

ACT
on Mediation and Change of Some Laws (Mediation Act)

Parliament has passed this act of the Czech Republic:

PART ONE

MEDIATION

Chapter I

Performance of Mediation

Section 1

Subject of the Regulation

This Act regulates the performance and effects of mediation conducted by registered mediators (hereinafter referred to as the "Mediator").

Section 2

Basic Terms

For the purposes of this act the following means

- a) mediation as a procedure in settling a conflict with the participation of one or more Mediators who support communication between persons involved in the conflict (hereinafter referred to as the "Party of the Conflict") in order to help them reach an amicable settlement of their conflict by concluding a mediation agreement,
- b) family mediation as mediation which focuses on settling conflicts arising from family relations,
- c) Mediator as a natural person registered in the Register of Mediators (hereinafter referred to as the "Register"),
- d) a member state as a member state of the European Union, other state forming the European Economic Area and Swiss Confederation,
- e) contract on the performance of mediation as a written contract between the Parties of the Conflict and at least one Mediator on the performance of mediation,
- f) mediation agreement as a written agreement of the Parties of the Conflict concluded as part of mediation and regulating the rights and obligations of the Parties.

Section 3

Basic Provisions

(1) If, during the course of mediation the rights which are the subject of mediation are transferred, the effects of the initiation of mediation persist. The Party of the Conflict that transferred its rights shall inform the other Party of the Conflict of this transfer immediately.

(2) If, during the course of mediation, the Mediator's authorisation is suspended for performing the activities of Mediator or he is struck off the Register, the effect of the initiation of mediation persists, until the Parties of the Conflict learn of this suspension, however no longer than for a period of 3 months. The person whose authorisation to perform the activities of

Mediator is suspended or is struck off the Register shall immediately inform the Parties of the Conflict of this fact.

(3) Only the Parties of the Conflict are responsible for the contents of the mediation agreement.

(4) Before initiating mediation the Mediator shall instruct the Parties of the Conflict of his position during mediation, of the purpose and principles of mediation, of the effects of the contract on the performance of mediation (mediation contract) and the mediation agreement, of the possibility to end the mediation at any time, of the fee of the Mediator for performing mediation and of the mediation expenses. The Mediator shall explicitly instruct the Parties of the Conflict of the fact that the initiation of mediation does not affect the right of the Parties of the Conflict to demand protection of their rights and authorised interests through legal proceedings, and that only the Parties of the Conflict are responsible for the contents of the mediation agreement.

Section 4

Initiation of Mediation

(1) The mediation is initiated with the conclusion of the contract on the performance of mediation.

(2) The contract on the performance of mediation must contain at least

- a) the designation of the Parties of the Conflict,
- b) name or names, surnames and address of the place of business of the Mediator,
- c) definition of the conflict which is the subject of mediation,
- d) amount of the fee of the Mediator for performing mediation or the method of its determination, or arrangement about an advance or arrangement about the fact that the mediation shall be performed free of charge,
- e) time during which the mediation is to take place, or arrangement of the fact that the mediation is to take place for an indefinite period.

Section 5

Rejection of Mediation

(1) The Mediator shall reject the conclusion of a contract on the performance of mediation if he has reason to doubt his impartiality in relation to the case, the Parties of the Conflict or their representatives.

(2) The Mediator may reject the conclusion of a contract on the performance of mediation if the necessary trust is broken between him and any of the Parties of the Conflict.

Section 6

End of Mediation

(1) The Mediator shall end the initiated mediation if

- a) a reason arises under Section 5 (1) of his impartiality, or
- b) the Parties of the Conflict have not met with the Mediator for more than 1 year.

(2) The Mediator may end the already initiated mediation for the reason stated in Section 5 (2), or if one of the Parties of the Conflict has not made the negotiated advance payment.

(3) Mediation ends with

- a) conclusion of a mediation agreement,
- b) delivery of the Mediator's written declaration to all the Parties of the Conflict that mediation has ended for any of the reasons stated in paragraph 1 or 2,

- c) the moment when the Mediator delivers to the other Parties of the Conflict a written declaration of one of the Parties of the Conflict that mediation shall not continue,
- d) an affirmative written declaration of all the Parties of the Conflict on the end of mediation signed by the Mediator,
- e) expiry of the time specified in the mediation contract,
- f) suspending authorisation to perform the activities of Mediator or striking the Mediator off the Register,
- g) death, declaration of death or termination of one of the Parties of the Conflict, or
- h) death of the Mediator or his declaration of death.

Section 7

Mediation Agreement

All the parties of the Conflict conclude a mediation agreement. Its requirements, besides the signatures of the Parties of the Conflict, is also the date it is concluded, supplemented by the Mediator, and his signature by which it is confirmed that the mediation agreement was concluded as part of the mediation.

Section 8

Performance of the Activity of Mediator

(1) The Mediator shall

- a) perform mediation personally, independently, impartially and with due diligence,
- b) respect the opinions of the Parties of the Conflict and create conditions for their mutual communication and for finding a solution that takes into account the interest of both Parties and in the event that the subject of conflict directly applies to the rights of an underage child, takes into account especially the interest of the child,
- c) immediately inform the Parties of the Conflict of all the facts for which with regard to his bearing on the case, the Parties of the Conflict or their representatives could be a reason to doubt his impartiality,
- d) confirm by his signature the mediation agreement which was concluded by the Parties of the Conflict as part of the mediation and mark the date when the mediation agreement was concluded,
- e) issue confirmation to the Parties of the Conflict upon request about when the declaration under Section 6 (3) b) or c) was delivered to the Parties of the Conflict,
- f) in the event of an ordered meeting issue to the Parties of the Conflict confirmation about their fulfilment of the enforced obligation to meet with the Mediator,
- g) issue to the Parties of the Conflict when ending mediation upon request confirmation about the fact that they concluded a mediation agreement and in what matter,
- h) deliver to the other Parties of the Conflict a written declaration of one of the Parties of the Conflict that he shall not continue with the mediation,
- i) systematically improve and deepen his expert knowledge for the due performance of the activities of Mediator.

(2) The Mediator may not, with regard to the conflict which he mediates or mediated or took steps to prepare the mediation, provide legal services according to a different legal regulation even if he shall be authorised to provide such services. A legal service shall not be an expression of the Mediator's legal opinion during the course of mediation of the case of the Parties of the Conflict or any of its partial issue.

(3) The Mediator shall perform mediation or a similar activity only under the terms and conditions laid down by this Act.

Section 9

Obligation of Confidentiality of the Mediator

(1) The Mediator shall maintain confidentiality of all the facts he has learned in connection with the preparation and performance of mediation even after being struck off the Register. This shall also apply if no mediation contract is concluded.

(2) Only all the parties of the Conflict may relieve the mediator of the obligation of confidentiality. The right to relieve the Mediator of the obligation of confidentiality passes to the legal representative in the event of the death, declaration of death or termination of any of the Parties of the Conflict.

(3) The Mediator is not bound by the obligation of confidentiality to the extent necessary for proceedings before a court or other relevant authority if the subject of the proceedings is a dispute arising from the activities performed by the Mediator between him and the Party of the Conflict or its legal representative and also to the extent necessary for his protection as part of the performance of supervision over the Mediator's activities or in disciplinary proceedings.

(4) The obligation of the Mediator shall also apply to persons who contributed with the mediator to ensuring the preparation and course of mediation.

(5) He who is the Mediator according to the legal regulations of a different member state may not be forced to breach the obligation of confidentiality to the extent that is laid down for him by the legal regulations of a different member state under which he provides his services.

Section 10

Fee and Reimbursement of Expenses of the Mediator

(1) The Mediator shall be entitled to the negotiated fee for performing mediation and to reimbursement of the negotiated cash expenses. Cash expenses shall be travel expenses, postal charges and production of transcripts and copies. The Mediator may request an appropriate advance for his fee for mediation and reimbursement of the negotiated cash expenses from the Parties of the Conflict.

(2) Unless stated otherwise in the mediation contract, the Parties of the Conflict shall pay the Mediator's negotiated fee for performing mediation and reimbursement of his negotiated cash expenses equally.

(3) If a court rules a first meeting for the parties of the legal proceedings with a Mediator and if the parties of the proceedings do not agree with the mediator otherwise, the Mediator shall be entitled to a fee laid down by an implementing legal regulation. The Parties of the Conflict shall pay this fee equally.

(4) If the Mediator shall be a value added tax payer, he shall also be entitled to an allowance for value added tax as well as a fee for mediation and reimbursement of cash expenses.

Section 11

Designation of the Mediator

The Mediator shall use the designation "Registered Mediator" when performing the activities of Mediator. A different person shall not be authorised to use the designation "Registered Mediator" or other expressions derived from these.

Section 12

Delivery

The obligation of the Mediator or Parties of the Conflict to deliver to each other any document according to this Act shall be met if it is delivered through a public data network to the recipient's data box at the address stated in the mediation contract or to the address, even an email which the Parties of the Conflict shall disclose to the Mediator for the purpose of delivery. A document shall be considered delivered even if the recipient does not learn of the delivery for reason of circumstances on his part.

Chapter II

Organisation of Mediation

Section 13

Supervision of the Mediator's Activities

The ministry of justice (hereinafter the "Ministry") share performance under a different legal regulation¹⁾ of supervision over the observance of the obligations laid down for the Mediator by this Act; this shall not apply if the Mediator is a lawyer.

Section 14

Authorisation to Perform the Activities of a Mediator

Only a person registered in the Register shall be authorised to provide the services of a Mediator if his authorisation to perform the activities of Mediator have not been suspended, unless this Act states otherwise.

Section 15

Register

(1) The Register is a public administration information system which is administered by the Ministry.

(2) Data are registered in the Register for each person that the applicant entered and supported under Section 17 or Section 19 in the application for registration in the Register and any changes under Section 18. Also registered is the

- a) identification number of the person allocated by the administrator of the basic register of persons,
- b) date of the registration in the Register,
- c) date of the suspension or end of suspension of authorisation to perform the activities of Mediator,
- d) date of striking the Mediator from the Register.

(3) Data in the Register are public, with the exception of data about the date of birth and permanent residence address. The Ministry publishes public data on its website.

Section 16

Conditions of Registration

(1) The Ministry shall register a natural person in the Register upon application that

¹⁾ Act No. 552/1991 Coll. on state control, as amended.

- a) is competent to perform legal acts,
- b) has no criminal record,
- c) has a university education with a masters' degree and follow-up masters study programme in the Czech Republic or has a similar university education if the international treaty to which the Czech Republic is bound lays down the recognition of such an education or this education is recognised by a different legal regulation,
- d) has passed a Mediator's examination or his/her qualification has been recognised according to a different legal regulation²⁾ and
- e) has not been struck off the Register in the manner according to Section 22 (4) in the last 5 years prior to filing an application.

(2) A person with no criminal record for the purposes of this Act shall not be considered a person that was legally sentenced for

- a) an intentional crime, or
- b) a crime of negligence committed in connection with the activities performed by the Mediator.

(3) The Ministry shall request an extract from the Penal Register for the purpose of proving that the applicant has no criminal record.

(4) An applicant who is not a citizen of a different member state or a natural person stated in a different legal regulation, shall, for the purpose of proving that he has no criminal record, an extract from the criminal records or an equivalent document issued by the relevant judicial or administrative authority of this state or the member state of last residence; if the Czech Republic is the member state of the last residence, he shall proceed according to paragraph 3. If this state does not issue an extract from the Penal Register or an equivalent document, the applicant shall submit an affidavit of no criminal record. These documents may not be older than 3 months.

(5) For the purpose of showing that he has no criminal record an applicant that is a citizen of another than a member state shall submit an extract from the criminal records or an equivalent document issued by the state of which he is a citizen. If this state does not issue an extract from the Penal Register or an equivalent document, the applicant shall submit an affidavit of no criminal record. These documents may not be older than 3 months.

Section 17

Application for Registration

(1) The applicant shall enter in the application for registration in the Register

- a) his name, or names, surname, date of birth, permanent residence address and business address,
- b) personal identification number if not already allocated,
- c) address for the delivery of documents on the territory of the Czech Republic if different from the permanent residence address or business address, or email for the delivery of documents,
- d) other contact data, especially telephone, fax, email, address for another place of performing activity different from the business address and data on other education, if the applicant is applying for registration in the Register,
- e) if he wishes to be registered in the Register as specialising in family mediation,
- f) language in which he provides mediation.

(2) The application for registration in the Register shall include

- a) a certified copy of a document proving that the applicant has met the conditions of education under Section 16 (1) c),

²⁾ Act No. 18/2004 Coll. on the recognition of professional qualifications and other qualifications of the state members of the European Union member states and some members of other states, and of the change to some laws (Act on the Recognition of a Professional Qualification), as amended.

- b) a certified copy of the document under Section 16 (4) or 5, if this concerns an applicant under these provisions,
- c) a copy of a Mediator examination certificate no older than 3 years or a certified copy of a decision on the recognition of qualifications under a different legal regulation²⁾,
- d) a copy of a family mediation examination certificate no older than 3 years or a certified copy of a decision on the recognition of qualifications under a different legal regulation²⁾, if the applicant wishes to be registered in the Register as specialising in family mediation,
- e) a certified copy of a document about education if the applicant wishes to enter data about his other education in the Register.

(3) The Mediator shall state as the business address the place where he shall actually and mostly perform his activities.

Section 18

Changes to the Registered Data

(1) The Mediator shall inform the Ministry immediately, however within 15 days at the latest of changes to the data stated in Section 17 (1) a). The Ministry shall immediately register these changes in the Register.

(2) At the application of the Mediator the Ministry shall immediately enter in the Register the data stated in Section 17 (1) c) to f) or shall delete or change them. Section 17 (2) d) and e) shall apply likewise if the Mediator shall request entry of specialisation in family mediation or data about other education or its change.

Section 19

Visiting Mediator

(1) A citizen of a different member state or the natural person stated in a different legal regulation²⁾ may also perform the activities of Mediator in the Czech Republic temporarily or occasionally by a visiting Mediator under the terms and conditions laid down in this Act.

(2) The Ministry shall immediately register in the Register as a visiting Mediator the person who submits a certified copy of the document confirming that he is the person stated in paragraph 1 and he performs the activity comparable with the activity of a Mediator in accordance with the legal regulations of a different member state as well as an affidavit that the authorisation to perform this activity in the member state was not taken away or temporarily suspended. This person shall state the requirements under Section 17 (1) and the data that he requests registration as a visiting Mediator for the purpose of registration in the Register.

(3) The activities of the visiting Mediator on the territory of the Czech Republic shall be governed by the rule of law of the Czech Republic. The visiting Mediator shall be authorised to provide the services of a Mediator on the territory of the Czech Republic under this Act from the moment when the Ministry submits the documents and states the requirements stated in paragraph 2 2.

Section 20

(1) The application for registration, including the registration of a visiting Mediator or changes shall be submitted and any change to the registered data under Section 18 (1) shall be notified by forms which the Ministry shall publish on its website.

(2) The Ministry shall issue the Mediator immediately with confirmation of registration in the Register which contains the name, or names, surname of the Mediator, date of birth, business address and date of registration in the Register.

Section 21

Suspension of Authorisation

(1) The authorisation for performing the activities of Mediator shall be suspended

- a) on the day which the Mediator states in the application for suspension of authorisation to perform the activities of Mediator, however no earlier than on the day of registration of suspension in the Register, or
- b) on the day when the suspension was registered in the Register imposed by a disciplinary measure under the Legal Profession Act.

(2) Suspension of authorisation to perform the activities of Mediator under paragraph 1 a) shall expire on the day when the Mediator whose authorisation to perform the activities of Mediator shall submit an application for the renewal of this authorisation.

(3) Suspension of authorisation to perform the activities of Mediator under paragraph 1 b) shall expire on the day when the time expires after which the performance of these activities was suspended.

Section 22

Expiry of Authorisation

(1) The authorisation to perform the activities of Mediator expires and the Ministry shall strike the Mediator off the Register if the Mediator

- a) dies or is declared dead,
- b) was relieved of the competence to perform legal acts or his competence to perform legal acts was limited, as of the date the court decision comes into force by which the Mediator was relieved of the competence to perform legal acts or by which his competence to perform legal acts was limited, or
- c) ceased to meet the condition of no criminal record under Section 16 (2); this shall not apply if this concerns a visiting Mediator.

(2) The Ministry shall decide to strike a Mediator off the Register if

- a) the Mediator whose authorisation to perform the activities of Mediator was suspended under Section 21 (1) a), shall not submit an application for the renewal of authorisation within 5 years since the suspension of authorisation to perform the activities of Mediator,
- b) the Mediator submits to the Ministry an application for being struck off the Register; the Mediator shall be struck off the Register on the last day of the calendar month following the month in which the application was delivered,
- c) the visiting Mediator had his authorisation taken away by the other member state to perform the activities comparable with the activities of a Mediator; the visiting Mediator shall be struck off the Register as of the day that this decision comes into force, or, or
- d) he was registered in the Register, although he did not meet some of the conditions for registration in the Register.

(3) The Mediator shall inform the Ministry of the facts which are the reason for being struck off the Register under paragraph 2 c) and d), within 15 days at the latest as of the day when he learned of them.

(4) The Ministry shall decide about striking a Mediator off the Register if the Mediator has seriously or repeatedly breached the obligations of Mediator laid down by this Act despite receiving written warnings from the Ministry.

Section 23

Examination of the Mediator

(1) The Ministry shall allow each applicant who pays the fee for sitting the Mediator's examination of 5 000 CZK to take the Mediator's examination within 6 months as of delivery of the application; this shall not apply if the applicant is a lawyer.

(2) The Ministry shall allow a person who successfully passed the Mediator's examination and paid the fee for sitting the family mediation examination of 5 000 CZK to take the family mediation examination within 6 months as of delivery of the application.

(3) Whoever fails the Mediator's examination or the family mediation examination, may request the Ministry to allow him to repeat the examination within 30 days as of sitting the examination. The Ministry shall allow the relevant examination to be repeated no earlier than upon expiry of 6 months as of the date of the examination which the applicant failed and after payment of a further fee for sitting the Mediator's examination of 5 000 CZK or for payment of a further fee for sitting the family mediation examination of 5 000 CZK; the examinations can be repeated only twice.

(4) Whoever fails or does not apply to repeat any of the examinations within the deadline under paragraph 3, or whoever fails any of the examinations after repeating the examination, may only reapply to sit the examination after 3 years of the date of the examination he last failed.

(5) The application for sitting the examination is made by a form which the Ministry shall publish on its website.

(6) Under the legal Profession Act it is the Czech Bar Association that arranges Mediator's examinations for applicants who are lawyers.

(7) The examinations test the expert knowledge and skills required for performing the activities of Mediator in the area of mediation and other ways of settling out-of-court disputes, including the relevant legislation, mediation techniques, basic human rights and freedoms, civil, commercial and labour law, family law, consumer protection law, civil procedure law and the foundations of psychology and sociology.

(8) The implementing legal regulation lays down the requirements of the Mediator's examination and family mediation examination, including the requirements of passing the examination, way of appointing examination commissioners and way of performing the examination.

Section 24

Scope of the Ministry

(1) The Ministry

- a) organises the examination of Mediators,
- b) keeps the Register,
- c) registers applicants in the Register, suspends authorisation for performing the activities of Mediator and strikes Mediators off the Register,
- d) issues the Mediator with confirmation of registration in the Register,
- e) enters data and changes to data in the Register,
- f) supervises the activities of Mediators according to Section 13,
- g) publishes the application forms for registration and making changes in the Register for reporting changes in the Register and for applying for the examination,
- h) exchanges information about the activities of the visiting Mediator and criminal law or administrative law measures with the relevant authorities of other member states.

(2) The Ministry issues a decree for executing Section 10 (3) and Section 23 (8).

Chapter III
Torts

Section 25

Offences

(1) A natural person shall commit an offence by

- a) using the designation “registered Mediator” or similar expression contrary to Section 11 despite not being registered in the Register,
- b) a person that contributes to the preparation and course of mediation, breaches the obligation of confidentiality under Section 9 (4), or
- c) not reporting to the Parties of the Conflict the fact that he was struck off the Register under Section 3 (2).

(2) A fine of up to 100 000 CZK may be imposed for an offence committed under paragraph 1.

Section 26

Torts of Legal Entities and Natural Business Persons

(1) A legal entity or natural business person commits a tort if contrary under Section 11 he shall use the designation “registered Mediator” or similar expression despite not being registered in the Register.

(2) The Mediator shall commit a tort if

- a) he breaches the obligation of confidentiality under Section 9 (1),
- b) he shall not inform the Parties of the Conflict immediately of the facts under Section 8 (1) c),
- c) he shall not confirm by his signature the mediation agreement under Section 8 (1) d),
- d) he shall not issue the Parties of the Conflict with confirmation as requested under Section 8 (1) e),
- e) he shall not issue the Parties of the Conflict with confirmation under Section 8 (1) f),
- f) he shall not issue the Parties of the Conflict at the end of mediation upon request with the confirmation under Section 8 (1) g),
- g) he shall not deliver to other Parties of the Conflict a written declaration under Section 8 (1) h),
- h) contrary to Section 8 (2) he shall not provide legal services regarding the conflict in which he holds or held mediation or took steps to prepare the mediation,
- i) performs mediation or a similar activity contrary to Section 8 (3),
- j) shall not inform the Parties of the Conflict that his authorisation to perform the activities of a Mediator has been suspended under Section 3 (2),
- k) shall not inform the Ministry of the facts under Section 18 (1), or
- l) shall not inform the Ministry of the facts under Section 22 (3).

(3) A fine of up to 50 000 CZK shall be imposed for the tort under paragraph 2 e) to h) and k) to l).

(4) A fine of up to 100 000 CZK shall be imposed for the tort under paragraph 1 or under paragraph 2 a) to d), i) and j).

Section 27

Joint Provisions regarding Torts

(1) A legal entity shall not be responsible for a tort if it is shown that it made all efforts that were required to prevent the breach of the legal obligation.

(2) When determining the level of a fine of a legal entity, the gravity of the tort shall be taken into account, especially the way it was committed and its consequences and circumstances under which it was committed.

(3) The responsibility of a legal entity for a tort ends if the administrative authority shall not initiate proceedings within 1 year as of the date when it learnt of the tort, however no later than within 3 years of the day it was committed.

(4) The Ministry shall discuss the tort under this Act in the first instance.

(5) The provisions of this Act on responsibility and recourse of a legal entity shall apply to responsibility for the action which arose during the business of a natural person or in direct connection therewith.

(6) The Mediator who is a lawyer is not responsible for torts under this Act.

Chapter IV

Relationship to European Union Law

Section 28

This Act incorporates the relevant regulations of the European Union³⁾.

Section 29

There is no period of limitation or deadline for the expiry of a right regarding rights which are the subject of mediation in the event that the mediation is held in a different member state under the legal regulations of that member state.

PART TWO

Change to the Civil Procedure Code

Section 30

Act No. 99/1963 Coll., the Civil Procedure Code, as amended by Act No. 36/1967 Coll., Act No. 158/1969 Coll., Act No. 49/1973 Coll., Act No. 20/1975 Coll., Act No. 133/1982 Coll., Act No. 180/1990 Coll., Act No. 328/1991 Coll., Act No. 519/1991 Coll., Act No. 263/1992 Coll., Act No. 24/1993 Coll., Act No. 171/1993 Coll., Act No. 117/1994 Coll., Act No. 152/1994 Coll., Act No. 216/1994 Coll., Act No. 84/1995 Coll., Act No. 118/1995 Coll., Act No. 160/1995 Coll., Act No. 238/1995 Coll., Act No. 247/1995 Coll., Decision of the Constitutional Court declared under No. 31/1996 Coll., Act No. 142/1996 Coll., Decision of the Constitutional Court declared under No. 269/1996 Coll., Act No. 202/1997 Coll., Act No. 227/1997 Coll., Act No. 15/1998 Coll., Act No. 91/1998 Coll., Act No. 165/1998 Coll., Act No. 326/1999 Coll., Act No. 360/1999 Coll., Decision of the Constitutional Court declared under No. 2/2000 Coll., Act No. 27/2000 Coll., Act No. 30/2000

³⁾ Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters.
Directive 2005/36/EC of the European Parliament and of the Council of 6 July 2005 on the recognition of professional qualifications.

Coll., Act No. 46/2000 Sb., Act No. 105/2000 Coll., Act No. 130/2000 Coll., Act No. 155/2000 Coll., Act No. 204/2000 Coll., Act No. 220/2000 Coll., Act No. 227/2000 Coll., Act No. 367/2000 Coll., Act No. 370/2000 Coll., Act No. 120/2001 Coll., Act No. 137/2001 Coll., Act No. 231/2001 Coll., Act No. 271/2001 Coll., Decision of the Constitutional Court declared under No. 276/2001 Coll., Act No. 317/2001 Coll., Act No. 451/2001 Coll., Act No. 491/2001 Coll., Act No. 501/2001 Coll., Act No. 151/2002 Coll., Act No. 202/2002 Coll., Act No. 226/2002 Coll., Act No. 309/2002 Coll., Act No. 320/2002 Coll., Decision of the Constitutional Court declared under No. 476/2002 Coll., Act No. 88/2003 Coll., Act No. 120/2004 Coll., Decision of the Constitutional Court declared under No. 153/2004 Coll., Act No. 237/2004 Coll., Act No. 257/2004 Coll., Act No. 340/2004 Sb., Act No. 436/2004 Coll., Act No. 501/2004 Coll., Act No. 554/2004 Coll., Act No. 555/2004 Coll., Act No. 628/2004 Coll., Act No. 59/2005 Coll., Act No. 170/2005 Coll., Act No. 205/2005 Coll., Act No. 216/2005 Coll., Act No. 342/2005 Coll., Act No. 377/2005 Coll., Act No. 383/2005 Coll., Act No. 413/2005 Coll., Act No. 56/2006 Coll., Act No. 57/2006 Coll., Act No. 79/2006 Coll., Act No. 112/2006 Coll., Act No. 113/2006 Coll., Act No. 115/2006 Coll., Act No. 133/2006 Coll., Act No. 134/2006 Coll., Act No. 135/2006 Coll., Act No. 189/2006 Coll., Act No. 216/2006 Coll., Act No. 233/2006 Coll., Act No. 264/2006 Coll., Act No. 267/2006 Coll., Act No. 308/2006 Coll., Act No. 315/2006 Coll., Act No. 296/2007 Coll., Act No. 104/2008 Coll., Act No. 123/2008 Coll., Act No. 126/2008 Coll., Act No. 129/2008 Coll., Act No. 259/2008 Coll., Act No. 274/2008 Coll., Act No. 295/2008 Coll., Act No. 305/2008 Coll., Act No. 384/2008 Coll., Act No. 7/2009 Coll., Act No. 198/2009 Coll., Act No. 218/2009 Coll., Act No. 227/2009 Coll., Act No. 281/2009 Coll., Act No. 285/2009 Coll., Act No. 286/2009 Coll., Act No. 420/2009 Coll., Act No. 48/2010 Coll., Act No. 347/2010 Coll., Act No. 409/2010 Coll., Act No. 69/2011 Coll., Act No. 139/2011 Coll., Act No. 186/2011 Coll., Act No. 188/2011 Coll., Act No. 218/2011 Coll., Act No. 355/2011 Coll., Act No. 364/2011 Coll., Act No. 420/2011 Coll. and Act No. 470/2011 Coll., is amended as follows:

1. In Section 67 the existing text is marked as paragraph 1 a and paragraph 2 is added to read:

“(2) The court shall decide whether it approves the mediation agreement concluded under the Mediation Act within 30 days at the latest as of the initiation of conciliation proceedings.”.

2. In Section 99 a sentence is added at the end of paragraph 1 to read: “If this is appropriate in view of the nature of the case, the chairman of the panel shall also inform the participants of the possibility of using mediation under the Mediation Act or social advice under the Social Services Act.”.

3. Section 100 (3) reads:

“(3) If this is expedient and appropriate, the chairman of the panel may order the participants of the proceedings the first meeting with a registered Mediator (hereinafter the “Mediator”) for 3 hours and interrupt proceedings, however for no more than a period of 3 months. If the participants shall not agree over the person of the Mediator immediately, the chairman of the panel shall select a Mediator from the Register kept by the Ministry. The court shall continue proceedings upon expiry of the 3 months. The first meeting may not be ordered for the period of validity of the injunction under Section 76b.”.

4. In Section 110 paragraph 2 is annulled as well as the designation of paragraph 1.

5. Section 111 (3) reads:

“(3) If proceedings are interrupted under Section 110, the court continues with them upon petition after the expiry of 3 months. With the exception of divorce proceedings, the court may upon petition, if there are serious reasons, and without petition if the interests of an underage child so justify, continue with the proceedings even before the expiry of this deadline. The court shall stop proceedings if no petition is made to continue with the proceedings within 1 year.”.

6. A new letter b) is inserted in Section 114a (2) after letter a) to read:

„b) The participants of proceedings shall draw attention to the possibility of the use of mediation under the Mediation Act or social advice under the Social Service Act, if this is appropriate.”.

The existing letters b) to e) are marked as letters c) to f).

7. A new letter d) is inserted in Section 114c (3) after letter c) to read:

“d) may order the participants of proceedings the first meeting with the Mediator under Section 100 (3), if this is expedient and appropriate, “.

The existing letter d) is marked as letter e).

8. In Section 137 (1) the words “and fee for representation” are replaced by the words “, fee for representation and fee for the Mediator under the Mediation Act for the first meeting with the Mediator ordered by the court under Section 100 (3)”.

9. A paragraph 4 is added to Section 140 to read:

“(4) If the first meeting with the Mediator was ordered under Section 100 (3) or Section 114c (3) d), the state shall pay the fee for the participant free of judicial fees; the provision of a special legal regulation shall be followed when determining the fee for representation and the court shall determine the value added tax allowance under the value added tax rate laid down by the special legal regulation^{57d)}”.

10. The words “, or if the participant refuses to participate in the first meeting with the Mediator as ordered by the court without a serious reason” are inserted in Section 150 after the words “special consideration”.

11. The full stop is replaced by a comma and a letter p) is added in Section 202 at the end of paragraph 1 to read:

“p) the first meeting with the Mediators was ordered under Section 100 (3)”.

12. In Section 270 (3) the words “the costs of an out-of-court conciliation or mediation meeting, family or other appropriate therapy which” are replaced by the words “the fee of the Mediator for the first meeting which”.

13. In Section 273 (2) a) to read:

- “a) to order the person who is not willingly meeting the court’s decision or court-approved agreement on the upbringing of underage children or change of contact with them or the decision on returning the child, order the first three-hour meeting with the Mediator.”.

Section 31

Temporary Provisions

If the court ordered in proceedings initiated prior to the date this Act came into effect that the participants participate in an out-of-court conciliation or mediation meeting or family therapy, or interrupted proceedings for the purpose of participation in such a meeting, it shall proceed in these matters under Act No. 99/1963 Coll., the Civil Procedure Code, in the version effective up to the date when this Act comes into effect.

PART THREE

Change to the Civil Code

Section 32

Act No. 40/1964 Coll., the Civil Code, as amended by Act No. 58/1969 Coll., Act No. 146/1971 Coll., Act No. 131/1982 Act No., Act No. 94/1988 Coll., Act No. 188/1988 Coll., Act No. 87/1990 Coll., Act No. 105/1990 Coll., Act No. 116/1990 Coll., Act No. 87/1991 Coll., Act No. 509/1991 Coll., Act No. 264/1992 Coll., Act No. 267/1994 Coll., Act No. 104/1995, Act No. 118/1995 Coll., Act No. 89/1996 Coll., Act No. 94/1996 Coll., Act No. 227/1997 Coll., Act No. 91/1998 Coll., Act No. 165/1998 Coll., Act No. 159/1999 Coll., Act No. 363/1999 Coll., Act No. 27/2000 Coll., Act No. 103/2000 Coll., Act No. 227/2000 Coll., Act No. 367/2000 Coll., Act No. 229/2001 Coll., Act No. 317/2001 Coll., Act No. 501/2001 Coll., Act No. 125/2002 Coll., Act No. 135/2002 Coll., Act No. 136/2002 Coll., Act No. 320/2002 Coll., Decision of the Constitutional Court declared under No. 476/2002 Coll., Act No. 88/2003 Coll., Act No. 37/2004 Coll., Act No. 47/2004 Coll., Decision of the Constitutional Court declared under No. 278/2004 Coll., Act No. 480/2004 Coll., Act No. 554/2004 Coll., Act No. 359/2005 Coll., Act No. 56/2006 Coll., Act No. 57/2006 Coll., Act No. 107/2006 Coll., Act No. 115/2006 Coll., Act No. 160/2006 Coll., Act No. 264/2006 Coll., Act No. 315/2006 Coll., Act No. 443/2006 Coll., Act No. 296/2007 Coll., Act No. 230/2008 Coll., Act No. 306/2008 Coll., Act No. 384/2008 Coll., Act No. 215/2009 Coll., Act No. 227/2009 Coll., Act No. 285/2009 Coll., Act No. 155/2010 Coll., Act No. 28/2011 Coll., Act No. 132/2011 Coll. and Act No. 139/2011 Coll., is amended as follows:

1. In Section 112 the words “or if regarding his right mediation is initiated under the Mediation Act” are inserted after the words “duly continue”, the words “does not run” are inserted after the words “period of limitation” and the words “or from this initiation for the period of limitation” replace the words “does not run”.
2. In Section 583 the existing text is marked as paragraph 1 and paragraph 2 is added to read:

“(2) The period determined for enforcing the right under paragraph 1 shall not run if mediation is held according to it under the Mediation Act.”.

PART FOUR

Change to the Commercial Code

Section 33

Act No. 513/1991 Coll., the Commercial Code, as amended Act No. 264/1992 Coll., Act No. 591/1992 Coll., Act No. 600/1992 Coll., Act No. 286/1993 Coll., Act No. 156/1994 Coll., Act No. 84/1995 Coll., Act No. 94/1996 Coll., Act No. 142/1996 Coll., Act No. 77/1997 Coll., Act No. 15/1998 Coll., Act No. 165/1998 Coll., Act No. 356/1999 Coll., Act No. 27/2000 Coll., Act No. 29/2000 Coll., Act No. 30/2000 Coll., Act No. 105/2000 Coll., Act No. 367/2000 Coll., Act No. 370/2000 Coll., Act No. 120/2001 Coll., Act No. 239/2001 Coll., Act No. 353/2001 Coll., Act No. 501/2001 Coll., Act No. 15/2002 Coll., Act No. 125/2002 Coll., Act No. 126/2002 Coll., Act No. 151/2002 Coll., Act No. 308/2002 Coll., Act No. 309/2002 Coll., Act No. 312/2002 Coll., Decision of the Constitutional Court declared under No. 476/2002 Coll., Decision of the Constitutional Court declared under No. 87/2003 Coll., Act No. 88/2003 Coll., Act No. 437/2003 Coll., Act No. 85/2004 Coll., Act No. 257/2004 Coll., Act No. 360/2004 Coll., Act No. 484/2004 Coll., Act No. 499/2004 Coll., Act No. 554/2004 Coll., Act No. 179/2005 Coll., Act No. 216/2005 Coll., Act No. 377/2005 Coll., Act No. 413/2005 Coll., Act No. 56/2006 Coll., Act No. 57/2006 Coll., Act No. 79/2006 Coll., Act No. 81/2006 Coll., Act No. 308/2006 Coll., Act No. 269/2007 Coll., Act No. 296/2007 Coll., Act No. 344/2007 Coll., Act No. 36/2008 Coll., Act No. 104/2008 Coll., Act No. 126/2008 Coll., Act No. 130/2008 Coll., Act No. 230/2008 Coll., Act No. 215/2009 Coll., Act No. 217/2009 Coll., Act No. 227/2009 Coll., Act No. 230/2009 Coll., Act No. 285/2009 Coll., Act No. 420/2009 Coll., Act No. 152/2010 Coll., Act No. 409/2010 Coll., Act No. 427/2010 Coll., Act No. 188/2011 Coll., Act No. 351/2011 Coll., Act No. 355/2011 Coll., Act No. 420/2011 Coll. and Act No. 428/2011 Coll., is amended as follows:

1. A new Section 404a is inserted after Section 404 to read:

“Section 404a

The period of limitation shall cease to run if mediation is initiated under the Mediation Act.”.

2. In Section 406 (1) the words “or mediation initiated with one joint debtor” is inserted after the words “against one joint debtor”, the word “enforced” is replaced by the word “discussed” and the words “or initiated mediation” are inserted after the words “initiated proceedings”.
3. In Section 406 (2) the words “or if mediation is initiated between the creditor and third party” are inserted after the words “third party” and the words “or mediation was initiated with this third party” are added at the end of the text of the first sentence.
4. In Section 406 (3) the words “stated proceedings” are replaced by the words “court proceedings, arbitrator of the proceedings or stated mediation” and the words “or mediation” are added to the end of the text of the first sentence.
5. In Section 408 (1) the sentence “The period during which mediation is held under the Mediation Act is not included in the deadline under the first sentence” is inserted after the first sentence.

PART FIVE

Change to the Notarial Rules

Section 34

In Section 5 of Act No. 358/1992 Coll., on Notaries and their Activities (Notarial Rules), as amended by Act No. 7/2009 Coll., the words “, and the activity of the registered Mediator under the mediation Act” are added at the end of the text of paragraph 2.

PART SIX

Change to the Legal Profession Act

Section 35

In Act No. 85/1996 Coll., on the Legal Profession, as amended by Act No. 210/1999 Coll., Act No. 120/2001 Coll., Act No. 6/2002 Coll., Act No. 228/2002 Coll., Decision of the Constitutional Court declared under No. 349/2002 Coll., Act No. 192/2003 Coll., Act No. 237/2004 Coll., Act No. 284/2004 Coll., Act No. 555/2004 Coll., Act No. 205/2005 Coll., Act No. 79/2006 Coll., Act No. 312/2006 Coll., Act No. 296/2007 Coll., Act No. 254/2008 Coll., Act No. 314/2008 Coll., Act No. 219/2009 Coll., Act No. 227/2009 Coll. and Act No. 214/2011 Coll., a new Part Seven is inserted after Part Six including a heading to read:

“PART SEVEN

ACTIVITIES OF THE BAR IN THE SPHERE OF MEDIATION

Section 49a

(1) The Bar arranged the training of lawyers in the area of mediation and arranges examinations of mediators for them under the Mediation Act.

(2) Unless stated otherwise, the provisions of the Mediation Act shall apply to the contents of the text and its requirements likewise.

(3) The Bar shall enable each lawyer to sit the Mediator’s examination within 6 months after delivery of the application and after payment of the fee of 5 000 CZK; if the lawyer wishes to also sit the family mediation examination the fee shall be 10 000 CZK. The fee shall be the Bar’s income.

(4) Based on the application the Mediator’s examination can be taken as part of the Bar examination, aptitude test or equivalency examination; the fee for taking this examination is increased by 5 000 CZK. If the candidate also wants to take the family mediation examination, the fee increased by a further 5 000 CZK.

(5) The lawyer who was registered in the Register of Mediators shall inform the Bar of this fact within 1 week; the Bar shall enter this fact immediately in the Register of Lawyers or Register of European lawyers. At the request of the lawyer who was registered in the Register of Mediators, the Bar shall enter his specialisation in the area of mediation in the Register of Lawyers or Register of European lawyers.

Section 49b

(1) A registered Mediator who is a lawyer and a visiting Mediator who is a European lawyer are disciplinarily responsible for disciplinary breach.

(2) Disciplinary breach under paragraph 1 is a serious recurring breach of the obligations laid down for the Mediator by the Mediation Act.

(3) The following may be imposed on a registered Mediator who is a lawyer for disciplinary breach

- a) admonition,
- b) public admonition,
- c) for of up to a hundred times the minimum monthly salary laid down by a different legal regulation, or
- d) temporary ban on providing the services of Mediator imposed for a period of 6 months to 5 years.

(4) The following may be imposed on a visiting Mediator who is a European Lawyer under a different legal regulation for disciplinary breach

- a) admonition,
- b) public admonition, or
- c) fine of up to a hundred times the minimum monthly salary laid down by a different legal regulation.

(5) The Bar shall inform the Ministry of Justice immediately of imposing disciplinary breach under paragraph 3 d).

(6) The provisions of this Act regulating a lawyer's disciplinary responsibility shall be applied appropriately to disciplinary proceedings.”.

The existing Part Seven and Eight are marked as Part Eight and Nine.

PART SEVEN

Change to the Trades Licensing Act

Section 36

In Section 3 of Act No. 455/1991 Coll., on carrying on a trade (the Trades Licensing Act), as amended by Act No. 286/1995 Coll., Act No. 147/1996 Coll., Act No. 19/1997 Coll., Act No. 49/1997 Coll., Act No. 79/1997 Coll., Act No. 217/1997 Coll., Act No. 15/1998 Coll., Act No. 167/1998 Coll., Act No. 356/1999 Coll., Act No. 360/1999 Coll., Act No. 363/1999 Coll., Act No. 122/2000 Coll., Act No. 123/2000 Coll., Act No. 151/2000 Coll., Act No. 158/2000 Coll., Act No. 362/2000 Coll., Act No. 256/2001 Coll., Act No. 477/2001 Coll., Act No. 162/2003 Coll., Act No. 38/2004 Coll., Act No. 167/2004 Coll., Act No. 257/2004 Coll., Act No. 499/2004 Coll., Act No. 127/2005 Coll., Act No. 253/2005 Coll., Act No. 62/2006 Coll., Act No. 109/2006 Coll., Act No. 179/2006 Coll., Act No. 130/2008 Coll., Act No. 189/2008 Coll., Act No. 230/2008 Coll., Act No. 254/2008 Coll., Act No. 285/2009 Coll., Act No. 155/2010 Coll., Act No. 160/2010 Coll., Act No. 152/2011 Coll. and Act No. 357/2011 Coll., the full stop at the end of paragraph 2 is replaced by a comma and letter 1) is added to read:

“l) Mediators registered under the Mediation Act.”.

PART EIGHT

Change to the Judicial Fee Act

Section 37

In item 9 of the Annex to the Judicial Fee Act No. 549/1991 Coll. as amended by Act No. 36/1995 Coll., Act No. 255/2000 Coll., Act No. 296/2007 Coll., Act No. 217/2009 Coll. and Act No. 218/2011 Coll., a new point 2 is inserted after point 1 to read:

“2. The fee under point 1 a) shall be collected for the approved mediation agreement concluded under the Mediation Act⁷⁾, regardless of the subject of the mediation agreement.

⁷⁾ The Mediation Act No. ../2012 Coll., and change of certain laws.”.

The existing point 2 shall be marked as point 3.

PART NINE

Change to the Administrative Fee Act

Section 38

In item 10 of the Annex to the Administrative Fee Act No. 634/2004 Coll., as amended by Act No. 312/2006 Coll., Act No. 130/2008 Coll. and Act No. 254/2008 Coll., a letter f) shall be added to read:

“f) acceptance of the application of registration in the Register of Mediators 5 000 CZK”.

PART TEN

EFFECT

Section 39

This act comes into effect on the first day of the third calendar month following the date of its promulgation.