

Passed by both Houses



New South Wales

Community Justice Centres Amendment Bill 2010

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2010*



New South Wales

Community Justice Centres Amendment Bill 2010

Act No , 2010

An Act to make miscellaneous amendments to the *Community Justice Centres Act 1983*; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Community Justice Centres Amendment Act 2010*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Repeal of Community Justice Centres Amendment Act 2007 No 70

The *Community Justice Centres Amendment Act 2007* is repealed.

Schedule 1 Amendment of Community Justice Centres Act 1983 No 127

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

Director-General means the Director-General of the Department of Justice and Attorney General.

[2] Section 4 (1), definition of “mediation”

Omit paragraph (b) of the definition. Insert instead:

- (b) the bringing together of the parties to any dispute for that purpose, and

[3] Section 4 (1), definition of “mediator”

Omit the definition. Insert instead:

mediator means:

- (a) the Director, or
- (b) a person for the time being holding office as a mediator under section 5.

[4] Section 4 (5)

Insert after section 4 (4):

- (5) Notes included in this Act do not form part of this Act.

[5] Part 2, Division 1

Insert before Division 2:

Division 1 Mediators

5 Appointment of mediators

- (1) The Director-General may, on the recommendation of the Director, appoint a person as a mediator for Community Justice Centres.
- (2) The *Public Sector Employment and Management Act 2002* does not apply to or in respect of the appointment of a mediator.

6 Terms of office

Subject to this Division, a mediator holds office for the term, not more than 3 years, specified in the mediator’s instrument of appointment, and is eligible for reappointment.

7 Remuneration

A mediator is entitled to be paid the remuneration and allowances decided by the Director-General from time to time.

8 Vacancy in office

- (1) The office of a mediator becomes vacant if the mediator:
 - (a) dies, or
 - (b) completes a term of office and is not reappointed, or
 - (c) resigns the office by written instrument addressed to the Director-General, or
 - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (e) becomes a mentally incapacitated person, or
 - (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Director-General may remove a mediator from office at any time.

[6] Sections 11 and 12

Omit the sections. Insert instead:

11 Staff

The Director and the staff of Community Justice Centres are to be employed under and in accordance with Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[7] Sections 15 and 16

Omit the sections.

[8] Section 19 Use of certain words or letters

Omit “person holding a current accreditation as a mediator under section 11” from section 19 (1A).

Insert instead “mediator”.

[9] Section 19 (1A)

Omit “holds a current accreditation as a mediator”. Insert “is a mediator”.

[10] Section 20A Provision of mandatory mediation services

Omit “and without the consent of all of the parties to the dispute” from section 20A (1).

[11] Section 20A (4) (a)

Omit “except sections 23 (1) and (3), 27, 28 and 29”.

Insert instead “except section 23 (1) and (3)”.

[12] Section 21 Conduct of mediation sessions

Omit section 21 (4) and (5). Insert instead:

- (4) A party to a mediation session may be accompanied by or represented by another person.
- (5) The Director or the mediator conducting a mediation session may exclude a person (other than a party to the mediation session) from attending, or continuing to attend the mediation session if, in the Director’s or mediator’s opinion, the presence of the person may frustrate the purpose or conduct of the mediation session.

[13] Section 23 Mediation to be voluntary

Insert after section 23 (1):

Note. See, however, section 20A (4) (a) which provides that this subsection (and subsection (3)) does not apply to the mediation of a dispute referred to Community Justice Centres for mediation by an order of a court or tribunal.

[14] Section 23 (3)

Insert “, unless the parties agree in writing that the agreement is to be enforceable” after “body”.

[15] Section 25 Representation by agent

Omit the section.

[16] Section 28 Privilege

Insert “or 29A” after “section 29 (2) (c)” in section 28 (6) (b).

[17] Section 28 (6) (b)

Insert after the paragraph:

, or

- (c) given as evidence:
 - (i) as to the fact that an agreement the parties have agreed is to be enforceable has been reached at, or drawn up pursuant to, a mediation session, and
 - (ii) as to the substance of that agreement.

[18] Section 29 Secrecy

Insert at the end of section 29 (2) (b):

- (b1) if the disclosure is for the purposes of giving evidence:
 - (i) as to the fact that an agreement the parties have agreed is to be enforceable has been reached at, or drawn up pursuant to, a mediation session, and
 - (ii) as to the substance of that agreement,

[19] Section 29A Mandatory reporting

Omit “at risk of harm”. Insert instead “at risk of significant harm”.

[20] Section 30 Power to accept appointment

Omit the section.

[21] Schedule 2 Mediator’s oath of secrecy

Omit “make a record of, or”.

[22] Schedule 3 Mediator’s affirmation of secrecy

Omit “make a record of, or”.

[23] Schedule 4 Savings and transitional provisions

Insert at the end of clause 1A (1):

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[24] Schedule 4, clause 19

Omit the clause.