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**Published on the website on May 2024**

**Legislative Decree No. (22) of 2019 regarding the Mediation for the Resolution of Disputes**

We, Hamad bin Isa Al Khalifa King of the Kingdom of Bahrain.

Having reviewed the Constitution, in particular Article (38) thereof;

Civil and Commercial Procedures Law promulgated by Legislative Decree No. (12) of 1971, as amended;

Legislative Decree No. (3) of 1972 regarding the Judicial Fees as amended;

Penal Code promulgated by Legislative Decree No. (15) of 1976, as amended;

Attorneys Law promulgated by the Legislative Decree No. (26) of 1980, as amended;

Guardianship of Property Law, promulgated by Legislative Decree No. (7) of 1986;

Legislative Decree No. (26) of 1986 regarding the Procedures Before Sharia Courts, as amended;

Commerce Law, promulgated by Legislative Decree No. (7) of 1987, as amended;

Legislative Decree No. (3) of 1995 regarding the roll experts;

Evidence in Civil and Commercial Matters Law promulgated by Legislative Decree No. (14) of 1996, as amended;

Civil Law promulgated by Legislative Decree No.(19) of 2001, as amended by Law No.(27) of 2017;

Judicial Authority Law promulgated by Legislative Decree No.(42) of 2002, as amended;

And the Criminal Procedures Law promulgated by Legislative Decree No.(46) of 2002, as amended;

And upon the submission of the Prime Minister,

And after the approval of the Council of Ministers,

**Hereby Decree the following Law:**

**Article (1)**

In applying the provisions of this Law, the following words and expressions shall have the meanings assigned to them below, unless the context requires otherwise:

Minister: Minister concerned with Justice affairs.

Mediation:  Any procedure in which the parties request another person called a mediator to provide assistance in their pursue for an amicable resolution of a dispute between them concerning a contractual or non-contractual legal relationship, with no authority on the part of the mediator to impose a resolution to the dispute.

Parties:  Any person who has agreed to be part of the mediation, whether a natural or legal person.

Mediator:  One or more natural or legal persons, to whom the parties of the dispute are entrusted in mediation to resolve the dispute between them.

Accredited Mediator:  Any mediator registered in the mediator’s list in accordance with the provisions of Article (3) of this law.

External Mediator:  Any mediator agreed upon by the mediation parties other than the accredited mediators.

Resolution agreement: An agreement between the parties on the resolution of the dispute between them, as a result of the mediation.

**Article (2)**

This law applies to local mediation, as well as international mediation for the resolution of civil and commercial disputes, and to foreign resolution agreements arising from such mediation.

The mediation is international if the places of business of the parties involved in the mediation agreement at the time of signing are located in different countries, or if the country in which the locations of the parties' places of business are different from the country in which a substantial part of the obligations of the commercial relationship will be performed or from the country most closely connected with the subject matter of the mediation, unless otherwise agreed.

Matters in which mediation is not allowed are excluded from the scope of application of this law.

**Article (3)**

The Minister concerned with Justice affairs shall establish a list called ("Mediators' List") on which accredited mediators shall be registered. Natural persons applying for registration on the list of mediators must meet the following conditions:

1- To be fully competent.

2- To have the necessary qualifications and to be known for their integrity and impartiality.

3- To have not been convicted of a crime involving a breach of honour or trust.

4- To have not been previously dismissed from their job or removed from their position by a disciplinary ruling or decision, or had their registration in the Mediator or Expert List deleted or suspended, or had their practice license of their original profession revoked or suspended by a disciplinary ruling or decision.

The executive regulation shall determine any other conditions required for registration of natural persons in the mediator’s list, as well as the conditions required for the registration of legal persons in this list, and the necessary procedures for registration, its duration, renewal and cases of repeal.

Registration will be cancelled if any of the above conditions are not met.

Retired magistrates and persons of similar status, attorneys, professionals and other experienced persons may apply for inscription in the list.

The Minister, and after the approval of the Council of Ministers, shall determine the registration and renewal fees for the mediator’s list.

**Article (4)**

The mediator shall comply with the following obligations:

1- To disclose anything that may conflict with their mission as a mediator or affect their impartiality and autonomy.

2- To not consider a lawsuit in which they have previously mediated if they are a judge.

3- To not act as an arbitrator or attorney in a dispute that was the subject of mediation or in a related dispute.

4- To complete the mediation within the period specified by the executive regulation, unless the parties agree on another period.

5- To refrain or remove themselves from mediation if they are related or have a kinship up to the fourth degree with one of the parties, or if they were an attorney for one of the parties in any of the procedures related to the subject of the mediation, or expressed an opinion about it, or for any other reason that makes them feel uncomfortable, unless the parties appoint them as a mediator in writing despite knowing this and with the mediator's consent.

6- To return to each party all the memoranda and documents provided after the end of the mediation and to refrain from keeping copies of them.

Any action taken in violation of clauses (1), (2), (3), and (5) of this article is considered null and void.

**Article (5)**

The procedures and information of mediation are considered confidential, unless the parties agree otherwise, and unless disclosure is necessary under the law, to prevent the committing a crime, misdemeanour, or to report its occurrence, or for the purpose of implementing a resolution agreement.

Without prejudice the provisions of the previous paragraph, the mediator, a party of the mediation proceedings, or any other person who participated, is not permitted to give testimony against any of the disputing parties in any matter that becomes known to them through the mediation procedures.

**Article (6)**

The mediator may disclose to the mediation parties any information or documents related to the dispute that one of the parties has shared with the mediator during the mediation procedures, unless the latter has stipulated that it be kept confidential.

**Article (7)**

The parties may, before filing a lawsuit before the court, agree to settle the existing dispute or any potential dispute between them through mediation.

**Article (8)**

During the hearing of the lawsuit and in any state, the court may decide, upon agreement of the parties, to stay proceedings and to refer the dispute to mediation.

**Article (9)**

The mediator is appointed by the parties from accredited or external mediators. In case the parties fail to agree on the appointment of a mediator, the Chief Justice of the High Civil Court shall appoint a mediator from among the accredited mediators, taking into account their role and expertise, upon the request of one of the parties accompanied by the referral agreement to mediation. The mediator shall be informed of such appointment.

**Article (10)**

The parties may agree on the rules and procedures to be followed in the mediation process, and the mediator may, in the event of their disagreement, conduct the mediation according to the rules and procedures he or she deems appropriate, taking into account the parties' preferences and the circumstances of the mediation, and in a manner that does not contradict the public order.

The mediator may also propose a solution to the dispute at any stage of the mediation procedures.

In all cases, the mediator must ensure equality in the treatment of the parties, taking into account the circumstances of the dispute, during the mediation procedures.

**Article (11)**

The mediator is entitled to a fee for his mediation services, which shall be determined beside the method of payment agreed upon by mutual consent with the parties. The mediator may request an advance payment of his fee, unless agreed otherwise. The mediator is entitled to his fee, even if the parties of the dispute do not reach a resolution.

In case of disagreement on not determining the mediator's fees, one of the judges of the High Civil Court shall proceed to estimate them according to a request submitted by the mediator and the judge rules in this regard taking into account the effort made by the mediator. The grievance against this decision shall be filed before the same court within thirty days from the date of its notification to the concerned parties, provided that the judge who issued the decision is not a member of the composition of the court examining the grievance.

The parties involved in the dispute shall bear all costs necessary for the mediator to perform his work.

**Article (12)**

If the mediator, through mediation procedures, has reached a resolution to the dispute, wholly or partially, the resolution agreement shall be in writing, and such agreement will have the effect of an executive document after being documented or ratified by the court if the mediation procedures took place during the hearing of the lawsuit before it.

**Article (13)**

Enforcement of the resolution agreement resulting from international mediation may be ordered through submitting an application to the Clerk's Office of the High Court, with payment of the required fee, with the original or a copy of the agreement attached. If the agreement is written in a language other than Arabic, a translation into Arabic must be provided. The clerk shall write a record of the request and a copy shall be delivered to the person against which the agreement is to be executed.

The resolution agreement is enforced by an order issued by the President of the High Court, after reviewing the agreement and determining that nothing prevents its execution.

**Article (14)**

The resolution agreement to resolve a dispute may not be executed if it contradicts the public order, or if the subject of the dispute cannot be resolved by mediation in accordance with the provisions of this Law or the laws applicable in the Kingdom.

The execution cannot be rejected upon the objection of the party against whom the execution is pronounced, unless one of the following cases is proved:

1- One of the parties was not fully competent.

2- That the agreement is void or unenforceable under the law to which the parties have been subject to or the law that the court deems applicable, or that it is not binding or final, or the agreement has been modified subsequently.

3- That the obligations included in the resolution agreement have been implemented or they are not clear or incomprehensible.

4- That the acceptance of the execution would be contrary to the terms of the resolution agreement.

5- That the mediator has seriously failed in his responsibilities or procedures.

**Article (15)**

If the dispute is concluded by mediation procedures at the time of the hearing of the lawsuit before the court, the person responsible for paying the legal fees is exempt from paying all or part of the fees, and the implementing regulations specify the cases in which the fees may be exempted.

**Article (16)**

The entities authorized by law to license service providers may require the licensed persons to resolve disputes between them and the receiver of the service through alternative ways of dispute resolution agreed upon by the dispute parties, including mediation, upon a decision issued by the Minister in agreement with the entity legally authorized to license and after the approval of the Supreme Judicial Council.

**Article (17)**

Legislative Decree No. (3) of 1972 regarding the Courts Fees are applicable to the requests and grievances submitted in accordance with the provisions of this Law.

**Article (18)**

The Minister shall order after the approval of the Supreme Judicial Council, the necessary decisions to regulate mediation in legal and criminal matters.

The provisions of articles (8), (9), (12), (13) and (15) of this law are not applicable to mediation in legal and criminal matters.

**Article (19)**

The Minister, after the approval of the Supreme Judicial Council, shall issue the implementing regulation of this law, provided that the regulation shall include the mechanism for the mediator’s apology and resignation, a request for his recusal by the parties, the specified periods for that and the mediation procedures, the terms and conditions for holding its sessions, its duration, and the cases of the termination of its procedures.

**Article (20)**

The Prime Minister and the ministers- each within his jurisdiction- shall implement the provisions of this Law, and it shall come into force from the day following the date of its publication in the Official Gazette.

**King of the Kingdom of Bahrain**

**Hamad bin Isa Al Khalifa**

**Prime Minister**

**Khalifa bin Salman Al Khalifa**

Issued at Riffa Palace:

On: 2 Safaar 1441 A.H.

Corresponding to: 1 October 2019