

Unofficial translation

Ministry of Justice, Finland

Act on Court-annexed Mediation

(663/2005; laki riita-asioiden sovittelusta yleisissä tuomioistuimissa)

Chapter 1 — General provisions

Section 1 — Scope of application

Civil matters and contested petitionary matters before the general courts may be mediated as provided in this Act (*court-annexed mediation*).

Section 2 — Objective of court-annexed mediation

The objective of court-annexed mediation is an amicable settlement of the matter.

Section 3 — Preconditions for court-annexed mediation

The preconditions for court-annexed mediation are that the matter is amenable to mediation and that the mediation is appropriate in view of the claims of the parties.

Chapter 2 — Procedure

Section 4 — Commencement of court-annexed mediation

- (1) In a dispute not pending before a court, court-annexed mediation may be commenced on the written application of a party or both parties. The application shall be filed in writing, indicating what is the subject-matter of the dispute and how the positions of the parties diverge. In addition, grounds shall be supplied for the matter being amenable to mediation. The application shall identify the parties and contain their contact details observing, in so far as appropriate, the provisions on an application for a summons in chapter 5, section 2(2), of the Code of Judicial Procedure (*oikeudenkäymiskaari*).
- (2) In a matter pending before a court, court-annexed mediation may be commenced on the request of a party or both parties. The request may be made without formalities, and it must be made before the preparation of the case has been concluded.
- (3) The commencement of court-annexed mediation requires the consent of all parties. A request or application for mediation not filed by the parties together shall be served on the other parties in a suitable manner and they shall be reserved an opportunity to be heard on the request or application. The hearing may take place orally or in writing.
- (4) The court shall decide on the commencement of court-annexed mediation.

Section 5 — Mediator and auxiliary

- (1) A mediator shall be designated for the matter. The mediator shall be a judge in the court where the case is pending.
- (2) In order to secure the expertise necessary in the matter or otherwise to further the mediation, the mediator may have an auxiliary if the

parties consent to the same. The mediator shall appoint the auxiliary once the parties have accepted the nominee. The fee of the auxiliary shall be paid and his or her expenses reimbursed by the parties.

Section 6 — *Proceedings*

- (1) Court-annexed mediation shall proceed promptly, even-handedly and impartially.
- (2) The mediator shall hear the parties and consult with them. With the consent of the parties, also other persons may be heard and other information submitted.
- (3) The mediator may consult with a party without the other parties present, if all parties consent to the same.
- (4) After consultation with the parties, the mediator shall decide on the detailed arrangements of the mediation.

Section 7 — *Reaching a settlement*

- (1) The mediator shall assist the parties in their endeavours towards agreement and an amicable settlement.
- (2) On the request or with the consent of the parties, the mediator may make a settlement proposal. The mediator may make the proposal *ex æquo et bono*.

Section 8 — *Certification of a settlement*

- (1) A settlement accepted by the parties may be certified in court-annexed mediation.
- (2) The settlement and the certification of the settlement shall be governed by the corresponding statutory provisions on a settlement in court. However, a settlement certified in court-annexed mediation may cover also issues not mentioned in the parties' original claims.

Section 9 — *Conclusion of court-annexed mediation*

- (1) Court-annexed mediation shall be concluded, if
 - (1) a settlement is certified or the parties notify the mediator of a settlement reached out of court;
 - (2) a party notifies the mediator that he or she no longer wishes to have mediation in the matter; or
 - (2) the mediator decides, after having heard the parties, that there is no justification for continuing the mediation.
- (2) The mediator shall notify the parties of the conclusion of the mediation on the basis of paragraph (1)(2) or (1)(3).
- (2) When court-annexed mediation in a matter that is also pending before the court is concluded on the basis of paragraph (1)(2) or (1)(3), the proceedings in the matter shall be resumed in accordance with the provisions on regular civil procedure.

Chapter 3 — **Miscellaneous provisions**

Section 10 — *Jurisdiction*

- (1) Jurisdiction over court-annexed mediation shall lie with the court that has jurisdiction over the matter for purposes of court proceedings.
- (2) The court is competent in respect of the commencement of court-annexed mediation and of the mediation with the composition competent to make decisions relating to the preparation of the case.

Section 11 — *Representation*

- (1) The representation of the parties in court-annexed mediation shall be governed by the statutory provisions on the exercise of a party's right to be heard in court.
- (2) The right of a party to counsel or representation by an attorney, as well as the qualification of counsel and attorneys, shall be governed by the provisions on counsel and attorneys in civil proceedings. However, in order to further the mediation, the mediator may on a justified reason supplied by a party allow a person to serve as counsel or attorney even if that person does not have a degree referred to in chapter 15, section 2, of the Code of Judicial Procedure, provided that he or she is not bankrupt and that his or her legal competency has not been restricted.

Section 12 — *Openness of proceedings*

Court-annexed mediation, the documents relating to it and the settlement shall be subject to the provisions of the Act on the Publicity of Court Proceedings (945/1984; *laki oikeudenkäynnin julkisuudesta*), in so far as appropriate. However, a session referred to in section 6(3) where the mediator consults with only one of the parties shall be closed to the public. At the request of a party, also other parts of the mediation shall be closed to the public, if the achievement of a settlement would otherwise be jeopardised and if the credibility of the mediation or some other weighty reason does not require that the proceedings be open.

Section 13 — *Privilege*

In any later proceedings, a party shall not without the consent of the other party rely on representations made by the other party in the interests of settlement.

Section 14 — *Costs of court-annexed mediation*

- (1) The parties shall bear their own costs arising from court-annexed mediation.
- (2) In any later proceedings, a party shall not require compensation from the opposing party for the costs of the mediation.

Section 15 — *Disqualification of the mediator*

- (1) The provisions on the disqualification of a judge apply to the disqualification of the mediator and the auxiliary.
- (2) The mediator shall not adjudicate in the same case.

Section 16 — *Appeals*

A court order on the commencement of mediation, on the rejection of a mediation request, or on the conclusion of mediation shall not be open to appeal.

Section 17 — *Charges*

The charges to be collected for the processing of an application or request for court-annexed mediation shall be governed by the Act on Service Charges in Courts and Certain Judicial Authorities (701/1993; *laki tuomioistuinten ja eräiden oikeushallintoviranomaisten suoritteista perittävästä maksuista*) and by the Decree issued on the basis of that Act.

Section 18 — *Matters pertaining to the status or rights of a child*

- (1) Of the matters pertaining to the status or rights of a child, those pertaining to maintenance payable to a child or child custody and right of access are amenable to mediation under this Act. The

mediation shall be carried out so that the interests of the child are secured. When considering whether a settlement can be certified, the court shall take due note of the provisions in the Child Custody and Right of Access Act (361/1983; *laki lapsen huollosta ja tapaamisoikeudesta*) and the Child Maintenance Act (704/1975; *laki lapsen elatuksesta*).

- (2) A settlement certified in a matter referred to in paragraph (1) shall be considered equivalent to a court order or judgment in such a matter.

Section 19 — *Relationship to other legislation*

The provisions in other legislation on the reaching and certification of a settlement in court apply notwithstanding the provisions of this Act.

Section 20 — *Entry into force*

This Act enters into force on 1 January 2006.