

**MINUTES OF THE MEETING OF RULE COMMITTEE (ADR)
HELD ON 31.03.2017 AT 11:30 A.M IN THE CHAMBER
HON'BLE MR. JUSTICE MUHAMMAD ANWARUL HAQ**

MEMBERS OF THE COMMITTEE:

Hon'ble Mr. Justice Muhammad Anwarul Haq	President
Hon'ble Mr. Justice Syed Muhammad Kazim Raza Shamsi	Member
Hon'ble Mr. Justice Shams Mehmood Mirza	Member
Hon'ble Mr. Justice Shujaat Ali Khan	Member
Mr. Zafar Iqbal Kalanauri, Advocate	Member
Dr. Abdul Nasir, Additional Registrar (Vigilance & Information Technology), LHC	Secretary

OTHER PARTICIPANT

Mr. Abdul Hafeez, Additional Registrar (Legislation & Research), LHC	Secretary
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There is a maxim of law that delay defeats justice. This maxim holds good both in civil and criminal cases. In every civilized society there has been a constant effort to evolve ways and means for speedy dispensation of justice. There is huge backlog of cases in all Courts of the country both in subordinate and superior Courts. It is, therefore, expedient to find alternates to the traditional legal system. Alternate Dispute Resolution such as arbitration and mediation can be used as an effective measure for settlement of disputes to overcome delays, provide inexpensive justice and reduce tremendous burden on Courts. As the litigation takes long time, there is worldwide trend to adopt Alternate Dispute Resolution(ADR).

These Rules are designed to achieve the aforesaid object.

DRAFT RULES

WHEREAS in view of the Memos of understanding signed between Lahore Chamber of Commerce & Industry (LCCI) and the different Governmental, Semi-Governmental and Private Organization/Associations in presence of the Chief Justice and Judges of Lahore High Court/Associations agreeing for referral of their disputes pending or future disputes in courts to LCCI Mediation Centre to ensure in-expensive and expeditious justice, Rules for a Standard Operating Procedure are required;

AND WHEREAS an alternate dispute resolution system can facilitate settlement of disputes without resort to formal litigation, a referral system is required:

NOW, THEREFORE, in exercise of powers conferred by Article 202 of the Constitution of the Islamic Republic of Pakistan, 1973 the Hon'ble Chief Justice and Judges of the Lahore High Court have been pleased to make the following Rules regulating the Alternate

Dispute Resolution Mechanism.: -

1. **Short title, extent and commencement:**
 - (1) These rules shall be called **“The Mediation Center (ADR) Rules, 2017”**.
 - (2) These shall extend to all courts established under the jurisdiction of Lahore High Court.
 - (3) These shall come into force on such date as Lahore High Court, by notification may specify.
2. **Definitions:** - In these rules, unless there is anything repugnant in the subject or context;
 - (a) **'Mediation'** means a process in which parties resort to a method of resolving the dispute other than by adjudication by Courts; a process in which a Mediator facilitates and encourages communication and negotiation between the parties, and seeks to assist them in arriving at a voluntary agreement;
 - (b) **'Mediation Centre'** means the LCCI Mediation Centre, Lahore;
 - (c) **'Court'** means a Court of original, appellate, revisional and constitutional jurisdiction, includes all Civil Court and Criminal Courts, Family Courts, other Courts and Tribunals and Quasi-Judicial Fora, Justice of Peace, Petitions U/S 22-A and B and Section 491 of Cr.PC to the extent of custody of minors and Lahore High Court
 - (d) **'High Court'** means the Lahore High Court;
 - (e) **'Panel'** means the panel of accredited Mediators on the panel of LCCI;
 - (f) **'Prescribed'** means prescribed by these rules
3. **Reference to Mediation:** - (1) Where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties, it shall refer every civil and criminal matter with the consent of the parties mentioned in the Schedule for mediation except where 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 mediation; or an intricate question of law or facts is involved.
 - (2) Before referral to mediation, the Court may frame issues for facilitating the settlement of the dispute, however the Mediator may change the issues with the consent of the parties.
4. **Appearance of Parties:** - Upon referring the matter for mediation, the Court shall direct the parties to appear before the administrator of the Centre on the date and time fixed by the Court according to working hours of the Centre.

5. **Mediation Proceedings:** -(1) The parties to the dispute shall take part in the mediation proceedings in person or through duly authorized representatives or advocates.

(2) The Centre after referral for mediation shall dispose of the matter within a period of thirty days: Provided that the Court may for sufficient cause extend this period for further fifteen days on a request made by the Mediator.

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

(4) Any party who fails to attend without a reasonable cause or who requests for unreasonable adjournment in any mediation proceedings or fails to comply with a deadline stipulated either by the Court or by the Mediator or does any other act which has the effect of delaying the mediation proceedings, shall be liable to pay costs to the other party as may be determined by the mediator.

6. **Settlement:-** (1) If as a result of the mediation a settlement is reached between the parties, the Mediator shall record such settlement, duly witnessed and signed by him and by the parties or their duly authorized representatives or advocates and submit it to the Court through the Administrator of the Centre which shall pronounce judgment or pass decree or an order in terms of the settlement.

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

7. **Failure of Mediation:** - If the efforts of the Mediator fail to bring about a settlement between the parties, the Mediator shall submit a report to the Court which shall proceed with the case from the stage it was referred for the mediation.

8. **Mediation in Compoundable Offences:** - (1) Where the Court takes cognizance of a compoundable offence specified in section 345 of the Code of Criminal Procedure, 1898 (Act V of 1898) or under any other law for the time being in force, the Court may refer the matter to the Centre to facilitate compounding of the offence: Provided that the Court shall not refer a case for compounding of an offence without consent of the parties.

(2) The Mediator appointed under sub-rule (1) shall try to facilitate compounding of the offence within thirty days and if the offence is compounded, he shall submit a report in this respect in the Court duly witnessed and signed by him and by the persons authorized to compound under any law for time being in force and the Court shall pass order accordingly and the accused shall be discharged.

(3) If the efforts of the Mediator for compounding the offence fail, the Court shall proceed with the trial from the stage it was referred for mediation.

(4) If the Court is satisfied that the parties have voluntarily compounded the offence and the document recording their agreement has been duly witnessed and signed by them, the Court shall pass order accordingly and

the accused shall be discharged.

(5) Section 345 of the Code of Criminal Procedure, 1898 (Act V of 1898) or any other law under which the offence is compoundable of which the Court has taken cognizance under this section, shall *mutatis mutandis* apply to the proceedings under this SOP.

9. **Costs and fees of Mediation:** - The costs and fees of mediation process shall be borne by the parties in equal share as per schedule of fee of the Centre.

10. **Utilization of services of an Expert or Evaluator:** - The Mediator or Centre may utilize the services of an expert or evaluator to determine any matter of a financial, technical or any other nature in respect of Mediation proceedings. The evaluator or expert shall render such assistance as may be required by the Mediator or the Centre. After completion of evaluation process, the evaluator shall submit a report to the Mediator or Centre, as the case may be. The parties shall pay costs of the evaluation and fee of the evaluator as may be determined by the Centre or Court.

11. **Appeal and Revision barred:** - No appeal or revision shall lie from the judgment, decree or any order of the Court passed under these rules.

12. **Referral of cases:--**(1)Every case shall be referred to the Centre through its Administrator who will communicate with the Registrar of Lahore High Court, Lahore where a separate docket regarding ADR cases shall be created regarding the number of cases referred to Centre and result thereof.

(2) In each District, a focal person shall be appointed to appraise and interact with the concerned Court, Centre as well as Registrar of Lahore High Court, Lahore regarding the cases referred under these rules.

13. **Cases pending in appeal or revision:** - These rules shall, with the consent of the parties, *mutatis mutandis*, apply to the matters pending in appeal, revision or constitutional jurisdiction.

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Schedule
[See section 3(1)]

1. Commercial disputes including but not limited to any claim, right or interest arising out of Trade and Commerce.
2. Lahore Electric Supply Company (LESCO)
3. Punjab Revenue Authority (PRA)
4. Lahore Development Authority (LDA)
5. Constructors Association Pakistan (CAP)
6. Pakistan Poultry Association (PPA)
7. Rice Exporters Association of Pakistan (REAP)
8. Pakistan Pharmaceutical Manufacturers Association (PPMA)
9. Order 37 Cases regarding Negotiable Instruments
10. Compoundable Offence specified in section 345 of the Code of Criminal Procedure, 1898 (Act V of 1898)
11. Petitions U/S 22-A, 22- B and Section 491 of Cr.PC to the extent of custody of minors and Lahore High Court.
12. Family disputes & Guardian matters
13. Dispute for recovery of movable property or value thereof.
14. Dispute for separate possession of joint immovable property through partition or otherwise.
15. Cases based upon Negotiable Instruments.
16. Any other matter under the law not falling in the Schedule but agreed to by the parties for settlement under these rules.”

(Zafar Iqbal Kalanauri)
Member

(Dr. Abdul Nasir)
Member

**(Mr. Justice Syed Muhammad
Kazim Raza Shamsi)**
Member

(Mr. Justice Shujaat Ali Khan)
Member

(Mr. Justice Muhammad Anwarul Haq)
President