

Publication of Mediation Bill 2017

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The long-awaited **Mediation Bill 2017** was published by the minister for justice and equality on February 13 2017. The bill's underlying objective is to promote mediation as a viable, effective and efficient alternative to court proceedings. Doing so should result in reduced legal costs, faster resolution of disputes and a reduction in the stress and acrimony that can sometimes accompany court proceedings.

The bill, which incorporates many of the recommendations made by the Law Reform Commission's 2010 **report** on alternative dispute resolution, proposes a comprehensive statutory framework for the resolution of disputes. Its provisions are aimed at both legal advisers and parties to disputes. Key provisions include the following:

- The introduction of an obligation on solicitors and barristers to advise their clients to consider mediation as an alternative to court proceedings. As part of this requirement, information on mediation services – including names and addresses of mediation service providers – must be provided to the client. A statutory declaration must be sworn by a solicitor evidencing that this requirement has been complied with before court proceedings can be issued.
- A requirement that before the commencement of mediation the parties and mediator must sign an agreement to mediate. Among other things, it must set out:
 - the manner in which mediation is to be conducted;
 - confidentiality;
 - time and place of mediation; and
 - an explanation of how fees and costs will be paid.

It is proposed that signing an agreement to mediate effectively stops the clock for bringing claims under the statute of limitations until 30 days after termination of the mediation.

- Provision for the introduction of codes of practice for the conduct of mediation by qualified mediators.
- Provision for the establishment of a statutory body called the Mediation Council of Ireland.
- A statutory power permitting a court, on its own initiative or the initiative of the parties, to invite the parties to consider mediation and provide for the suspension of court proceedings to facilitate the process. This is already used in practice under the Irish Superior Court Rules.
- The introduction of a statutory costs implication on a party that unreasonably refuses or fails to consider mediation. There is already provision for this under the Irish Super Court Rules.

The bill is a welcome step towards encouraging more businesses to consider using it as a tool for resolving commercial disputes.

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