

Mediation Act, 2068 (2011)

Date of Authentication and Publication

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Act Number 2 of the Year 2068 (2011)

An Act made to provide for provisions on the procedure of mediation

Preamble: Whereas, it is expedient to provide for legal provision on the procedure of mediation to settle dispute through mediation in a speedy and simple manner, to make the process of dispute settlement less costly, to enhance the access of general public to justice and to maintain the interest and convenience of general public.

Now, therefore, be it enacted by the constituent Assembly pursuant to Sub-article (1) of article 83 of the Interim Constitution of Nepal.

Chapter -1

Preliminary

- Short title and Commencement:** (1) This Act may be called "Mediation Act, 2068.
(2) This Act shall come into force on such date and place as specified by the Government of Nepal by publishing a Notification in Nepal Gazette.
- Definition:** Unless the subject or context otherwise requires, in this Act;

- (a) "Quasi-judicial body" means any other body other than a court authorized to try and dispose of a case.
- (b) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules framed under this Act.
- (c) "Board/Council" means the Mediation Board/Council constituted pursuant to section 26.
- (d) "Party" means party of a dispute and this term also includes plaintiff and defendant of a case
- (e) "Certificate" means the certificate issued pursuant to Sub-section (1) of section 21 to act as a mediator.
- (f) "Case" means a dispute which is *sub-judice* in an adjudicating body.
- (g) "Adjudicating body" means a Court and this term also includes a quasi-judicial body.
- (h) "Mediation" means a process to be followed to settle a dispute or case with the assistance of a mediator.
- (I) "Mediator" means a mediator appointed pursuant to this Act who facilitates for negotiation between the mediation parties and motivates them in arriving at a voluntary agreement.
- (j) "Local body" means Village Development Committee or Municipality.

Chapter -2

Settlement of Dispute through Mediation

3. **Dispute may be settled through mediation:** (1) In case, any agreement provides for the settlement of dispute through mediation, the dispute concerned with that agreement or a dispute arisen under that agreement shall be settled according to the procedure prescribed in the agreement, if any.

(2) Notwithstanding anything contained in Sub-section (1), in case, parties intend to settle a dispute through mediation which is *sub-judice* or not filed in any adjudicating body and such dispute may be settled through compromise (*Milapatra*) pursuant to prevailing law, the aforesaid dispute may be settled through mediation by following the procedure pursuant to this Act.

(3) In case, parties intend to settle a case which is *sub-judice* in an adjudicating body through mediation pursuant to Sub-section (2), the parties may submit an application to the concerned adjudicating body at any time, and upon the receipt of such application the adjudicating body shall issue an order to settle the dispute through mediation whether such case is *sub-judice* at any level.

(4) Where in any case *sub-judice* in an adjudicating body, the aforesaid body considers it appropriate to settle through mediation and the concerned parties are agreed, the adjudicating body may issue an order to settle such dispute through mediation.

(5) Notwithstanding anything contained in Sub-section (3) and (4), in case, it is deemed necessary to pronounce a decision on any issue which cannot be settled through mediation together with an issue which

can be resolved through mediation the adjudicative body shall not issue an order to settle such dispute through mediation.

4. **Appointment of the mediator:** (1) In case, any agreement provides for a provision on the appointment of the mediator, appointment of the mediator shall be done as per the aforesaid provision, and in the absence of such provision mediator shall be appointed under this Act.

(2) While appointing a mediator pursuant to Sub-section (1), parties shall appoint the mediator by a mutual consent.

5. **Number of the Mediator:** (1) The number of the mediator shall be as specified in the agreement, if any, and in case, the agreement does not specify the number of the mediator, one or three mediators shall be appointed as per the consent of the parties.

(2) In case, parties are agreed to appoint one mediator such mediator shall be appointed by the consent of the parties and in case, parties are agreed to appoint three mediators, each party shall appoint one mediator and the third mediator shall be appointed either by the party themselves or by two mediators appointed by the parties, as the case may be.

(3) In case, there are three mediators, the third mediator shall act as a co-coordinator of the mediators.

6. **Assistance may be sought for appointing the mediator:** (1) In case, any agency which offers mediation service provides separate Rules or procedure for appointing the mediator, the parties may appoint mediator as per such Rules or procedure.

(2) A request may be made to an agency which offers mediation service by the parties themselves or as per the order of the court to

recommend the name of the mediator for appointing the mediator pursuant to Sub-section (1).

(3) Upon the receipt of a request pursuant to Sub-section (2), such agency may, by considering the nature of dispute, the issue of mediation, the qualification, expertise and the capacity of the mediator to carry impartiality, and the nationality of the mediator in the context of international nature dispute, if any, recommend for the suitable person or appoint a person as a mediator.

(4) Notwithstanding anything contained elsewhere in this Section, in case, parties intend to take assistance from the local body for appointing mediator, the parties may seek assistance of the concerned local body.

(5) Local body shall, for the purpose of providing assistance pursuant to Sub-section (4), prepare a roster of the mediators who are eligible to be a mediator pursuant to this Act and shall provide assistance to appoint a suitable person as a mediator from its roster on the consultation of parties.

7. Mediator to be appointed by the adjudicating body: (1)

Notwithstanding anything contained in Section 5 or 6, where the adjudicating body issues an order to settle a dispute through mediation pursuant to Sub-section (4) of Section 3 or the concerned parties fail to appoint the mediator pursuant to Section 5, the adjudicating body shall issue an order in the name of the concerned party to submit the name of the mediator within such period as specified by it.

(2) Upon the issuance of an order pursuant to Sub-section (1), the concerned party shall submit the name of the mediator to the adjudicating body within the prescribed period by the mutual consent of

the parties and the adjudicating body shall appoint the person submitted by the parties as a mediator.

(3) In case, the parties fail to submit the name of mediator pursuant to Sub-section (2), the adjudicating body shall appoint such person as a mediator upon taking consent of the parties from among the persons eligible to be a mediator.

8. Appointment of the mediator in special circumstance: (1) In case, a person appointed as a mediator declines to provide mediation service, or fails to act as a mediator or resigns or dies or the post of the mediator falls vacant for any other reason, the vacancy shall be filled, within the time as consented the parties, by appointing the next mediator through the same process which was followed earlier.

(2) In case, a mediator cannot be appointed pursuant to Sub-section (1), the appointment of mediator shall be made upon following the process as mentioned in Section 7.

9. An order to be issued for appointing the mediator: (1) Notwithstanding anything contained in this Chapter, while making settlement of a dispute through mediation pursuant to Sub-section (3) or (4), the concerned adjudicating body shall issue an order to appoint a mediator.

(2) While issuing an order to appoint a mediator pursuant to Sub-section (1), the adjudicating body shall issue an order to appoint a person as a mediator from among the persons awarded certificate to act in the capacity of a mediator pursuant to Sub-section (1) of Section 21.

10. To notify for denial of rendering service as a mediator: In case ,a person appointed as a mediator pursuant to this Act does not intend to

act as a mediator shall notify in writing to that effect to the concerned adjudicating body within Seven days from the delivery of the notice of the appointment.

11. Mediator to notify: (1) In case, a mediator appointed pursuant to this Act is unable to conduct the mediation process in an independent and impartial manner due to the nature of the dispute or there exists a circumstance likely to give rise to a justifiable doubt as to his/her independence or impartiality, the mediator shall notify quickly in writing to that effect to the mediation parties and to the adjudicating body where the dispute was referred by the order of adjudicating body.

(2) A copy of the Notification notified pursuant to Sub-section (1) shall be recorded in the file of the concerned dispute.

12. Matters to be observed by the mediator: A mediator shall observe the following matters while discharging his/her duty as a mediator:

- (a) To perform the duty related to mediation in an impartial manner.
- (b) Not to perform an act with favouritism, bias or prejudice towards any party or to avoid conduct that gives the appearance of the same.
- (c) Not to conduct mediation by creating fear or terror against a party or by misleading or inducing to a party.
- (d) Not to have any financial transaction with a party until the dispute is resolved.
- (e) Not to commit any act contrary to this Act or Rules framed there under in regard to mediation process.
- (f) Not to make any economic transaction or not to do any other act and activity that falls under the conflict of interest in the course of mediation.

(g) To observe code of conduct in the course of mediation.

13. Mediators may be removed: (1) In case, it is found after the appointment of a mediator that he/she is not qualified to be a mediator pursuant to Section 22, the concerned parties themselves, or the agency or the adjudicating body from whom such mediator was appointed shall remove such mediator as quickly as possible.

(2) In case, it is found that a mediator has committed any of the following acts by a complaint lodged by a party or the aforesaid matter comes in notice of the adjudicating body by any source, the adjudicating body may remove such mediator at any time:

- (a) If he/she fails to fulfill the matter as referred to in Section 12.
- (b) If he/she commits any act against the matter of dispute or party with an unfair or a fraudulent manner.
- (c) If repetition of a mistake or irregularity is found in his/her act or activity or in the process of mediation.
- (d) If he/she prolongs or delays the proceedings of mediation without a reasonable cause or shows reluctance in the proceedings of mediation.
- (e) If he/she breaches the confidentiality of matters done in the course of mediation proceedings without the consent of the party which causes adverse effect on the interest of the party.

Chapter-3

Procedure Relating to Mediation

- 14. The proceeding of mediation to be commenced:** (1) Where a party of a dispute, which is not filed in a court, serves a notice to another party or the concerned parties submit an application to the adjudicating body in connection with a dispute pursuant to Sub-section (3) of Section 3 or the adjudicating body issues an order to settle a dispute through mediation pursuant to Sub-section (4) of Section 3, it shall be deemed to have commenced the proceedings of mediation.

Provided that, the proceedings of community based mediation shall be commenced when a request is made to the community by the concerned party.

(2) Upon the commencement of the proceedings of mediation, any of the party shall submit the dispute to the mediator.

(3) Upon the commencement of the proceedings of mediation pursuant to Sub-section (1), except as otherwise provided in this Act no adjudicating body shall interfere in such case until the disposal of the mediation proceedings.

- 15. Procedure relating to the settlement of dispute:** (1) The procedure relating to the settlement of a dispute through mediation shall be as prescribed by the parties.

(2) In case, parties agree to settle a dispute through mediation by following Rules or procedure framed by an agency which offers mediation service, such dispute shall be settled through mediation by following such Rules or procedure.

(3) While making settlement of a dispute as so ordered by the adjudicating body, the dispute shall be settled through mediation as per the procedure made or ordered by the adjudicating body, if any.

(4) In the absence of the procedure or Rules pursuant to Sub-sections (1), (2) or (3), the mediator shall specify an appropriate procedure by considering the nature of the dispute and the desire of the parties to settle the dispute promptly, and the dispute shall be settled accordingly.

(5) While fixing procedure pursuant to Sub-section (4) it shall be, *inter alia*, set out the following procedure:

- (a) To produce own claim and reply by the parties before the mediator.
- (b) To hold separate or joint meeting with the parties.
- (c) To seek any information or evidence or document from the parties.
- (d) To provide access to the information, evidence or document sought pursuant to Clause (c) to the other party.
- (e) To seek alternative grounds for mediation from parties for resolving the dispute

(6) Notwithstanding anything contained elsewhere in this Section, the Board may frame and promulgate a model procedure for resolving the dispute.

16. Settlement of a dispute: (1) While following the procedure pursuant to Section 15, in case, parties are agreed for mediation, the mediator

shall prepare the document to that effect and cause to put signature of the parties in such document along with his/her signature.

(2) A copy of the document as referred in to Sub-section (1) shall be provided to each party.

(3) It shall be deemed to have been settled a dispute after the preparation of document as referred to in Sub-section (1).

(4) In case, parties are agreed for mediation in the dispute pursuant to Sub-section (3) or (4) of Section 3, the mediator shall produce the concerned parties along with the document of mediation before the adjudicating body.

(5) Upon the receipt of the document of mediation pursuant to Sub-section (3), the adjudicating body shall give effect to the mediation pursuant to the prevailing law.

(6) Notwithstanding anything contained in the prevailing law, no fee shall be charged while making mediation pursuant to Sub-section (5).

(7) Notwithstanding anything contained in the prevailing law, while making mediation where a quasi-judicial body has imposed imprisonment or a fine or both, the concerned competent court may issue an order to remit or reduce such imprisonment or fine as per necessity.

17. The proceedings of mediation to be terminated: The proceeding of mediation shall be terminated in the following circumstances;

(a) If parties do not agree for mediation while following the procedure of mediation pursuant to Section 15.

- (b) If parties do not appear before the mediator on such date specified by the mediator.
- (c) If the proceeding of mediation fails to move ahead due to the absence of a party on such date as specified by the mediator for holding meeting between the parties.
- (d) If the parties agree with the term and conditions of mediation and the document of mediation is prepared.

18. Report to be submitted : (1) A mediator appointed pursuant to Sub-section (3) or (4) of Section 3 shall submit a report to the adjudicating body within Seven days in the conditions mentioned in Clauses (a), (b) or (c) of Section 17.

(2) Upon the receipt of the report pursuant to Sub-section (1), the adjudicating body shall hear and dispose of such case pursuant to law.

(3) Where a time frame is specified for mediation and the document of mediation is not produced within Ten days from the expiry of such specified date pursuant to Sub-section (1) of Section 16 or the report pursuant to Sub-section (1) is not submitted, the adjudicating body shall hear and dispose of such case pursuant to law.

19. Restriction to hear a dispute: A person who has rendered mediation service in a dispute pursuant to this Act, shall not be eligible to work as a lawyer, arbitrator or judge in the same case.

Chapter-4

Provision Related to Certificate of Mediator and Regulation thereof

20. Application to be submitted for certificate: (1) A person, who intends to work as a mediator for the purpose as referred to in Sub-

section (4) of Section 3 or Sub-section (2) of Section 9, shall make an application to the Board in such format as prescribed.

(2) While making an application to the Board pursuant to Sub-section (1), the applicant shall submit his/her copy of his/her citizenship certificate and the documents which show that he/she meets the requirement to be a mediator.

21. Provision related to certificate: (1) Upon making an inquiry in to the application submitted pursuant to Section 20, in case, the Board is satisfied to issue a certificate, the Board shall issue the certificate of mediation in such format as prescribed.

(2) The certificate issued pursuant to Sub-section (1) shall be valid for a period of Three years and such certificate may be renewed as prescribed.

(3) In case, a person to whom mediation certificate was awarded does not meet required qualification as mentioned in Section 22 to be a mediator, or such person commits fraud or forgery while discharging his/her duty as a mediator, the Board shall cancel the certificate of such mediator by fulfilling the prescribed procedure.

(4) Certificates issued pursuant to prevailing law before the commencement of this Act, shall be deemed to have issued pursuant to this Act.

22. Qualification of mediator: (1) The following person shall be eligible to be a mediator;-

- (a) A Nepali citizen,
- (b) Attained Twenty Five years of age,
- (c) Completed at least a Bachelor Degree from a recognized academic institution,

- (d) Completed a mediation training for a period as prescribed,
- (e) Having sound mind,
- (f) Not convicted by a court in a criminal charge involving moral turpitude,
- (g) Has not been adjudged bankrupt,
- (h) Not removed from the roster of mediators due to the commission of an act contrary to this Act.

(2) Notwithstanding anything contained in Clauses (b), (c) and (d) of Sub-section (1), where the parties themselves choose a person as a mediator who is literate and attained Twenty Five years of age shall be eligible to be a mediator for such party despite the fact that such person does not hold a mediation training.

(3) Notwithstanding anything contained in Clause (a) of Sub-section (1), while resolving a dispute involving a foreign person or a dispute connected with a contract done with a foreign person, there shall be no bar to appoint a foreign citizen as a mediator.

23. Provisions relating to the agency which offers mediation

services: (1) A corporate body which is registered under the prevailing law with an objective to provide mediation service to party under this Act, intends to implement such objective shall make an application to the Board in prescribed format by setting out the following matters:

- (a) Name and registration number of the corporate body.
- (b) Name of officials of the corporate body.
- (c) A copy of mediation procedure or Rules framed by the agency to settle a dispute.

(d) The place where the agency intends to provide mediation services to the parties.

(2) Upon making an inquiry into the application and document submitted pursuant to Sub-section (1), if the Board is satisfied that mediation procedure or Rules framed and other details submitted by the applicant are suitable, the Board shall give approval to the applicant to provide mediation service to the party upon collecting fee as prescribed.

24. Roster of mediators to be maintained: (1) An agency which has received approval pursuant to Sub-section (2) of Section 23, shall maintain and make public the roster of persons eligible to be a mediator who facilitates for resolving a dispute.

(2) It shall be set out, *inter alia*, the qualification, experience and contact address of the person included in the roster pursuant to Sub-section (1)

(3) Parties may, subject to mediation procedure or Rules framed by the concerned agency, choose a mediator from the roster maintained pursuant to Sub-section (1).

25. Mediation procedure or Rules requires approval: (1) A corporate body established under the prevailing law for rendering mediation service to settle a dispute may frame mediation Rules or procedure.

(2) Mediation procedure or Rules framed pursuant to Sub-section (1) shall come in to force after being approved by the Council.

Chapter-5

Constitution, Functions, Duties and Powers of the Council

26. Constitution of the Board: (1) There shall a Board to be known as the Mediation Board for performing the function of regular reform,

modification, regulations and control of the mediation procedure and the Board shall consist of the following members:

- (a) A sitting judge of Supreme Court designated by the Chief of Justice on the recommendation of the Judicial Council -Chairperson
- (b) Secretary, Ministry of Law and Justice -Member
- (c) Secretary, Ministry of Local Development -Member
- (d) Deputy Attorney General, Office of the Attorney General -Member
- (e) General Secretary, Nepal Bar Association -Member
- (f) A person designated by the Board from among the representative organizations working in the field of industry and commerce -Member
- (g) Two Women designated by the Board from among the women working as a mediator or the representatives of the agency involved in

- mediation or working in
the field of mediation -Member
- (h) Two persons with at least a
woman designated by the
Board from among the
representatives of social
workers and civil society -Member
- (i) Registrar, Supreme Court -Member-secretary

27. Functions, duties and powers of the board: Save as provided elsewhere in this Act, the board shall have the following function, duties and powers;

- (a) To conduct or cause to conduct various programmes which promote mediation to settle dispute.
- (b) To provide suggestion to the Government of Nepal for simplification of mediation procedure and for making reform in prevailing law for wide use of such procedure.
- (c) To approve the curricula of the training to be given to the mediators and to specify the agency which conducts such training.
- (d) To monitor and evaluate the institutional capacity of the agency which provides mediation service and the quality of training.
- (e) To cause to conduct training and interaction programme for the enhancement of the expertise of the mediators.
- (f) To prepare the framework of permanent structure in local level for community based mediation and to recommend the Government of Nepal for its implementation.

- (g) To monitor or cause to monitor the act and activity of a mediator.
- (h) To cause to inquiry into the matter whether the mediator has abided by the code of conduct or not and to take action where the code of conduct is violated.
- (i) To perform any other act related to mediation.

28. Procedure relating to meeting: (1) The meeting of the board shall be held at such date, time and place as designated by its Chairperson.

(2) The presence of more than fifty percent of the total number of the members of the board shall make quorum for holding a meeting of the board.

(3) The meeting shall be presided over by the chairperson of the board and in his/her absence a meeting shall be presided over by a member selected by the members from among themselves.

(4) The opinion of the majority of the members shall prevail over the meeting and in case of a tie the person who chairs the meeting shall give his/her casting vote.

(5) The member-secretary shall authenticate the decisions of the board.

(6) The other procedures relating to the meeting of the board shall be as determined by the board itself.

29. Mediation monitoring committee: These shall be a mediation monitoring committee as prescribed to monitor the act and activity relating to mediation at local level.

30. Mediation Fund: (1) There shall be a mediation fund under the board to perform necessary work for conducting mediation activities in an efficient manner.

(2) The following money shall be deposited in the fund pursuant to Sub-section (1);

- (a) Money obtained from the Government of Nepal.
- (b) Money obtained from foreign government, national or foreign person or organization.
- (c) Money collected by the Council while giving approval to the agencies which provide mediation service.
- (d) Money obtained from other source.

(3) Before accepting money as referred to in Clause (b) of Sub-section (2) from a foreign Government, person or organization, the board shall take approval from the Government of Nepal.

(4) The money obtained pursuant to Sub-section (2) shall be deposited in an account of a commercial bank.

(5) The operation of account opened pursuant to Sub-section (4) shall be conducted by the chief of the secretariat of the board and an employee designated by the board.

31. Use of Fund: The money deposited in the fund pursuant to Section 30 shall be used for the following purposes.

- (a) To implement the decision made by the board.
- (b) To run the secretariat of the board.
- (c) To reform, modify and simplify the mediation procedure.
- (d) To conduct mediation training and seminar.

32. Account and audit: (1) The account of the board shall be maintained in a format followed by the Government of Nepal.

(2) The board shall cause to audit the account of the board as per prevailing law.

(3) The final audit of the board shall be done by the Auditor-General.

Chapter- 6

Provisions Relating to community mediation

33. Community based dispute settlement: (1) Any dispute which may be settled through mediation pursuant to this Act, may be settled even by community based mediation.

(2) The concerned community may, in order to facilitate to settle a dispute pursuant to Sub-section 1, prepare a panel of mediators after or before arisen of a dispute.

(3) The following person may be included in the panel prepared pursuant to Sub-section (2);

- (a) Respected persons in local community.
- (b) Persons designated by community organization working at local level.
- (c) Local social worker.
- (d) Teacher or professor working in local school or college.

(4) While making panel pursuant to Sub-section (3) the representative of women shall be insured in a suitable number as per necessity.

34. Community mediation: (1) There shall be mediators as may be required to facilitate for resolving disputes through community based mediation.

(2) The mediators as referred to in Sub-section (1) shall provide assistance to parties for resolving disputes.

(3) While providing assistance to parties pursuant to Sub-section (2), mediator shall motivate parties to reach to a consensus, to conclude an agreement which is acceptable for the both parties and not to take the settlement of disputes done through community based mediation as a win or loss.

(4) Non-governmental organization working at local level may provide technical and other assistance, as may be required, to community based mediator for resolving disputes.

(5) Meeting of the concerned community members shall frame necessary procedure for the purpose of resolving dispute through community based mediation.

(6) The result of the settlement of dispute done through mediation may be recorded in writing in the local body.

(7) Other provisions relating to the settlement of disputes done through community based mediation shall be as prescribed.

35. Training and other technical service to be provided: (1) The concerned District Development Committee, Village Development Committee and Municipality may provide necessary technical service to community based mediator to settle dispute through community based mediation.

(2) The Government of Nepal may mobilize national or local level nongovernmental or community based organization as per necessity to develop the expertise of community based mediator and to provide essential training for such mediators.

Chapter -7

Miscellaneous

36. **Duty of the parties:** It shall be the duty of party to appear before the adjudicating body or mediators, as the case may be, on such date, place and time specified by the adjudicating body or mediator, as the case may be, and to take part in the proceedings of mediation.
37. **The process of mediation to be confidential:** Except as otherwise provided by the parties or the prevailing law, all process relating to mediation shall remain confidential.
38. **Inadmissibility of evidence:** Notwithstanding anything contained in the prevailing law, any views expressed by a party in the course of mediation proceedings shall not be accepted as an evidence in a case in which such party stands as plaintiff or defendant.
39. **Result of mediation to be mandatory:** In case, a dispute is settled through mediation pursuant to this Act, the result thereof shall be mandatory for the parties and the concerned parties shall execute mediation.
40. **Execution of mediation :** (1) Notwithstanding anything contained in the prevailing law, the concerned party shall execute the mediation which took place in regard to a dispute pursuant to Sub-section (3) or (4) of Section 3 within thirty five days from the date of mediation.

(2) In case, the concerned party does not implement the mediation within the date as referred to in Sub-section (1), the concerned affected party may submit an application to the body concerned with the matter of mediation for the implementation of such mediation.

(3) Upon receipt of the application pursuant to Sub-section (2), such body shall implement such mediation as per the prevailing law.

41. A Role of facilitator to be played: (1) A mediator shall, while resolving dispute, assist parties in an independent and impartial manner to resolve dispute in a friendly manner.

(2) While providing assistance pursuant to Sub-section (1) a mediator shall be guided by integrity, objectivity, fair treatment and the principles of justice by considering the rights and obligation of parties, commercial practices and usage if it is a commercial type of dispute as well as custom, practice and recognized values adopted by the community if a dispute is to be resolved through the community based mediation.

(3) While providing assistance to settle dispute pursuant to this Act, a mediator shall not play the role of a judge, arbitrator or legal advisor rather the mediator shall play only the role of facilitator.

42. Information not to be disclosed by mediator: A mediator shall not disclose any information given by the party or any substance or fact known to him/her in the course of mediation proceeding which causes adverse impact on the interest of party.

Provided that, this Section shall not create any bar to disclose anything known to him/her in a criminal offence before a competent court.

43. Fee: (1) A mediator may accept fee from parties by not the crossing the amount as prescribed in the consent of both parties for providing mediator service.

(2) In the absence of consent pursuant to Sub-section (1) a mediator shall be entitled to obtain fee as prescribed by the board.

44. Action not to be taken against mediator: No legal action shall be taken against a mediator for any act and activity done by him/her in the course of discharging his/her duty as a mediator in good faith

45. Delegation of power: The board may delegate some of its powers to a body or authority as it deems necessary.

46. Case may be referred to local body for mediation: (1) Notwithstanding anything contained elsewhere in this Act, nothing in this Act shall create any obstacle to settle a dispute through arbitration pursuant to Local Self Governance Act, 2055.

Provided that, the court or the quasi-judicial body may refer a *sub-judice* case to a local body for mediation as it deems necessary in the consent of concerned party and the local body before the commencement of Section 33 and 101 of the Local Self Governance Act, 2055.

(2) Upon the receipt of the case pursuant to Sub-section (1), the concerned local body may conduct mediation between parties by adopting separate procedure as may be required.

47. Code of conduct may be framed and enforced: The Board may frame and enforce a code of conduct to be followed by the mediators.

48. Power to frame Rules: The Government of Nepal may frame necessary Rules to implement the objectives of this Act.