

LexisNexis® Reference Card: Alternative Dispute Resolution



Extracted from:

Halsbury's® Laws of Canada – Alternative Dispute Resolution (2014 Reissue)

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Referenced as HDR in this document

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I. Introduction

1. Alternative Dispute Resolution Defined

▼**HDR-1**▼ **Definition of alternative dispute resolution.** There is no universally approved definition of alternative dispute resolution (“ADR”). ADR is commonly used as a term describing means of resolving disputes outside of traditional litigation processes. This text discusses a number of such alternative dispute resolution methodologies such as arbitration, mediation, conciliation, expert determination, dispute review and advisory boards and ombudspersons. Alternative dispute resolution is sometimes defined to exclude processes which result in imposed, binding decisions, thus implicitly excluding arbitration.¹ In this text, however, both domestic and international arbitration are discussed as part of ADR because they are traditionally understood to be a core part of ADR in practice in Canada. Community and faith-based dispute resolution models are also discussed to the extent that they have received judicial or legislative attention. Processes within the court system are discussed where they incorporate aspects of alternative dispute resolution, such as court-annexed mediation and settlement and pre-trial conferences.

Notes

1. Academy of Experts, “The Language of ADR”, 1992, cited in H. Brown and A. Marriott, *ADR Principles and Practice*, 2nd ed. (London: Sweet & Maxwell, 2002) at 12.

2. Scope of Title

▼**HDR-2**▼ **Limitation.** ADR processes that form part of a specialized area of law are not discussed in this text because they are discussed as part of the specialized subject-matter areas in other volumes in this series. Thus, the discussion of ADR in the context of family law, labour law, employment law, insurance law or criminal law is left to the volumes treating those substantive areas of the law. Negotiation, while not strictly speaking a form of ADR, is treated here to the extent that it has received judicial attention.

Supplemental Readings

Alternative Dispute Resolution Law

[The Law of ADR in Canada – An Introductory Guide](#) (Glaholt and Rotterdam)

[Bypass Court – A Dispute Resolution Handbook, 4th Edition](#) (Chornenki and Hart)

General

[Legal Problem Solving – Reasoning, Research & Writing, 6th Edition and The Ultimate Guide to Canadian Legal Research](#) (Fitzgerald)

[Legal Writing and Research Manual, 7th Edition, Student Edition](#) (Whitehead and Matthewman)

[Understanding Lawyers’ Ethics in Canada](#) (Woolley)

[Lawyers’ Ethics and Professional Regulation, 2nd Edition](#) (Woolley, Cotter, Devlin and Law)