

**Instructions No. (8) of 2005**  
**Instructions of the Procedures and Rules of Mediation**  
**in Insurance Disputes and the Amendments Thereof \***  
**Issued by the Board of Directors of the Insurance Commission**  
**pursuant to paragraph (A) of Article (84) of the Insurance Regulatory**  
**Act No. (33) of 1999 and the Amendments Thereof**

**Article (1):**

These Instructions shall be known as the (Instructions of the Procedures and Rules of Mediation in Insurance Disputes and the Amendments Thereof of 2005), and shall come into force as of the date of its publication in the Official Gazette.

**Article (2):**

- A- The following words and phrases, wherever mentioned in these Instructions shall have the meanings ascribed thereto in Article (2) of the Insurance Regulatory Act No. (33) of 1999 and the Amendments Thereof, and in paragraph (B) of Article (2) of the Instructions of the Accreditation of Mediators and Arbitrators in Insurance Disputes at the Insurance Commission, unless otherwise indicated by context.
- B- For purposes of these Instructions, "Mediation Agreement" shall mean; a written agreement to refer the dispute, in whole or in part, that has arisen or may arise between the parties of this agreement to mediation.
- C- For purposes of these Instructions, the phrase "Mediator in Insurance Disputes" wherever mentioned in these Instructions, shall indicate to the sole mediator or the mediation committee, where more than one mediator is selected or appointed, and the word "Parties" wherever mentioned in these Instructions, shall indicate to the two parties or more in the insurance dispute, as the case may be.

**Article (3):**

- A- The provisions of these Instructions shall be applied in settling insurance disputes through mediation in any of the following cases:-
  - 1- Where there is a previous Mediation Agreement between the Parties to refer the dispute, that may arise between them, to mediation in accordance with the mediation procedures and rules adopted by the Commission.
  - 2- The agreement of the Parties to refer the dispute to mediation, after the dispute has arisen, in accordance with the mediation procedures and rules adopted by the Commission.
- B- The procedures and rules stated in these Instructions shall be considered an integral part of the Mediation Agreement. The dispute shall be settled pursuant to the provisions of these Instructions and the Decisions issued by virtue thereof as of the date of the commencement of mediation, unless the Parties agree on a different date which shall be notified to the department concerned with mediation and arbitration within a period not exceeding two working days as of the date of such agreement.

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\* These Instructions were published in the Official Gazette volume (4726) dated 1/11/2005 page (4567) and have been amended according to Instructions No. (4) of 2006 Instructions of Amending Instructions of the Procedures and Rules of Mediation in Insurance Disputes published in the Official Gazette volume (4804) dated 16/1/2007 page (130).

**Article (4):**

- A- The claimant who wishes to refer the dispute to mediation according to these Instructions, shall submit to the department concerned with mediation and arbitration a request according to the form designated for this purpose enclosed with the following data and documents:-
- 1- His name and address, as well as the name and address of his legal representative, if any, provided that the legal representative is authorized to sign the settlement if such settlement has been reached.
  - 2- The name and address of the respondent.
  - 3- A copy of the Mediation Agreement between the Parties, if any, or a copy of the Mediation Agreement form designated by the Commission, signed by the applicant where there is no previous Mediation Agreement between the Parties, in order to be signed by the respondent.
  - 4- A brief statement of the nature of the dispute.
  - 5- Proof of payment of the fees in the amount of (30) Dinars.
- B- The department concerned with mediation and arbitration shall notify the respondent in writing of receipt of such request within a period not exceeding five working days as of its receipt, and shall ask the respondent, in case of acceptance of the request for mediation to submit within a period not exceeding seven working days as of his notification, the following data and documents:-
- 1- A brief statement of his opinion of the dispute.
  - 2- The name and address of his legal representative, if any, provided that the legal representative is authorized to sign the settlement if such settlement is reached.
  - 3- A signed copy of the Mediation Agreement form designated by the Commission if there is no previous Mediation Agreement between the Parties.
- C- Where the respondent refuses the request for mediation submitted by the claimant, the fees stipulated in item (5) of paragraph (A) of this Article shall be refunded to the claimant.
- D- Where the Parties together submit the request for mediation to the department concerned with mediation and arbitration, paragraphs (A) and (B) of this Article shall be applied, as the case may be.

**Article (5):**

Where there is no previous Mediation Agreement between the Parties, the department concerned with mediation and arbitration shall not, after sending the request for mediation to the respondent, initiate any procedure unless it receives a signed copy from both Parties of the Mediation Agreement form designated by the Commission which shall include their agreement for mediation.

**Article (6):**

- A- For purposes of these Instructions, the commencement date of the mediation shall be considered the date the department concerned with mediation and arbitration receives the request for mediation that includes a previous Mediation Agreement between the Parties or as of the date of receiving a signed copy from both Parties of the Mediation Agreement form designated by the Commission, as the case may be.
- B- The department concerned with mediation and arbitration shall notify the Parties, in writing, of the date the commencement date of the mediation within a period not exceeding five working days as of that date.

**Article (7):**

- A- The Parties shall select a Mediator in Insurance Disputes from the Register, and shall inform the department concerned with mediation and arbitration of his name, within a period not exceeding fifteen working days as of the date of being notified of the commencement date of the mediation.
- B- If the Parties fail to agree on selecting a mediator according to paragraph (A) of this Article, the department concerned with mediation and arbitration shall appoint a Mediator in Insurance Disputes from the Register and shall immediately notify the Parties of his name, unless one of the Parties objects the selection or his continuation for justified reasons, who shall be replaced if the Commission is convinced with the mentioned reasons.
- C- If the required specialty is not available in any of the Mediators in Insurance Disputes accredited by the Commission, the Parties may request from the department concerned with mediation and arbitration, within a period not exceeding fifteen working days as of the date of the commencement date of the mediation to approve the selection of a mediator from outside the Register, provided that he shall not have less qualifications and experiences than what is required by the Commission to accredit Mediators in Insurance Disputes. The department concerned with mediation and arbitration shall be furnished with his curriculum vitae including his qualifications and experiences.

**Article (8):**

- A- The department concerned with mediation and arbitration shall send to the selected or appointed Mediator in Insurance Disputes pursuant to the provisions of these Instructions, the following:-
  - 1- A copy of the agreement form designated by the Commission for the Mediators in Insurance Disputes, which shall include the rights and obligations of the Mediator in Insurance Disputes as well as a disclosure, to be made to the department concerned with mediation and arbitration and the Parties, of any circumstances or information that may give rise to justifiable doubts about his impartiality or independence, and his undertaking of disclosing of such during any stage of the mediation.
  - 2- A copy of the request for mediation and the attachments thereto.
- B- The person who accepts being selected or appointed shall return a signed copy of the agreement mentioned in item (1) of paragraph (A) of this Article to the department concerned with mediation and arbitration within a period not exceeding five working days as of the date of sending him such agreement, otherwise he shall be considered to have rejected such selection or appointment.

**Article (9):**

- A- Where sufficient information is available for the Parties indicating that the Mediator in Insurance Disputes has not performed the duties assigned to him or has breached the provisions of these Instructions and the Decisions issued by virtue thereof, the Mediator in Insurance Disputes may be removed by a decision of the Director General through a request to be submitted by either Party to the department concerned with mediation and arbitration.
- B- The Parties may agree to remove the Mediator in Insurance Disputes at any stage of the mediation, provided that they shall notify in writing the department concerned with mediation and arbitration.

**Article (10):**

- A- If the Mediator in Insurance Disputes passes away, has been removed or has become unable to perform his duties for any reason, another Mediator in Insurance Disputes shall be appointed pursuant to the provisions of Article (7) of these Instructions.
- B- The appointed or selected Mediator in Insurance Disputes pursuant to paragraph (A) of this Article shall contact the Parties as agreed and coordinated with the department concerned with mediation and arbitration in order to determine the procedures to be conducted, within a period not exceeding ten working days as of the date of accepting appointment or selection to mediate the dispute, as the case may be.

**Article (11):**

The Mediator in Insurance Disputes shall comply with the following rules of professional conduct:-

- A- Comply with the provisions of the Act, these Instructions, the Decisions issued pursuant thereto, and the terms of the agreement stipulated in item (1) of paragraph (A) of Article (8) of these Instructions.
- B- Be neutral, impartial and independent at all times.
- C- Make available sufficient time to perform duties assigned to him as a Mediator in Insurance Disputes.
- D- Perform his duties and responsibilities assigned to him by himself and shall not delegate them to others.
- E- Try to reach a settlement amicably and in an appropriate manner without practicing any kind of pressure on Parties for acceptance.
- F- Abstain from providing any promises of certain results of the mediation.
- G- Not to hold his entitlement of his fees on the condition of reaching a settlement between the Parties nor shall determine those fees as a percentage of the settlement.
- H- Not to make use of any information acquired during the mediation proceedings for any personal advantages either for him or for others.

**Article (12):**

For purposes of settling the dispute, the Mediator in Insurance Disputes may do the following:-

- A- Set the time for the mediation hearing, as soon as accepting to mediate the dispute, and shall notify the department concerned with mediation and arbitration of such within a period not exceeding one working day as of the date of setting the date of the hearing. The department concerned with mediation and arbitration shall notify the Parties or their legal representatives, if any, with the time and place whether at the department concerned with mediation and arbitration or elsewhere the Parties and the Mediator in Insurance Disputes agree to be convenient. The Mediator in Insurance Disputes may hear witnesses and receive expert reports.
- B- Meet with the Parties or their legal representatives, and discuss the subject matter of the dispute and their motions. The Mediator in Insurance Disputes may also contact or meet with each Party separately for purpose of reconciling between the Parties, provided that he shall not reveal any information, submitted by any Party during these meetings or contacts, unless approved by the Party who submitted such information.

- C- Take the appropriate measures to reconcile for purposes of reaching a settlement between the Parties.

**Article (13):**

- A- Both Parties shall submit their claims or defenses to the department concerned with mediation and arbitration enclosed with the documents and evidence for purposes of providing them to the Mediator in Insurance Disputes, at least ten working days before the mediation hearing is held. The department concerned with mediation and arbitration shall undertake not to deliver any of the submitted memorandums, documents and evidences by either Party to the other without a previous approval by the Party who has submitted them.
- B- The department concerned with mediation and arbitration shall send the memorandums, documents and evidence mentioned in paragraphs (A) of this Article to the Mediator in Insurance Disputes within a period not exceeding two working days as of the date of receiving them, and shall not keep any copies thereof.
- C- The Mediator in Insurance Disputes may suggest, at any time during the mediation proceedings, any or both Parties to submit additional information or documents that the Mediator in Insurance Disputes deems useful.

**Article (14):**

Any Party, at any time during the mediation proceedings, may have a legal representative during his meetings with the Mediator in Insurance Disputes, provided that he shall notify the department concerned with mediation and arbitration, the Mediator in Insurance Disputes and the other Party, with the name and address of that representative in writing. The legal representative must be authorized to sign the settlement agreement in case they reach one.

**Article (15):**

The Parties or their legal representatives, shall deal with the Mediator in Insurance Disputes in good faith to proceed with the mediation procedures as expeditiously as possible.

**Article (16):**

- A- The Mediator in Insurance Disputes shall conclude the mediation within a period not exceeding sixty working days as of the date of accepting his selection or appointment pursuant to the provisions of paragraph (B) of Article (8) of these Instructions.
- B- The Mediator in Insurance Disputes, upon conclusion of the mediation proceedings pursuant to paragraph (A) of Article (17) of these Instructions, shall immediately send to the department concerned with mediation and arbitration a written notice and a copy to each Party indicating the date of conclusion, whether or not they have reached a settlement and whether the settlement covers all or part of the issues in dispute.

**Article (17):**

- A- The mediation proceedings shall be concluded in any of the following cases:-
  - 1- Signing on a settlement agreement by the Parties covering all or part of the issues in dispute.
  - 2- A decision by the Mediator in Insurance Disputes that, according to his judgment, further efforts in mediation is unlikely to reach a settlement.

- 3- A written notice issued by either Party to the department concerned with mediation and arbitration of the termination of the mediation at any time before the signing of the settlement agreement.
  - 4- If one or both Parties fail to pay his share of the fees of the Mediation in Insurance Disputes after the period stipulated in paragraph (B) of Article (19) of these Instructions ends.
  - 5- An agreement between the Parties to refer the dispute to arbitration.
  - 6- Referral of the dispute to court by one of the Parties.
- B- The department concerned with mediation and arbitration shall notify the Parties and the Mediator in Insurance Disputes of the conclusion of the mediation in any of the cases mentioned in items (2-6) of paragraph (A) of this Article by a written notice indicating the date and reasons for such conclusion.

**Article (18):**

Unless otherwise agreed by the Parties:-

- A- The Party requesting a witness or an expert testimony shall bear all expenses related thereto.
- B- The Parties shall equally bear all the expenses related to the request for a witness or an expert testimony suggested by the Mediator in Insurance Disputes and agreed to by the Parties.
- C- The Party who agrees on the suggestion made by the Mediator in Insurance Disputes concerning the request for a witness or an expert testimony shall solely bear all the expenses related thereto if the other Party does not agree.

**Article (19):**

- A- The fees of the Mediator in Insurance Disputes shall be determined upon the agreement concluded between the Parties and the Mediator in Insurance Disputes, in which fees are estimated in accordance with the amount in dispute, subject matter of the dispute, its nature and any other circumstances related thereto, provided that a copy of the fees agreement shall be placed at the department concerned with mediation and arbitration.
- B- If one or both Parties fail to pay his share of the fees determined pursuant to the terms of the agreement stipulated in paragraph (A) of this Article, the Mediator in Insurance Disputes may request, in writing, from the department concerned with mediation and arbitration to send a written notice to that Party of such within a period not exceeding fifteen working days as of the date of notification.
- C- The Commission shall collect from the Mediator in Insurance Disputes an amount not exceeding (3%) of the fees determined. The amount shall be determined according to the amount and nature of the dispute as well as the effort made in this respect.

**Article (20):**

- A- Mediation procedures shall be conducted in confidentiality. No recording or registering of any hearing, meetings or communications between the Mediator in Insurance Disputes, the Parties or their legal representatives in any manner shall be allowed.
- B- Any person participating in the mediation, including the Mediator in Insurance Disputes, the Parties and their legal representatives or any other person who is present during any of the hearings or meetings of the Parties, shall not contest with the procedures or waivers by the Parties during the mediation procedures before any court or any other body, nor shall benefit from information related to the

mediation or as a result therefrom nor reveal it to others, unless otherwise agreed by the Parties and the Mediator in Insurance Disputes.

- C- Every person mentioned in paragraph (B) of this Article, shall sign a pledge to maintain the confidentiality of the mediation proceedings before participating therein.

**Article (21):**

- A- The department concerned with mediation and arbitration shall keep confidential, the notice of the Mediator in Insurance Disputes mentioned in paragraph (B) of Article (17) of these Instructions and shall not, without receiving a written approval from the Parties reveal the existence or the outcome of the mediation to any person.
- B- Notwithstanding what is mentioned in paragraph (A) of this Article, the Commission may disclose information concerning the mediation cases in any of its publications, provided that such information shall not reveal the identity of the Parties.

**Article (22):**

In implementation of the provisions of paragraph (C) of Article (84) of the Insurance Regulatory Act No. (33) of 1999 and the Amendments Thereof, no one shall be allowed to request from the Mediator in Insurance Disputes to present any documents, memorandums or any data submitted nor shall disclose what have been said by any Party, unless with the consent of the Party is being contested.

**Article (23):**

- A- Notifications and correspondences mentioned in these Instructions shall be notified as follows:-
  - 1- Delivered directly for a receipt.
  - 2- Registered mail, express mail, or private mail.
  - 3- Facsimile or electronic mail.
- B- The last known residence of a Party or place of business shall be a valid address for the purpose of any notification or correspondence in the absence of any notification of any change of address by that Party, unless otherwise agreed by the Parties.
- C- Notification shall be considered to have taken place in any of the cases stipulated in Article (A) of this Article as of:-
  - 1- The tenth business day following the deposit date through registered mail.
  - 2- The fifth business day following the deposit date through express mail.
  - 3- The second business day following the date of transmission through private mail, facsimile or electronic mail.
- D- Notwithstanding what is mentioned in this Article, the department concerned with mediation and arbitration may consider the phone as a valid method to notify the Parties, provided that such procedure is immediately documented, without any delay, in its records. Notification shall be considered valid as of the date of documentation.

**Article (24):**

Notification according to the provisions of these Instructions shall be considered valid if being sent to the Party or his legal representative.

**Article (25):**

The department concerned with mediation and arbitration may by itself or upon the request of either Party, whenever necessary, extend the periods of time stipulated in paragraph (B) of Article (4) or paragraph (B) of Article (19).

**Article (26):**

The Director General shall issue the Decisions necessary for implementing the provisions of these Instructions.

**Board of Directors of the Insurance Commission**