

## PROFESSIONAL PROGRAMME

# ARBITRATION, MEDIATION & CONCILIATION

Arbitration is a legally binding process where the parties involved present their argument to one or more impartial individuals called arbitrators without the intervention of the court. After considering the arguments and evidences put forth by both parties, the arbitrator(s) render a judgement known as an award that is legally binding. When parties desire to settle their disagreement outside of court, arbitration is frequently chosen.

Mediation is a confidential process facilitated by a person known as mediator. The mediator tries to communicate with parties, identify their interests, and explore potential solutions to settle the dispute effectively and amicably. In contrast to arbitration, the mediator helps the parties reach a compromise rather than imposing a resolution. It is widely used in conflicts related to workplace and community.

Conciliation is a process similar to mediation, but with an additional interventionist role of the conciliator. Like a mediator, the conciliator assist for better communication and find the solution between the parties. It is widely used in conflicts related to labour and industrial disputes. In general, arbitration, mediation, and conciliation offers an alternative route to resolve the dispute without the intervention of the court. They offer the parties faster and less expensive outcomes than litigation.

Arbitration, Mediation & Conciliation jointly called as ADR mechanism, plays an important role in reducing the burden from the judicial systems. These methods have the potential of becoming lucrative emerging areas for the profession of Company Secretaries.

For this purpose, the course contents of this study material have been so designed as to provide practical orientation and develop necessary acumen in conducting ADR proceedings. Only those laws and practices have been included which are of direct relevance to the work of a Company Secretary. Further, the literature available on the subject has been found to be unwieldy and it has, therefore, been our endeavour to make the study material tailored made.

This study material has been published to aid the students in preparing for the Arbitration, Mediation & Conciliation paper of the CS Professional Programme. It is part of the educational kit and takes the students step by step through each phase of preparation emphasizing key concepts, principles, pointers and procedures. Company Secretaryship being a professional course, the examination standards are set very high, with focus on knowledge of concepts, their application, procedures and case laws, for which sole reliance on the contents of this study material may not be enough. This study material may, therefore, be regarded as the basic material and must be read along with the Bare Acts, Rules, Regulations, Case Laws.

The legislative changes made upto May 31, 2024 have been incorporated in the study material. In addition to Study Material students are advised to refer to the updations at the Regulator's website, supplements relevant for the subject issued by ICSI and ICSI Journal Chartered Secretary and other publications. Specifically, **students are advised to read "Student Company Secretary" e-Journal which covers regulatory and other relevant developments relating to the subject**, which is available at academic portal <https://www.icsi.edu/student-n/academic-portal/>. In the event of any doubt, students may contact the Directorate of Academics at [academics@icsi.edu](mailto:academics@icsi.edu).

**The amendments to law made upto 31<sup>st</sup> May of the Calendar Year for December Examinations and upto 30<sup>th</sup> November of the previous Calendar Year for June Examinations shall be applicable.**

Although due care has been taken in publishing this study material, the possibility of errors, omissions and/or discrepancies cannot be ruled out. This publication is released with an understanding that the Institute shall not be responsible for any errors, omissions and/or discrepancies or any action taken in that behalf.