

- (q) “Mediation” means a voluntary process in which a mediator, selected by the disputing parties, facilitates communication and negotiation, and assists the parties in reaching a voluntary agreement regarding a dispute;
- (r) “Mediator” means a person who conducts mediation;
- (s) “Mediation Party” means a person who participates in a mediation and whose consent is necessary to resolve the dispute;
- (t) “Mediation-Arbitration” or Med-Arb is a two-step dispute resolution process involving both mediation and arbitration;
- (u) “Mini-trial” means a structured dispute resolution method in which the merits of a case are argued before a panel comprising senior decision makers with or without the presence of a neutral third person after which the parties seek a negotiated settlement;
- (v) “Model Law” means the Model Law on International Commercial Arbitration adopted by the United Nations Commission on International Trade Law on 21 June 1985;
- (w) “New York Convention” means the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards approved in 1958 and ratified by the Philippine Senate under Senate Resolution No. 71;
- (x) “Non-Convention Award” means a foreign arbitral award made in a State, which is not a Convention State;
- (y) “Non-Convention State” means a State that is not a member of the New York Convention;
- (z) “Non-Party Participant” means a person, other than a party or mediator, who participates in a mediation proceeding as a witness, resource person or expert;
 - (aa) “Proceeding” means a judicial, administrative, or other adjudicative process, including related pre-hearing or post-hearing motions, conferences and discovery;
 - (bb) “Record” means an information written on a tangible medium or stored in an electronic or other similar medium, retrievable in a perceivable form; and
 - (cc) “Roster” means a list of persons qualified to provide ADR services as neutrals or to serve as arbitrators.

SEC. 4. *Electronic Signatures in Global and E-Commerce Act.* – The provisions of the Electronic Signatures in Global and E-Commerce Act, and its Implementing Rules and Regulations shall apply to proceedings contemplated in this Act.

SEC. 5. *Liability of ADR-Providers/Practitioners.* – The ADR providers and practitioners shall have the same civil liability for acts done in the performance of their duties as that of public officers as provided in Section 38(1), Chapter 9, Book I of the Administrative Code of 1987.

SEC. 6. *Exception to the Application of this Act.* – The provisions of this Act shall not apply to resolution or settlement of the following: (a) labor disputes covered by the Presidential Decree No. 442, otherwise known as the Labor Code of the Philippines, as amended and its Implementing Rules and Regulations; (b) the civil status of persons; (c) the validity of a marriage; (d) any ground for legal separation; (e) the jurisdiction of courts; (f) future legitime; (g) criminal liability; and (h) those which by law cannot be compromised.

SEC. 11. Exceptions to Privilege. – (a) There is no privilege against disclosure under Section 9 if mediation communication is:

- (1) in an agreement evidenced by a record authenticated by all parties to the agreement;
- (2) available to the public or that is made during a session of a mediation which is open, or is required by law to be open, to the public;
- (3) a threat or statement of a plan to inflict bodily injury or commit a crime of violence;
- (4) intentionally used to plan a crime, attempt to commit, or commit a crime, or conceal an ongoing crime or criminal activity;
- (5) sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation in a proceeding in which a public agency is protecting the interest of an individual protected by law; but this exception does not apply where a child protection matter is referred to mediation by a court of a public agency participates in the child protection mediation;
- (6) sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against mediator in a proceeding; or
- (7) sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a party, nonparty participant, or representative of a party based on conduct occurring during a mediation.

(b) There is no privilege under Section 9 if a court or administrative agency, finds, after a hearing in camera, that the party seeking discovery of the proponent of the evidence has shown that the evidence is not otherwise available, that there is a need for the evidence that substantially outweighs the interest in protecting confidentiality, and the mediation communication is sought or offered in:

- (1) a court proceeding involving a crime or felony; or
- (2) a proceeding to prove a claim or defense that under the law is sufficient to reform or avoid a liability on a contract arising out of the mediation.

(c) A mediator may not be compelled to provide evidence of a mediation communication or testify in such proceeding.

(d) If a mediation communication is not privileged under an exception in subsection (a) or (b), only the portion of the communication necessary for the application of the exception for nondisclosure may be admitted. The admission of particular evidence for the limited purpose of an exception does not render that evidence, or any other mediation communication, admissible for any other purpose.

SEC. 12. Prohibited Mediator Reports. – A mediator may not make a report, assessment, evaluation, recommendation, finding or other communication regarding a mediation to a court or agency or other authority that may make a ruling on a dispute that is the subject of a mediation, except:

- (a) where the mediation occurred or has terminated, or where a settlement was reached.
- (b) as permitted to be disclosed under Section 13 of this Chapter.

SEC. 13. Mediator's Disclosure and Conflict of Interest. – The mediation shall be guided by the following operative principles:

(a) Before accepting a mediation, an individual who is requested to serve as a mediator shall:

- (1) make an inquiry that is reasonable under the circumstances to determine whether there are any known facts that a reasonable individual would consider likely to affect the impartiality of the mediator, including financial or personal interest in the outcome of the mediation and any existing or past relationship with a party or foreseeable participant in the mediation; and

- (2) disclose to the mediation parties any such fact known or learned as soon as is practical before accepting a mediation.
- (b) If a mediator learns any fact described in paragraph (a)(1) of this section after accepting a mediation, the mediator shall disclose it as soon as practicable.

Arbitration Law, notwithstanding the provisions of Executive Order No. 1008 for mediated disputes outside of the CIAC.

SEC. 18. Referral of Dispute to Other ADR Forms. – The parties may agree to refer one or more or all issues arising in a dispute or during its pendency to other forms of ADR such as but not limited to (a) the evaluation of a third person or (b) a mini-trial, (c) mediation-arbitration, or a combination thereof.

For purposes of this Act, the use of other ADR forms shall be governed by Chapter 2 of this Act except where it is combined with arbitration in which case it shall likewise be governed by Chapter 5 of this Act.

SEC. 25. Interpretation of the Act. – In interpreting the Act, the court shall have due regard to the policy

SEC. 29. Further Authority for Arbitrator to Grant Interim Measure of Protection. – Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, order any party to take such interim measures of protection as the arbitral tribunal may consider necessary in respect of the subject-matter of the dispute following the rules in Section 28, paragraph 2. Such interim measures may include but shall not be limited to preliminary injunction directed against a party, appointment of receivers or detention, preservation, inspection of property that is the subject of the dispute in arbitration. Either party may apply with the Court for assistance in implementing or enforcing an interim measure ordered by an arbitral tribunal.

SEC. 30. Place of Arbitration. – The parties are free to agree on the place of arbitration. Failing such agreement, the place of arbitration shall be in Metro Manila, unless the arbitral tribunal, having regard to the circumstances of the case, including the convenience of the parties shall decide on a different place of arbitration.

The arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, other property or documents.

SEC. 31. Language of the Arbitration. – The parties are free to agree on the language or languages to be used in the arbitral proceedings. Failing such agreement, the language to be used shall be English in international arbitration, and English or Filipino for domestic arbitration, unless the arbitral tribunal shall determine a different or another language or languages to be used in the proceedings. This agreement or determination, unless otherwise specified therein, shall apply to any written statement by a party, any hearing and any award, decision or other communication by the arbitral tribunal.

The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the language or languages agreed upon by the parties or determined in accordance with paragraph 1 of this Section.

B. FOREIGN ARBITRAL AWARDS

where any of the parties to the dispute resides or has his place of business; or (iv) in the National Judicial Capital Region, at the option of the applicant.

SEC. 48. *Notice of Proceeding to Parties.* – In a special proceeding for recognition and enforcement of an arbitral award, the Court shall send notice to the parties at their address of record in the arbitration, or if any party cannot be served notice at such address at such party's last known address. The notice shall be sent at least fifteen (15) days before the date set for the initial hearing of the application.

SEC. 49. *Office for Alternative Dispute Resolution.* –

SEC. 53. *Applicability of the Katarungang Pambaranggay.* – This Act shall not be interpreted to repeal, amend or modify the jurisdiction of the Katarungang Pambarangay under Republic Act No. 7160, otherwise known as the Local Government Code of 1991.

SEC. 54. *Repealing Clause.* – All laws, decrees, executive orders, rules and regulations which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 55. *Separability Clause.* – If for any reason or reasons, any portion or provision of this Act shall be held unconstitutional or invalid, all other parts or provisions not affected shall thereby continue to remain in full force and effect.

SEC. 56. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,

(Sgd.) JOSE DE VENECIA JR.
Speaker of the House
of Representatives

(Sgd.) FRANKLIN M. DRILON
President of the Senate

This Act which is a consolidation of Senate Bill No. 2671 and House Bill No. 5654 was finally passed by the Senate and the House of Representatives on February 4, 2004.

(Sgd) ROBERTO P. NAZARENO
Secretary General
House of Representatives

(Sgd) OSCAR G. YABES
Secretary of the Senate

Approved: **April 02, 2004**

(Sgd.) GLORIA MACAPAGAL-ARROYO
President of the Philippines