



## ANALYSIS

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1983, No. 102

**An Act to facilitate the provision by the Christchurch  
Community Mediation Service Incorporated of  
mediation services as a pilot project** [16 December 1983]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title**—This Act may be cited as the Community Mediation Service (Pilot Project) Act 1983.

**2. Interpretation**—In this Act, unless the context otherwise requires,—

“Approved premises” means—

- (a) The office premises of the Mediation Service;
- (b) Any premises approved by or on behalf of the Committee for the conduct of mediation sessions:

“Committee” means the Executive Committee of the Mediation Service:

“Co-ordinator”—

- (a) Means the person appointed by the Committee to co-ordinate the work of the Mediation Service; and
- (b) Includes the person appointed by the Committee as the acting Co-ordinator; and
- (c) Includes any person to whom the powers and functions of the Co-ordinator are delegated by the Co-ordinator:

“Mediation” means promoting discussion between parties to a dispute and encouraging the parties to come to a settlement of that dispute in a mediation session:

“Mediation Service” means the Christchurch Community Mediation Service Incorporated:

“Mediation session” means a mediation session conducted in approved premises by a mediator with the parties to a dispute:

“Mediator”—

(a) Means any person appointed by the Co-ordinator to act as a mediator in, or in connection with, mediation sessions; and

(b) Includes the Co-ordinator.

**3. Act to bind the Crown**—This Act shall bind the Crown.

**4. Function of Mediation Service**—(1) The principal function of the Mediation Service shall be to establish and operate a pilot project in Christchurch for the provision of mediation.

(2) Nothing in subsection (1) of this section limits any other function of the Mediation Service.

**5. Functions of Committee**—(1) The principal functions of the Committee shall be to—

(a) Co-ordinate the work of the Mediation Service:

(b) Lay down policy guidelines for the work of the Mediation Service:

(c) Give directions with respect to the work of the Mediation Service:

(d) Cause an independent evaluation to be made of the work of the Mediation Service.

(2) Nothing in subsection (1) of this section limits any other function of the Committee.

**6. Mediators**—(1) Subject to subsection (4) of this section, mediators may be appointed by the Co-ordinator in accordance with policy guidelines laid down by the Committee.

(2) The Co-ordinator may, in accordance with those policy guidelines, revoke the appointment of a mediator.

(3) The Co-ordinator shall revoke the appointment of a mediator at the request of that mediator.

(4) The Co-ordinator shall appoint as mediators only such persons as are, by reason of their training and personal qualities, suitable to undertake mediation.

**7. Mediation**—(1) Each mediation session shall be conducted by a mediator or mediators.

(2) Attendance at and participation in a mediation session are voluntary.

(3) A party may withdraw from a mediation session at any time.

(4) The Co-ordinator is entitled at any time and for any reason to refuse to accept a dispute for mediation.

(5) The Co-ordinator or a mediator is entitled at any time and for any reason to terminate a mediation session.

(6) Mediation shall be in private unless the Co-ordinator considers it desirable that a person who is not a party to the dispute should be present at, or participate in, the mediation session, and the parties agree.

(7) Mediation may be undertaken whether or not the dispute is the subject of proceedings before any court or tribunal.

(8) Notwithstanding any enactment or rule of law, an agreement made in the course of a mediation session is not enforceable in any court or tribunal.

(9) The rules of evidence do not apply to mediation sessions.

(10) Except as expressly provided in this Act, nothing in this Act limits or affects any rights or remedies that a party to a dispute has apart from this Act.

Cf. Act No. 134, 1980 (N.S.W.), ss. 21 (2)–(4), 23

**8. Privilege**—(1) This section applies to any oral or written statement (including a statement contained in a document) made in the course of and for the purposes of or in connection with—

(a) Making arrangements for a mediation session:

(b) A mediation session:

(c) Action taken to follow up a mediation session.

(2) No action in defamation lies against any person in respect of any oral or written statement to which this section applies.

(3) Evidence of any oral or written statement to which this section applies is not admissible in proceedings before any court, or tribunal, or a person acting judicially.

(4) Nothing in subsection (3) of this section applies to the admission of any oral or written statement to which this section applies, if—

(a) The parties to the dispute consent to the admission of the statement; or

(b) The statement is admissible evidence in favour of any person charged with an offence and that person adduces the evidence; or

- (c) The statement is admissible evidence against a person charged with an offence—
  - (i) Against the person; or
  - (ii) Against rights of property; or
  - (iii) Of threatening, conspiring, or attempting to commit any such offence—
    - being an offence arising from an act or omission occurring after the statement was made; or
- (d) The statement is admissible evidence against a person charged with an offence arising from the making of the statement.

**9. Confidentiality**—(1) This section applies to—

- (a) A mediator;
- (b) A member of the Committee;
- (c) An employee of the Mediation Service;
- (d) A person acting on behalf of the Mediation Service;
- (e) A person carrying out an evaluation of the work of the Mediation Service pursuant to section 5 (1) (d) of this Act.

(2) Every person to whom this section applies commits an offence and is liable on summary conviction to a fine not exceeding \$500 who discloses to any other person any information, statement, or admission received by or made to that person in the course of—

- (a) Making arrangements for a mediation session;
  - (b) A mediation session;
  - (c) Action taken to follow up a mediation session.
- (3) Nothing in subsection (2) of this section applies if—
- (a) The person from whom the information is obtained, or by whom the statement or admission is made, consents to the disclosure;
  - (b) There are reasonable grounds to believe disclosure is necessary to prevent or minimise the danger of injury to any person or damage to any property;
  - (c) The information, statement, or admission is given in evidence pursuant to section 8 (4) of this Act;
  - (d) The disclosure is reasonably required for the purpose of providing mediation;
  - (e) The disclosure is reasonably required for the purpose of referring any party or parties to a mediation session to any person, agency, organisation, or other body; and—

- (i) The disclosure is for the purpose of aiding in the resolution of a dispute between the parties or assisting any such parties in any other manner; and
  - (ii) The person from whom the information is obtained, or by whom the statement or admission is made, consents to the disclosure:
- (f) The disclosure is reasonably required to facilitate the evaluation of the work of the mediation service pursuant to section 5 (1) (d) of this Act and such disclosure is authorised by the Committee.

**10. Exemption from liability**—No civil or criminal proceedings lie against the Mediation Service, the Committee, or any mediator for any act or omission in connection with providing mediation in accordance with this Act, the policy guidelines and directions of the Committee, and any document or instrument defining the constitution and rules of the Mediation Service, unless the act or omission was in bad faith.

**11. Expiration**—This Act shall expire with the close of the 31st day of December 1987 and shall be deemed to have been repealed as at the close of that day.

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This Act is administered in the Department of Justice.

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