be curtailed at the discretion of the mediator;

1. each party shall furnish to the mediator such other Information as may be required by him in connection with the issues to be resolved.

**17. Representation of parties.—(1)** The parties shall ordinarily be present personally or through his authorized representative at the sessions or meetings notified by the mediator.

(2) The party not residing in India may be represented by his authorized representative at the sessions or meetings.   However, it may be represented by counsel with permission of the mediator in such sessions or meetings.

**18. Consequences of non-attendance of parties at sessions or meetings on due dates.--**If a party fails to attend a session or a meeting notified by the mediator consecutively for three times on account of deliberate or willful act, the other party or the mediator can apply to the District Commission, the State Commission or the National Commission, as the case may be, in which the complaint or proceeding is pending, in that case respective Consumer Commission shall issue appropriate directions having regard to the facts and circumstances of the case.

**19. Offer of settlement by parties.--**

Any party to the dispute may, ‘without prejudice’, offer a settlement to the other party at any stage of the proceedings, with notice to the mediator.

**20. Role of mediator.--**The mediator shall attempt to facilitate voluntary resolution of the dispute(s) by the parties, and communicate the view of each party to the other, assist them in identifying issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise and generating options in an attempt to solve the dispute(s), emphasizing that it is the responsibility of the parties to take decision which affect them; and he shall not impose any terms of settlement on the parties.

**21.  Parties alone responsible for taking decision.--**The parties shall be made to understand that the mediator only facilitates in arriving at a decision to resolve dispute(s) and that he will not and cannot impose any settlement nor does the mediator give any assurance that the mediation will result in a settlement.    The mediator shall not impose any decision on the parties.

**22. Time limit for completion of mediation.--** On the expiry of thirty days from the date fixed for the first appearance of the parties before the mediator, the mediation shall stand terminated, unless the Consumer Commission, which referred the matter, either *suo motu*, or upon request by the mediator or upon request by any of the parties, and upon hearing all the parties, is of the view that extension of time is necessary or may be useful; but such extension shall not be beyond a further period of fifteen days.

**23. Parties to act in good faith.--**All the parties shall commit to participate in the proceedings in good faith with the intention to settle the dispute (s), if possible.

**24. Confidentiality, disclosure and inadmissibility of information.--**

(1)       When a mediator receives factual information concerning the dispute(s) from any party, he shall disclose the substance of that information to the other party, so that the other party may have an opportunity to present such explanation as it may consider appropriate.

Provided that when a party gives information to the mediator subject to a specific condition that it be kept confidential, the mediator shall not disclose that information to the other party.

(2)       Receipt or perusal, or preparation of records, reports or other documents by the mediator, while serving in that capacity shall be confidential and the mediator shall not be compelled to divulge information regarding those documents nor as to what transpired during the mediation before any court or tribunal or any other authority or any person or group of persons.

(3)    Parties shall maintain confidentiality in respect of events that transpired during the mediation and shall not rely on or introduce the said information in other proceedings as to:

1. views expressed by a party in the course of the mediation proceedings;
2. documents obtained during the mediation which were expressly required to be treated as confidential or other notes, drafts or information given by the parties or the mediator;
3. proposals made or views expressed by the mediator.
4. admission made by a party in the course of mediation/conciliation proceedings;
5. the fact that a party had or had not indicated willingness to accept a proposal;

(4)      There shall be no audio or video recording of the mediation proceedings.
(5)       No statement of parties or the witnesses shall be recorded by the mediator.

**25. Privacy.--**The mediation sessions or meetings shall be conducted in privacy where the persons as mentioned in Rule 16 shall be entitled to represent parties.   However, other persons may attend only with the permission of the parties and with the consent of the mediator.

**26. Settlement Agreement.--**

(1) Where an agreement is reached between the parties in regard to all the issues in the suit or proceeding or some of the issues, the same shall be reduced to writing and signed by the parties or their authorized representative.   If any counsel has represented the parties, the mediator may obtain his signature also on the settlement agreement.

(2) The agreement of the parties so signed shall be submitted to the mediator who shall, with a covering letter signed by him, forward the same to the Commission in which the complaint or proceeding is pending.

(3) Where no agreement is arrived at between the parties, before the time limit stated in Regulation 21 or where, the mediator is of the view that no settlement is possible, he shall report the same to the Commission in writing.

**27. Fee of mediator and costs.--**

1. All expenses towards mediation including the fee of the mediator, costs of administrative assistance, and other ancillary expenses concerned, shall be borne by the respective States/UTs.
2. The mediator fee shall not exceed Rs 2000 per case.
3. Each party shall bear the costs for production of witnesses on his side including experts, or for production of documents.

**28. Ethics to be followed by mediator.---**The mediator shall --

1. follow and observe these Rules strictly and with due diligence;
2. not carry on any activity or conduct which  could reasonably be considered as conduct unbecoming of a mediator/conciliator;
3. uphold the integrity and fairness of the mediation process;
4. ensure that the parties involved in the mediation and fairly informed and have an adequate understanding of the procedural aspects of the process;
5. satisfy himself/herself that he/she is qualified to undertake and complete the assignment in a professional manner;
6. disclose any interest or relationship likely to affect impartiality   or which might seek an appearance of partiality or bias;
7. avoid, while communicating with the parties, any impropriety or appearance of impropriety;
8. be faithful to the relationship of trust and confidentiality imposed in the office of mediator;
9. conduct all proceedings related to the resolutions of a dispute, in accordance with the applicable law;
10. recognize that the mediation is based on principles of self-determination by the parties and that the mediation process relies upon the ability of parties to reach a voluntary, undisclosed agreement;
11. maintain the reasonable expectations of the parties as to confidentiality, refrain from promises or guarantees of results.
12. Assist the parties in an independent and impartial manner in their attempt to reach an amicable settlement of their dispute.
13. The mediator shall be guided by principles of objectivity, fairness and justice, giving consideration to, among other things, the rights and obligations of the parties, the usages of the trade concerned and the circumstances surrounding the dispute, including any previous business practices between the parties.

Provided that if any party finds conduct of mediator is in violation of the ethics laid down in this rule, the party may immediately bring it to the notice of the Commission.

FORM -l

{See regulation 3 }

**Application for Empanelment of Mediator on the Panel**

**To**

**The ……………..Commission**

I ........................................................... S/o or D/o or W/o\*…………………….. resident of .................................... (address) am hereby pleased to offer my services as Mediator so as to take up any assignment or matters referred by the Central Government at the places furnished hereunder: 1.\_\_\_\_\_\_\_\_ 2.\_\_\_\_\_\_\_\_\_ 3.\_\_\_\_\_\_\_\_\_\_\_ 4.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. I possess requisite qualifications and experience in the following fields for the past \_\_\_\_\_years. In this regard, my resume or an illustrative memoranda as to my qualifications, experience, notable achievements with relevant proofs and declaration are enclosed hereto in two sets duly attested.

3. Area of Experience in brief : ----------------------------

4. I shall abide by the Consumer Protection (Mediation) Regulations 2019, and such other relevant rules or Code of Conduct or Guidelines as may be specified from time to time.

5. I state that upon the receipt of the intimation of offer of empanelment, the necessary documentation shall also be executed.

6. I request you to consider my application for inclusion of my name in the panel of mediators.

 Place :

Dated :

Signature

FORM -2

[See regulation 9 ]

Application for referring the matter to the Panel

To

The (Designated Officer)

I ………………………………………….S/o or D/o or W/o\*……………………..resident of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(address) being a party in the proceeding before the………………….Commission, bearing reference number \_\_\_\_\_\_\_\_\_\_\_(if any), hereby apply for referring the matter for mediation.

Place :

Dated: SIGNATURE