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4, Princess Folashade Ojutalayo Close, Lekki Phase 1, Lagos State.

www.strenandblan.com

+234 (0) 702 558 0053

NIGERIA ENACTS A NEW ARBITRATION AND MEDIATION ACT

On the 26th of May, 2023, the then President Muhammadu Buhari assented to and signed into law a new and groundbreaking Arbitration and Mediation Act (“AMA”) of 2023. This historic legislation, passed by the Senate on the 10th of May, 2022, effectively replaces the Arbitration and Conciliation Act (“ACA”) of 1988.

The AMA holds the power to revolutionize the dispute resolution landscape in Nigeria, offering the promise of more efficient, cost-effective, and expeditious Arbitration processes. It addresses the challenges faced by parties in realizing the benefits of their awards, streamlining the entire resolution journey.

Embodying a watershed moment in Arbitration and Mediation practice in Nigeria, the AMA introduces notable innovations, particularly in the realm of Third-Party Funding.



While the ACA prohibited third-party funding in Arbitration, the AMA now features comprehensive provisions on this matter, facilitating a more diverse and accessible funding landscape.

Recognizing the modern realities of communication, the Act acknowledges the importance of electronic mediums in Arbitration and Mediation proceedings.

It embraces electronic communication, allowing for the conduct of electronic Mediation and Arbitration within Nigeria. Moreover, the Act expands the notion of a written arbitration agreement to include electronic communications, provided they are accessible for subsequent reference.

These progressive measures enable sessions to be conducted through electronic means, videoconferencing, or other digital transmission methods.

To further cater to urgent relief requirements, the Act permits the appointment of emergency Arbitrators, who possess the authority to grant necessary relief. These emergency arbitration meetings can be conducted through various means of communication, such as video conferencing and telephonically. The decisions made by emergency arbitrators are binding and enforceable, ensuring swift resolution of urgent disputes.

One notable addition is the creation of the Award Review Tribunal (ART), which offers an

Nigeria Enacts a New Arbitration and Mediation Act – Cont'd

efficient mechanism for addressing award challenges within specified timeframes. Parties now have the option to agree that an application challenging an award should be presented to the ART. However, the award rendered by the ART remains subject to challenge by the Court if any party to the Arbitration.

Additionally, the Act provides a specific timeframe for enforcing arbitral awards, excluding the period of arbitration and the date of the award. This alignment with the New York Convention on foreign arbitration awards further solidifies Nigeria's commitment to recognizing and enforcing international commercial arbitration awards.

Furthermore, the Act ensures the continuity of proceedings by granting Arbitrators the authority to continue their involvement in arbitration proceedings, even in the event of the death or bankruptcy of the party who appointed them. Only the death of The arbitrator revokes their authority to act.

Lastly, the Act codifies the practice of Mediation in Nigeria and aims to foster the enforcement of international mediation settlement agreements by the incorporation of the Singapore Convention.

In cases where the enforcement of an international settlement agreement made outside the Federal Republic of Nigeria is sought, the Singapore Convention applies, provided that the State in question is a party to the convention and the dispute arises from a legal relationship considered commercial under Nigerian laws.

This provision extends to written agreements for international commercial mediation, domestic commercial mediation, domestic civil mediation, as well as domestic and international settlement agreements resulting from mediation.

The enactment of the Arbitration and Mediation Act of 2023 is considered to be a significant milestone in Nigeria's dispute resolution community. The Law ushers in a new era of efficiency, accessibility, and international compatibility, ensuring that parties are well-equipped to navigate the complexities of Arbitration and Mediation.

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For more information

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You can also contact us via contact@strenandblan.com or call +234(0) 7025580053.

