

**COMMUNITY JUSTICE CENTRES (PILOT
PROJECT) BILL, 1980**

No. , 1980.

A BILL FOR

An Act to provide for the establishment and operation of Community Justice Centres to provide mediation services in connection with certain disputes.

[MR WALKER—19 November, 1980.]

Community Justice Centres (Pilot Project).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5

PART I.

PRELIMINARY.

1. This Act may be cited as the "Community Justice Centres Short title. (Pilot Project) Act, 1980".

2. (1) Except as provided in subsections (2) and (3), this Commence-
10 Act shall commence on the date of assent to this Act. ment.

(2) Section 5 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Part IV shall commence on such day (being later than
15 the day appointed and notified under subsection (2)) as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. This Act is divided as follows :—

Arrange-
ment.

PART I.—PRELIMINARY—ss. 1–4.

20 **PART II.—ADMINISTRATION—ss. 5–13.**

DIVISION 1.—The Committee—ss. 5–8.

DIVISION 2.—Staff of Community Justice Centres—ss. 9–13.

PART III.—COMMUNITY JUSTICE CENTRES—ss. 14–19.

Community Justice Centres (Pilot Project).

PART IV.—MEDIATION—ss. 20–25.

PART V.—MISCELLANEOUS—ss. 26–32.

SCHEDULE 1.—CONSTITUTION AND PROCEDURE OF THE COMMITTEE.

5 SCHEDULE 2.—MEDIATOR’S OATH OF SECRECY.

SCHEDULE 3.—MEDIATOR’S AFFIRMATION OF SECRECY.

SCHEDULE 4.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

4. (1) In this Act, except in so far as the context or subject-
10 matter otherwise indicates or requires— Interpre-
tation.

“Committee” means the Community Justice Centres Co-ordinating Committee constituted by this Act;

“Community Justice Centre” means a Community Justice Centre established under this Act;

15 “Co-ordinator” means the Co-ordinator of a Community Justice Centre;

“Director” means a person holding office or duly acting as Director of a Community Justice Centre;

“functions” includes powers, authorities and duties;

20 “mediation” includes—

(a) the undertaking of any activity for the purpose of promoting the discussion and settlement of a dispute by 2 or more parties to the dispute;

25 (b) the bringing together of the parties to any such dispute for this purpose; and

(c) the follow-up of any matter the subject of any such discussion or settlement;

Community Justice Centres (Pilot Project).

“mediation session” means a mediation session undertaken at a Community Justice Centre in accordance with this Act, between 2 or more parties who are in dispute on any matter;

5 “mediator” means any person for the time being accredited as a mediator for a Community Justice Centre, and includes the Director of the Centre;

“member” means a member of the Committee;

10 “Pilot Project” means the Community Justice Centres Pilot Project as approved by the Minister.

(2) A reference in this Act to the exercise of a function includes, where that function is a duty, a reference to the performance of that duty.

15 (3) A reference in this Act to the parties to a mediation session includes a reference to the parties to a dispute in respect of which an application for a mediation session is duly made, but does not include a reference to the mediator conducting the mediation session.

20 (4) A reference in this Act to the conduct of a mediation session by a mediator includes a reference to the conduct of a mediation session in his presence or under his supervision.

PART II.

ADMINISTRATION.

DIVISION 1.—*The Committee.*

25 5. (1) There is hereby constituted a committee, to be called the “Community Justice Centres Co-ordinating Committee”. Constitu-
tion of
Committee.

Community Justice Centres (Pilot Project).

(2) The Committee shall have and may exercise the functions conferred or imposed on it by or under this or any other Act.

(3) The Committee shall, in the exercise of its functions (except in relation to the contents of a report or recommendation 5 made by it to the Minister) be subject to the control and direction of the Minister.

(4) Schedule 1 has effect in relation to the constitution and procedure of the Committee.

6. (1) The functions of the Committee include the **Functions of the Committee.**
10 following :—

- (a) to co-ordinate the implementation and operation of the Pilot Project;
- 15 (b) to determine policy guidelines for, and give directions with respect to, the operation of Community Justice Centres;
- (c) to make such reports or recommendations to the Minister on any matter relating to Community Justice Centres, or on any other matter to which this Act relates, as the Committee considers necessary or appropriate;
- 20 (d) to provide such assistance as may be necessary to facilitate an evaluation to be made under section 26;
- (e) to make recommendations to the Minister on the desirability of maintaining, modifying or extending the operation of Community Justice Centres after the period 25 during which this Division remains in force; and
- (f) to do such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise of its functions or the establishment and operation of Community Justice Centres.

Community Justice Centres (Pilot Project).

(2) In the exercise of its functions, the Committee shall have regard to—

(a) the financial resources available for the establishment and operation of Community Justice Centres; and

5 (b) the temporary nature of this Act.

7. For the purposes of this Act, the Committee may, with the approval of the Minister and of the Department or local or public authority concerned, and on such terms as may be arranged, make use of the facilities, or the services of any officers, employees or
10 other staff, of any Department of the Government or of any local or public authority.

Use of facilities and staff.

8. (1) The Committee may delegate to a member, sub-committee or Director such of the Committee's functions (other than this power of delegation) as it thinks fit, and may revoke
15 wholly or in part any such delegation.

Delegation of Committee's functions.

(2) A function which is delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

(3) A delegation under this section may be made subject to conditions or limitations.

20

(4) Notwithstanding any delegation under this section, the Committee may continue to exercise all or any of the functions delegated.

(5) Any act or thing done in the exercise of a function delegated
25 under this section has the same force and effect as if it had been done by the Committee.

Community Justice Centres (Pilot Project).

DIVISION 2.—Staff of Community Justice Centres.

9. (1) There shall be a Director for each Community Justice Directors.
Centre.

(2) A Director shall, in the exercise of his functions, be
5 subject to the control and direction of the Committee.

10. (1) There shall be a Co-ordinator for each Community Co-ordin-
Justice Centre. ators.

(2) Where there is a vacancy in the office of a Director or
a Director is through absence or any other cause unavailable to
10 exercise his functions, the Co-ordinator may exercise the func-
tions of the Director and shall be deemed to be the Director, unless
another person is appointed to act as Director in accordance with
law.

11. The Director of a Community Justice Centre may, subject Mediators.
15 to and in accordance with the policy guidelines determined by and
any directions of the Committee, accredit persons, whom he con-
siders to have suitable qualifications or experience, to be mediators
for the Centre, and may revoke any such accreditation.

12. The staff of a Community Justice Centre (including the Staff
20 Director, Co-ordinator and mediators) shall be appointed or em- appoint-
ployed under and in accordance with the Public Service Act, 1979. ments.

13. (1) The Director of a Community Justice Centre may Delegation
authorise a member of the staff of the Centre to exercise such of of
the Director's functions (including any functions delegated to him Director's
25 under this Act, but not including this power of authorisation) as he functions.
thinks fit, and may revoke wholly or in part any such authorisa-
tion.

Community Justice Centres (Pilot Project).

(2) A function which is authorised to be exercised under this section may, while the authorisation remains unrevoked, be exercised from time to time in accordance with the terms of the authorisation.

5 (3) An authorisation under this section may be made subject to conditions or limitations.

(4) Notwithstanding any authorisation under this section, the Director may continue to exercise all or any of the functions to which the authorisation relates.

10 (5) Any act or thing done in the exercise of a function by a person authorised under this section to exercise that function has the same force and effect as if it had been done by the Director.

15 (6) Where the exercise of a function of the Director depends on his opinion, belief or state of mind and the function is in accordance with this section authorised to be exercised by another person, the other person may, subject to any restriction imposed by the Director, exercise the function on his own opinion, belief or state of mind, as the case may require.

PART III.

20 COMMUNITY JUSTICE CENTRES.

14. Centres, to be known as Community Justice Centres, shall be established and operated in accordance with this Act for the purpose of providing mediation services to parties to disputes.

Establishment and operation of Community Justice Centres: general provisions.

15. Community Justice Centres shall be established at such premises as the Governor may determine by order published in the Gazette.

Premises of Community Justice Centres.

Community Justice Centres (Pilot Project).

16. (1) The principal office of a Community Justice Centre shall be at the premises specified in relation to the Centre in the order under section 15. Places at which Community Justice Centres may operate.
- (2) The activities of a Community Justice Centre may be conducted at its principal office or at such other places as the Director of the Centre may, subject to the policy guidelines determined by and any directions of the Committee, approve from time to time.
17. (1) The Director of each Community Justice Centre shall ensure that such records relating to the activities of the Centre are made and kept as are necessary or appropriate to enable the evaluation of Community Justice Centres under section 26 to be properly made. Records.
- (2) The Committee is entitled to inspect any records of a Community Justice Centre.
- (3) The records of a Community Justice Centre may be disposed of only in accordance with the directions of the Committee.
18. Community Justice Centres shall operate within and as parts of the Department of the Attorney General and of Justice, and nothing in this Act derogates from the operation of the provisions of the Public Service Act, 1979, or any other law so far as they apply to that Department and any such part thereof. Centres to be within Department of Attorney General and of Justice.
19. (1) The words "Community Justice Centre" or the letters "CJC" shall not be used in the name of any centre, organisation, body or group, or any other place or establishment, or any part thereof, nor shall any centre, organisation, body or group, or any Use of expression "Community Justice Centre".

Community Justice Centres (Pilot Project).

other place or establishment, or any part thereof, be held out as a Community Justice Centre (whether or not as established under this Act) by the use of the words "Community Justice Centre" or the letters "CJC" or in any other manner—

- 5 (a) unless in either case it is in fact a Community Justice Centre established under this Act; or
- (b) except in either case with the consent of the Committee.

(2) In this section, a reference to—

- 10 (a) the words "Community Justice Centre" includes a reference to those words whether or not they appear consecutively and to words that are substantially the same as those words; and
- (b) a reference to the letters "CJC" includes a reference to matter that is substantially the same as those letters.

15

PART IV.

MEDIATION.

20 **20.** (1) The Director of a Community Justice Centre is, subject to the policy guidelines determined by and any directions of the Committee, responsible for the provision of mediation services at the Centre and for the operation and management of the Centre. Provision of mediation services.

(2) Each mediation session at a Community Justice Centre shall be conducted by one or more mediators assigned for the purpose by the Director.

25 (3) No dispute shall be accepted for mediation under this Act at a Community Justice Centre except with the consent of the Director.

Community Justice Centres (Pilot Project)

21. (1) The procedure for commencing and conducting mediation sessions shall, subject to the policy guidelines determined by and any directions of the Committee, be as determined by the Director.

Conduct of mediation sessions.

5 (2) Mediation sessions shall be conducted with as little formality and technicality, and with as much expedition, as possible.

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

10 (4) A mediation session shall be conducted in the absence of the public, but persons who are not parties to a mediation session may be present at or participate in a mediation session with the permission of the Director.

22. (1) The Committee may determine that specified classes of disputes are not to be the subject of mediation sessions, or that specified classes of disputes may be the subject of mediation sessions, but nothing in this subsection limits any other provisions of this Act.

Disputes.

20 (2) A mediation session may be commenced or continued whether or not the dispute is justiciable before any court, tribunal or body and whether or not the dispute is the subject of any legal proceedings.

25 (3) For the purposes of this Act, persons may be treated as being in dispute on any matter if they are not in agreement on the matter (whether or not any relevant negotiations are still in progress).

Community Justice Centres (Pilot Project)

23. (1) Attendance at and participation in mediation sessions are voluntary. Mediation to be voluntary.

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

5 (3) Notwithstanding any rule of law or equity, any agreement reached at or drawn up pursuant to a mediation session is not enforceable in any court or tribunal.

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

24. (1) The Director of a Community Justice Centre may decline to consent to the acceptance of any dispute for mediation under this Act at the Centre. Refusal, and termination of mediation.

(2) A mediation session may be terminated at any time
15 by the mediator or by the Director.

25. (1) A party to a mediation session is not entitled to be represented by an agent unless—

(a) it appears to the Director that—

20 (i) an agent should be permitted to facilitate mediation; and

(ii) the agent proposed to be appointed has sufficient knowledge of the issue in dispute to enable him to represent the party effectively; and

(b) the Director so approves.

Community Justice Centres (Pilot Project)

(2) Subsection (1) does not prevent—

- (a) an officer within the meaning of the Companies Act, 1961, of a corporation; or
- 5 (b) where a corporation that is a body corporate constituted under the Strata Titles Act, 1973, is a party to a mediation session—the proprietor or, if there is more than one proprietor, one of the proprietors constituting that corporation,

from representing that corporation.

10 (3) Where a Director approves of the representation of a party by an agent, the Director may subject his approval to such conditions as he considers reasonable to ensure that any other party to the mediation session is not substantially disadvantaged by the agent appearing at the mediation session and, where the Director
 15 does so, the entitlement of the agent to represent the party shall be subject to his compliance with those conditions.

(4) Contravention of any provision of this section does not invalidate any mediation session.

PART V.

MISCELLANEOUS.

20

26. The Minister shall cause or arrange for an evaluation to be made, at such times and in respect of such periods as he thinks fit, of Community Justice Centres and of their operation and activities.

Evaluation
of Com-
munity
Justice
Centres.

Community Justice Centres (Pilot Project)

27. (1) No matter or thing done or omitted to be done by— Exoneration
from
liability.
- (a) the Committee or a sub-committee of the Committee;
 - (b) a member of, or a person acting under the direction of or with the authority of, the Committee or any such sub-committee; or
 - (c) a Director or a member of the staff of a Community Justice Centre,

shall, if the matter or thing was done in good faith for the purpose of executing this Act, subject any of them to any action, liability, claim or demand.

(2) A member of the police force, or any other officer or person, is not liable to be proceeded against in respect of—

- (a) the failure to charge a person with a crime or offence, or to initiate or proceed with proceedings for an offence or crime, or for any similar failure; or
- (b) the arrest of a person followed by such a failure, if he satisfies the court that the failure was reasonable—
- (c) by reason of the reference of the dispute to which the alleged crime or offence relates for mediation under this Act; and
- (d) in all the circumstances of the case.

(3) Nothing in this Act prevents a charge referred to in subsection (2) (a) from being laid or any proceedings so referred to from being instituted or proceeded with or any incidental act, matter or thing from being done by any person at any time.

(4) No person shall be concerned to inquire whether or not any circumstance has arisen requiring or authorising a person to act in the office of a member or of a Director, and anything done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences as if it had been done or omitted to be done by that member or Director.

Community Justice Centres (Pilot Project)

28. (1) In this section, “mediation session” includes any steps ^{Privilege.} taken in the course of making arrangements for a mediation session or in the course of the follow-up of a mediation session.

(2) The like privilege with respect to defamation exists ⁵ with respect to mediation sessions as exists with respect to judicial proceedings.

(3) Evidence of anything said or of any admission made in a mediation session is not admissible in any proceedings before any court, tribunal or body.

¹⁰ (4) No document prepared for the purposes of, or in the course of, or pursuant to, a mediation session, or any copy thereof, is admissible in evidence in any proceedings before any court, tribunal or body.

(5) Subsections (3) and (4) do not apply with respect to ¹⁵ any evidence or document—

- (a) where the parties to the mediation session give their consent to admission of the evidence or document; or
- ²⁰ (b) in proceedings instituted with respect to any act or omission in connection with which a disclosure has been made pursuant to section 29 (3) (c).

(6) A member of the Committee or a sub-committee of the Committee, a Director, a member of the staff of a Community Justice Centre, a person conducting an evaluation under section 26 or a party to a mediation session is not liable to be proceeded ²⁵ against for misprision of felony in respect of any information obtained in connection with the administration or execution of this Act.

Community Justice Centres (Pilot Project)

29. (1) A mediator shall not commence to exercise his **Secrecy.** functions as a mediator unless he has first taken an oath before a justice of the peace in or to the effect of the form set out in Schedule 2 or has made an affirmation in or to the effect of the form set out 5 in Schedule 3.

(2) A person who is or has been a member of the Committee or a sub-committee of the Committee, a Director, a member of the staff of a Community Justice Centre or a person conducting an evaluation under section 26 may disclose information obtained 10 by him in connection with the administration or execution of this Act only as follows :—

- (a) with the consent of the person from whom the information was obtained;
- 15 (b) in connection with the administration or execution of this Act;
- (c) where there are reasonable grounds to believe that disclosure is necessary to prevent or minimise the danger of injury to any person or damage to any property;
- 20 (d) where 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 the disclosure is for the purpose of aiding in the resolution of a dispute between parties to a mediation or assisting any such parties in any other manner;
- 25 (e) where the disclosure is reasonably required for the purposes of research and evaluation carried out by, or with the approval of, the Committee or pursuant to section 26; or
- 30 (f) in accordance with a requirement imposed by or under a law of the State or the Commonwealth.

Community Justice Centres (Pilot Project)

30. (1) Where by or under any Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or prohibiting him from engaging in employment outside the duties of his office, that provision shall not operate to disqualify him from—

Power to accept appointment.

(a) holding that office and also the office of a member of the Committee or of a sub-committee of the Committee; or

(b) holding that office and also the office of a mediator or retaining any remuneration payable to him as a mediator.

(2) The office of a member of the Committee or of a sub-committee of the Committee or a mediator shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

31. Schedule 4 has effect.

Savings, transitional and other provisions.

32. (1) This Act (except this Part and Division 1 of Part II) expires—

Expiry of Act.

(a) subject to paragraph (b)—on 1st December, 1982; or

(b) if the Governor so directs by proclamation published in the Gazette—on such later day (but not later than 1st December, 1983) as is specified therein.

(2) One or more than one proclamation may be made and published under subsection (1) (b), but any such proclamation has no effect unless it is made and published before the day on which the expiry would, but for the proclamation, take effect.

(3) Division 1 of Part II expires on such day (but not earlier than the day of expiry provided for under subsection (1)) as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Community Justice Centres (Pilot Project)

SCHEDULE 1.

Sec. 5.

CONSTITUTION AND PROCEDURE OF COMMITTEE.

1. (1) The Committee shall consist of appointed members and ex officio members. Member-ship.

5 (2) The appointed members shall be appointed by the Minister, and of them—

(a) one shall be a stipendiary magistrate nominated by the Chairman of the Bench of Stipendiary Magistrates;

10 (b) one shall be a member of the police force nominated by the Commissioner of Police;

(c) one shall be a person nominated by the Council of Social Service of New South Wales;

(d) one shall be a person nominated by the Council of The Law Society of New South Wales;

15 (e) one shall be a person nominated by the Ethnic Affairs Commission of New South Wales;

(f) one shall be a member of the Department of Corrective Services nominated by the Minister for Corrective Services;

20 (g) one shall be a member of the Department of Youth and Community Services nominated by the Minister for Youth and Community Services;

(h) one shall be a member of the Department of Technical and Further Education nominated by the Minister for Education;

25 (i) one shall be a member of the Department of the Attorney General and of Justice selected by the Minister; and

(j) two shall be persons selected by the Minister by reason of their having such special interests or experience as appear or appears to the Minister to be of value to the Pilot Project.

(3) The ex officio members shall be—

30 (a) the Director, Magistrates Courts Administration; and

(b) the Directors of the Community Justice Centres.

(4) Where, for the purposes of this Schedule, a nomination of a person for appointment as a member is not made within the time or in the manner specified by the Minister in a notice in writing given to the body or person entitled to make the nomination, the Minister may appoint 35 any person to be a member instead of the person required to be appointed on that nomination.

Community Justice Centres (Pilot Project)

SCHEDULE 1—*continued.*CONSTITUTION AND PROCEDURE OF COMMITTEE—*continued.*

2. One of the members of the Committee shall, in and by the instrument of his appointment or a later instrument, be appointed as Chairman of the Committee. Chairman.
3. A person who is of or above the age of 65 years shall not be appointed as a member. Age of members.
4. (1) A member deemed to be appointed by clause 3 of Schedule 4 shall, subject to this Act, hold office for a term of 3 years, but is eligible for re-appointment. Term of office.
- (2) An appointed member (other than a member referred to in subclause (1)) shall, subject to this Act, hold office for such term, not exceeding 3 years, as is specified in the instrument of his appointment, but is eligible for re-appointment.
5. (1) An appointed member shall be deemed to have vacated his office— Vacation of office.
- (a) if he dies;
- (b) if he is absent from 4 consecutive meetings of the Committee of which reasonable notice has been given to him personally or in the normal course of post except on leave granted by the Committee, and is not before the expiration of 4 weeks after the last of those meetings, excused by the Committee for his absence from those meetings; 20
- (c) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his estate for their benefit; 25
- (d) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act; 30
- (e) if he is convicted in New South Wales of a crime or offence which is punishable by imprisonment for a period of 12 months or more, or if he is convicted elsewhere than in New South Wales of a crime or offence which if committed in New South Wales would be a crime or offence so punishable; 35

Community Justice Centres (Pilot Project)

SCHEDULE 1—*continued.*CONSTITUTION AND PROCEDURE OF COMMITTEE—*continued.*

- (f) if he resigns his office by writing under his hand to the Minister and the Minister accepts his resignation;
- 5 (g) if he declines office;
- (h) if he is removed from office by the Minister;
- (i) if he ceases to hold the office or position by virtue of which he was qualified for appointment; or
- (j) on the day on which he attains the age of 65 years.
- 10 (2) The Minister may, for any cause which appears to him sufficient, remove any appointed member from office.
6. On the occurrence of a vacancy in the office of an appointed member, the Minister may appoint a person to the vacant office so that the Committee is constituted in accordance with clause 1.
- 15 7. (1) The procedure for the calling of meetings of the Committee and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Committee. Meetings of the Committee.
- (2) The Chairman of the Committee or, in the absence of the Chairman, the member chosen by the members present at the meeting to act as chairman may preside at any meeting of the Committee.
- 20 (3) Eight members shall form a quorum at any meeting of the Committee and any duly convened meeting of the Committee at which a quorum is present shall be competent to transact any business of the Committee and shall have and may exercise and perform all the functions of the Committee.
- 25 (4) The person presiding at any meeting of the Committee shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.
- (5) A decision supported by a majority of the votes of the members present and voting at a meeting of the Committee shall be the decision of the Committee.
- 30

Community Justice Centres (Pilot Project).

SCHEDULE 1—*continued.*CONSTITUTION AND PROCEDURE OF COMMITTEE—*continued.*

8. The Committee shall cause full and accurate minutes to be kept of the **Minutes.** proceedings at its meetings, and shall submit to the Minister a copy of the **5** minutes (whether or not confirmed) of each meeting within 14 days after the day on which the meeting is held.
9. (1) The Committee may establish such standing or special sub- **Sub-** committees as it thinks fit to assist and advise it in connection with the **committees.** exercise of its functions or to exercise, pursuant to a delegation made **10** under section 8, the functions of the Committee that have been delegated to the sub-committee.
- (2) A person may be appointed as a member of a sub-committee whether or not he is a member of the Committee.
10. (1) The procedure for the calling of meetings of a sub-committee **Proceedings** and for the conduct of business at those meetings shall, subject to this Act **of sub-** and any direction given by the Committee, be as determined by the **committees.** sub-committee.
- (2) A quorum of a sub-committee shall consist of such number of **20** the members of the sub-committee as the Committee determines, and any duly convened meeting of a sub-committee at which a quorum is present is competent to transact any business of the sub-committee and shall have and may exercise all the functions of the sub-committee.
- (3) The person presiding at any meeting of a sub-committee shall, **25** if the Committee so approves in relation to that sub-committee, have in addition to a deliberative vote a second or casting vote.
- (4) A decision supported by a majority of the votes of the members present and voting at a meeting of a sub-committee shall be the decision of the sub-committee.
11. The Public Service Act, 1979, does not apply to or in respect of the **Public** **30** appointment of a member, and a member is not, in his capacity as a **Service** member, subject to that Act during his term of office. **Act, 1979,** **not to** **apply.**

Community Justice Centres (Pilot Project).

SCHEDULE 2.

Sec. 29.

MEDIATOR'S OATH OF SECRECY.

I, _____ of

being a mediator within the meaning of the Community Justice Centres (Pilot Project) Act, 1980, do swear that I will not, either directly or indirectly, except as permitted under section 29 of that Act, and either while I am or after I cease to be, a mediator, make a record of, or divulge or communicate to any person, court or tribunal any information, document or other matter disclosed during or incidentally to a mediation session.

SO HELP ME GOD

Sworn and subscribed at

this _____ day

of _____ 19 _____

before me—

.....
Signature

.....
Justice of the Peace

SCHEDULE 3.

Sec. 29.

MEDIATOR'S AFFIRMATION OF SECRECY.

I, _____ of

being a mediator within the meaning of the Community Justice Centres (Pilot Project) Act, 1980, do solemnly, sincerely and truly declare and affirm that I will not, either directly or indirectly, except as permitted under section 29 of that Act, and either while I am or after I cease to be, a mediator, make a record of, or divulge or communicate to any person, court or tribunal any information, document or other matter disclosed during or incidentally to a mediation session.

Subscribed at

this _____ day

of _____ 19 _____

before me—

.....
Signature

.....
Justice of the Peace

Community Justice Centres (Pilot Project).

SCHEDULE 4.

Sec. 31.

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

- 1. In this Schedule, "the former committee" means the Co-ordinating Interpretation Committee constituted before the commencement of section 5 in connection with Community Justice Centres.
- 2. On the commencement of section 5, the former committee is abolished.
- 3. The members of the former committee holding office immediately before the commencement of section 5, other than the persons who become ex officio members of the Committee on that commencement, shall be deemed to be duly appointed as appointed members of the Committee.
- 4. Anything done or omitted to be done by or in relation to the former committee shall be deemed to have, subject to and in accordance with this Act, been done or omitted to be done by or in relation to the Committee.
- 5. This Act applies to disputes arising before, as well as to disputes arising after, the commencement of Part IV.

Abolition of former committee.

Members of former committee.

Decision of former committee.

Existing disputes.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980

Committee on the Judiciary (H.R. 1980)

Section 11.

ARTICLE I

TRANSITION AND OTHER PROVISIONS

1. The committee shall have the honor to receive and consider all communications from members of the public and to report thereon to the committee as soon as practicable.

2. The committee shall have the honor to receive and consider all communications from members of the public and to report thereon to the committee as soon as practicable.

3. The committee shall have the honor to receive and consider all communications from members of the public and to report thereon to the committee as soon as practicable.

4. The committee shall have the honor to receive and consider all communications from members of the public and to report thereon to the committee as soon as practicable.

5. The committee shall have the honor to receive and consider all communications from members of the public and to report thereon to the committee as soon as practicable.

1980
**COMMUNITY JUSTICE CENTRES (PILOT
PROJECT) BILL, 1980**

No. , 1980.

A BILL FOR

An Act to provide for the establishment and operation of Community Justice Centres to provide mediation services in connection with certain disputes.

[MR WALKER—19 November, 1980.]

Community Justice Centres (Pilot Project).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5

PART I.

PRELIMINARY.

1. This Act may be cited as the "Community Justice Centres Short title. (Pilot Project) Act, 1980".

2. (1) Except as provided in subsections (2) and (3), this Act shall commence on the date of assent to this Act. Commence-
ment.

(2) Section 5 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Part IV shall commence on such day (being later than the day appointed and notified under subsection (2)) as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. This Act is divided as follows :—

Arrange-
ment.

PART I.—PRELIMINARY—ss. 1–4.

20

PART II.—ADMINISTRATION—ss. 5–13.

DIVISION 1.—*The Committee*—ss. 5–8.

DIVISION 2.—*Staff of Community Justice Centres*—ss. 9–13.

PART III.—COMMUNITY JUSTICE CENTRES—ss. 14–19.

Community Justice Centres (Pilot Project).

PART IV.—MEDIATION—*ss.* 20–25.

PART V.—MISCELLANEOUS—*ss.* 26–32.

SCHEDULE 1.—CONSTITUTION AND PROCEDURE OF THE
COMMITTEE.

5 SCHEDULE 2.—MEDIATOR'S OATH OF SECRECY.

SCHEDULE 3.—MEDIATOR'S AFFIRMATION OF SECRECY.

SCHEDULE 4.—SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS.

4. (1) In this Act, except in so far as the context or subject-
10 matter otherwise indicates or requires— Interpre-
tation.

“Committee” means the Community Justice Centres Co-
ordinating Committee constituted by this Act;

“Community Justice Centre” means a Community Justice
Centre established under this Act;

15 “Co-ordinator” means the Co-ordinator of a Community
Justice Centre;

“Director” means a person holding office or duly acting as
Director of a Community Justice Centre;

“functions” includes powers, authorities and duties;

20 “mediation” includes—

(a) the undertaking of any activity for the purpose
of promoting the discussion and settlement of a
dispute by 2 or more parties to the dispute;

25 (b) the bringing together of the parties to any such
dispute for this purpose; and

(c) the follow-up of any matter the subject of any
such discussion or settlement;

Community Justice Centres (Pilot Project).

“mediation session” means a mediation session undertaken at a Community Justice Centre in accordance with this Act, between 2 or more parties who are in dispute on any matter;

5 “mediator” means any person for the time being accredited as a mediator for a Community Justice Centre, and includes the Director of the Centre;

“member” means a member of the Committee;

10 “Pilot Project” means the Community Justice Centres Pilot Project as approved by the Minister.

(2) A reference in this Act to the exercise of a function includes, where that function is a duty, a reference to the performance of that duty.

15 (3) A reference in this Act to the parties to a mediation session includes a reference to the parties to a dispute in respect of which an application for a mediation session is duly made, but does not include a reference to the mediator conducting the mediation session.

20 (4) A reference in this Act to the conduct of a mediation session by a mediator includes a reference to the conduct of a mediation session in his presence or under his supervision.

PART II.

ADMINISTRATION.

DIVISION 1.—*The Committee.*

25 5. (1) There is hereby constituted a committee, to be called the “Community Justice Centres Co-ordinating Committee”. Constitu-
tion of
Committee.

Community Justice Centres (Pilot Project).

(2) The Committee shall have and may exercise the functions conferred or imposed on it by or under this or any other Act.

(3) The Committee shall, in the exercise of its functions (except in relation to the contents of a report or recommendation 5 made by it to the Minister) be subject to the control and direction of the Minister.

(4) Schedule 1 has effect in relation to the constitution and procedure of the Committee.

6. (1) The functions of the Committee include the 10 following :— Functions
of the
Committee.

- (a) to co-ordinate the implementation and operation of the Pilot Project;
- 15 (b) to determine policy guidelines for, and give directions with respect to, the operation of Community Justice Centres;
- (c) to make such reports or recommendations to the Minister on any matter relating to Community Justice Centres, or on any other matter to which this Act relates, as the Committee considers necessary or appropriate;
- 20 (d) to provide such assistance as may be necessary to facilitate an evaluation to be made under section 26;
- (e) to make recommendations to the Minister on the desirability of maintaining, modifying or extending the operation of Community Justice Centres after the period 25 during which this Division remains in force; and
- (f) to do such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise of its functions or the establishment and operation of Community Justice Centres.

Community Justice Centres (Pilot Project).

(2) In the exercise of its functions, the Committee shall have regard to—

- (a) the financial resources available for the establishment and operation of Community Justice Centres; and
- 5 (b) the temporary nature of this Act.

7. For the purposes of this Act, the Committee may, with the approval of the Minister and of the Department or local or public authority concerned, and on such terms as may be arranged, make use of the facilities, or the services of any officers, employees or
10 other staff, of any Department of the Government or of any local or public authority. Use of facilities and staff.

8. (1) The Committee may delegate to a member, sub-committee or Director such of the Committee's functions (other than this power of delegation) as it thinks fit, and may revoke
15 wholly or in part any such delegation. Delegation of Committee's functions.

(2) A function which is delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

(3) A delegation under this section may be made subject to conditions or limitations.
20

(4) Notwithstanding any delegation under this section, the Committee may continue to exercise all or any of the functions delegated.

(5) Any act or thing done in the exercise of a function delegated under this section has the same force and effect as if it had
25 been done by the Committee.

Community Justice Centres (Pilot Project).

DIVISION 2.—*Staff of Community Justice Centres.*

9. (1) There shall be a Director for each Community Justice Directors.
Centre.

(2) A Director shall, in the exercise of his functions, be
5 subject to the control and direction of the Committee.

10. (1) There shall be a Co-ordinator for each Community Co-ordin-
Justice Centre. ators.

(2) Where there is a vacancy in the office of a Director or
a Director is through absence or any other cause unavailable to
10 exercise his functions, the Co-ordinator may exercise the func-
tions of the Director and shall be deemed to be the Director, unless
another person is appointed to act as Director in accordance with
law.

11. The Director of a Community Justice Centre may, subject Mediators.
15 to and in accordance with the policy guidelines determined by and
any directions of the Committee, accredit persons, whom he con-
siders to have suitable qualifications or experience, to be mediators
for the Centre, and may revoke any such accreditation.

12. The staff of a Community Justice Centre (including the Staff
20 Director, Co-ordinator and mediators) shall be appointed or em- appoint-
ployed under and in accordance with the Public Service Act, 1979. ments.

13. (1) The Director of a Community Justice Centre may Delegation
authorise a member of the staff of the Centre to exercise such of of
the Director's functions (including any functions delegated to him Director's
25 under this Act, but not including this power of authorisation) as he functions.
thinks fit, and may revoke wholly or in part any such authorisa-
tion.

Community Justice Centres (Pilot Project).

(2) A function which is authorised to be exercised under this section may, while the authorisation remains unrevoked, be exercised from time to time in accordance with the terms of the authorisation.

5 (3) An authorisation under this section may be made subject to conditions or limitations.

(4) Notwithstanding any authorisation under this section, the Director may continue to exercise all or any of the functions to which the authorisation relates.

10 (5) Any act or thing done in the exercise of a function by a person authorised under this section to exercise that function has the same force and effect as if it had been done by the Director.

(6) Where the exercise of a function of the Director depends on his opinion, belief or state of mind and the function is
15 in accordance with this section authorised to be exercised by another person, the other person may, subject to any restriction imposed by the Director, exercise the function on his own opinion, belief or state of mind, as the case may require.

PART III.

20 COMMUNITY JUSTICE CENTRES.

14. Centres, to be known as Community Justice Centres, shall be established and operated in accordance with this Act for the purpose of providing mediation services to parties to disputes.

Establishment and operation of Community Justice Centres: general provisions.

15. Community Justice Centres shall be established at such
25 premises as the Governor may determine by order published in the Gazette.

Premises of Community Justice Centres.

Community Justice Centres (Pilot Project).

16. (1) The principal office of a Community Justice Centre shall be at the premises specified in relation to the Centre in the order under section 15.

Places at which Community Justice Centres may operate.

5 (2) The activities of a Community Justice Centre may be conducted at its principal office or at such other places as the Director of the Centre may, subject to the policy guidelines determined by and any directions of the Committee, approve from time to time.

10 17. (1) The Director of each Community Justice Centre shall ensure that such records relating to the activities of the Centre are made and kept as are necessary or appropriate to enable the evaluation of Community Justice Centres under section 26 to be properly made.

Records.

15 (2) The Committee is entitled to inspect any records of a Community Justice Centre.

(3) The records of a Community Justice Centre may be disposed of only in accordance with the directions of the Committee

20 18. Community Justice Centres shall operate within and as parts of the Department of the Attorney General and of Justice, and nothing in this Act derogates from the operation of the provisions of the Public Service Act, 1979, or any other law so far as they apply to that Department and any such part thereof.

Centres to be within Department of Attorney General and of Justice.

25 19. (1) The words "Community Justice Centre" or the letters "CJC" shall not be used in the name of any centre, organisation, body or group, or any other place or establishment, or any part thereof, nor shall any centre, organisation, body or group, or any

Use of expression "Community Justice Centre".

Community Justice Centres (Pilot Project).

other place or establishment, or any part thereof, be held out as a Community Justice Centre (whether or not as established under this Act) by the use of the words "Community Justice Centre" or the letters "CJC" or in any other manner—

- 5 (a) unless in either case it is in fact a Community Justice Centre established under this Act; or
- (b) except in either case with the consent of the Committee.

(2) In this section, a reference to—

- 10 (a) the words "Community Justice Centre" includes a reference to those words whether or not they appear consecutively and to words that are substantially the same as those words; and
- (b) a reference to the letters "CJC" includes a reference to matter that is substantially the same as those letters.

15

PART IV.

MEDIATION.

20 **20.** (1) The Director of a Community Justice Centre is, ^{Provision of mediation services.} subject to the policy guidelines determined by and any directions of the Committee, responsible for the provision of mediation services at the Centre and for the operation and management of the Centre.

(2) Each mediation session at a Community Justice Centre shall be conducted by one or more mediators assigned for the purpose by the Director.

25 (3) No dispute shall be accepted for mediation under this Act at a Community Justice Centre except with the consent of the Director.

Community Justice Centres (Pilot Project).

- 21.** (1) The procedure for commencing and conducting mediation sessions shall, subject to the policy guidelines determined by and any directions of the Committee, be as determined by the Director. Conduct of mediation sessions.
- 5 (2) Mediation sessions shall be conducted with as little formality and technicality, and with as much expedition, as possible.
- (3) The rules of evidence do not apply to mediation sessions.
- 10 (4) A mediation session shall be conducted in the absence of the public, but persons who are not parties to a mediation session may be present at or participate in a mediation session with the permission of the Director.
- 22.** (1) The Committee may determine that specified classes Disputes. of disputes are not to be the subject of mediation sessions, or that specified classes of disputes may be the subject of mediation sessions, but nothing in this subsection limits any other provisions of this Act.
- 15 (2) A mediation session may be commenced or continued whether or not the dispute is justiciable before any court, tribunal or body and whether or not the dispute is the subject of any legal proceedings.
- 20 (3) For the purposes of this Act, persons may be treated as being in dispute on any matter if they are not in agreement on the matter (whether or not any relevant negotiations are still in progress).
- 25

Community Justice Centres (Pilot Project).

23. (1) Attendance at and participation in mediation sessions are voluntary. **Mediation to be voluntary.**

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

5 (3) Notwithstanding any rule of law or equity, any agreement reached at or drawn up pursuant to a mediation session is not enforceable in any court or tribunal.

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

24. (1) The Director of a Community Justice Centre may decline to consent to the acceptance of any dispute for mediation under this Act at the Centre. **Refusal, and termination of mediation.**

(2) A mediation session may be terminated at any time
15 by the mediator or by the Director.

25. (1) A party to a mediation session is not entitled to be represented by an agent unless—

(a) it appears to the Director that—

20 (i) an agent should be permitted to facilitate mediation; and

(ii) the agent proposed to be appointed has sufficient knowledge of the issue in dispute to enable him to represent the party effectively; and

(b) the Director so approves.

Community Justice Centres (Pilot Project).

(2) Subsection (1) does not prevent—

(a) an officer within the meaning of the Companies Act, 1961, of a corporation; or

5 (b) where a corporation that is a body corporate constituted under the Strata Titles Act, 1973, is a party to a mediation session—the proprietor or, if there is more than one proprietor, one of the proprietors constituting that corporation,

from representing that corporation.

10 (3) Where a Director approves of the representation of a party by an agent, the Director may subject his approval to such conditions as he considers reasonable to ensure that any other party to the mediation session is not substantially disadvantaged by the agent appearing at the mediation session and, where the Director
15 does so, the entitlement of the agent to represent the party shall be subject to his compliance with those conditions.

(4) Contravention of any provision of this section does not invalidate any mediation session.

PART V.

20 MISCELLANEOUS.

26. The Minister shall cause or arrange for an evaluation to be made, at such times and in respect of such periods as he thinks fit, of Community Justice Centres and of their operation and activities.

Evaluation
of Com-
munity
Justice
Centres.

Community Justice Centres (Pilot Project).

27. (1) No matter or thing done or omitted to be done by— Exoneration
from
liability.

- (a) the Committee or a sub-committee of the Committee;
- 5 (b) a member of, or a person acting under the direction of or with the authority of, the Committee or any such sub-committee; or
- (c) a Director or a member of the staff of a Community Justice Centre,

shall, if the matter or thing was done in good faith for the purpose of executing this Act, subject any of them to any action, liability,
10 claim or demand.

(2) A member of the police force, or any other officer or person, is not liable to be proceeded against in respect of—

- 15 (a) the failure to charge a person with a crime or offence, or to initiate or proceed with proceedings for a crime or offence, or for any similar failure; or
- (b) the arrest of a person followed by such a failure,
if he satisfies the court that the failure was reasonable—
- (c) by reason of the reference of the dispute to which the alleged crime or offence relates for mediation under this
20 Act; and
- (d) in all the circumstances of the case.

(3) Nothing in this Act prevents a charge referred to in subsection (2) (a) from being laid or any proceedings so referred to from being instituted or proceeded with or any incidental act,
25 matter or thing from being done by any person at any time.

(4) No person shall be concerned to inquire whether or not any circumstance has arisen requiring or authorising a person to act in the office of a member or of a Director, and anything done or omitted to be done by that person while so acting shall be as
30 valid and effectual and shall have the same consequences as if it had been done or omitted to be done by that member or Director.

Community Justice Centres (Pilot Project).

28. (1) In this section, "mediation session" includes any steps taken in the course of making arrangements for a mediation session or in the course of the follow-up of a mediation session. Privilege.

(2) The like privilege with respect to defamation exists with respect to mediation sessions as exists with respect to judicial proceedings.

(3) Evidence of anything said or of any admission made in a mediation session is not admissible in any proceedings before any court, tribunal or body.

10 (4) No document prepared for the purposes of, or in the course of, or pursuant to, a mediation session, or any copy thereof, is admissible in evidence in any proceedings before any court, tribunal or body.

(5) Subsections (3) and (4) do not apply with respect to 15 any evidence or document—

(a) where the parties to the mediation session give their consent to admission of the evidence or document; or

(b) in proceedings instituted with respect to any act or omission in connection with which a disclosure has been made pursuant to section 29 (3) (c).
20

(6) A member of the Committee or a sub-committee of the Committee, a Director, a member of the staff of a Community Justice Centre, a person conducting an evaluation under section 26 or a party to a mediation session is not liable to be proceeded 25 against for misprision of felony in respect of any information obtained in connection with the administration or execution of this Act.

Community Justice Centres (Pilot Project).

29. (1) A mediator shall not commence to exercise his functions as a mediator unless he has first taken an oath before a justice of the peace in or to the effect of the form set out in Schedule 2 or has made an affirmation in or to the effect of the form set out in Schedule 3. Secrecy.

(2) A person who is or has been a member of the Committee or a sub-committee of the Committee, a Director, a member of the staff of a Community Justice Centre or a person conducting an evaluation under section 26 may disclose information obtained by him in connection with the administration or execution of this Act only as follows :—

- (a) with the consent of the person from whom the information was obtained;
- 15 (b) in connection with the administration or execution of this Act;
- (c) where there are reasonable grounds to believe that disclosure is necessary to prevent or minimise the danger of injury to any person or damage to any property;
- 20 (d) where 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 the disclosure is for the purpose of aiding in the resolution of a dispute between parties to a mediation or assisting any such parties in any other manner;
- 25 (e) where the disclosure is reasonably required for the purposes of research and evaluation carried out by, or with the approval of, the Committee or pursuant to section 26; or
- 30 (f) in accordance with a requirement imposed by or under a law of the State or the Commonwealth.

Community Justice Centres (Pilot Project).

30. (1) Where by or under any Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or prohibiting him from engaging in employment outside the duties of his office, that provision shall not operate to disqualify him from—

Power to accept appointment.

- (a) holding that office and also the office of a member of the Committee or of a sub-committee of the Committee; or
- (b) holding that office and also the office of a mediator or retaining any remuneration payable to him as a mediator.

(2) The office of a member of the Committee or of a sub-committee of the Committee or a mediator shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

31. Schedule 4 has effect.

Savings, transitional and other provisions.

32. (1) This Act (except this Part and Division 1 of Part II) expires—

Expiry of Act.

- (a) subject to paragraph (b)—on 1st December, 1982; or
- (b) if the Governor so directs by proclamation published in the Gazette—on such later day (but not later than 1st December, 1983) as is specified therein.

(2) One or more than one proclamation may be made and published under subsection (1) (b), but any such proclamation has no effect unless it is made and published before the day on which the expiry would, but for the proclamation, take effect.

(3) Division 1 of Part II expires on such day (but not earlier than the day of expiry provided for under subsection (1)) as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Community Justice Centres (Pilot Project).

SCHEDULE 1.

Sec. 5.

CONSTITUTION AND PROCEDURE OF COMMITTEE.

1. (1) The Committee shall consist of appointed members and ex officio members. Membership.

5 (2) The appointed members shall be appointed by the Minister, and of them—

(a) one shall be a stipendiary magistrate nominated by the Chairman of the Bench of Stipendiary Magistrates;

10 (b) one shall be a member of the police force nominated by the Commissioner of Police;

(c) one shall be a person nominated by the Council of Social Service of New South Wales;

(d) one shall be a person nominated by the Council of The Law Society of New South Wales;

15 (e) one shall be a person nominated by the Ethnic Affairs Commission of New South Wales;

(f) one shall be a member of the Department of Corrective Services nominated by the Minister for Corrective Services;

20 (g) one shall be a member of the Department of Youth and Community Services nominated by the Minister for Youth and Community Services;

(h) one shall be a member of the Department of Technical and Further Education nominated by the Minister for Education;

25 (i) one shall be a member of the Department of the Attorney General and of Justice selected by the Minister; and

(j) two shall be persons selected by the Minister by reason of their having such special interests or experience as appear or appears to the Minister to be of value to the Pilot Project.

(3) The ex officio members shall be—

30 (a) the Director, Magistrates Courts Administration; and

(b) the Directors of the Community Justice Centres.

(4) Where, for the purposes of this Schedule, a nomination of a person for appointment as a member is not made within the time or in the manner specified by the Minister in a notice in writing given to the body or person entitled to make the nomination, the Minister may appoint any person to be a member instead of the person required to be appointed on that nomination.

35

*Community Justice Centres (Pilot Project).*SCHEDULE 1—*continued.*CONSTITUTION AND PROCEDURE OF COMMITTEE—*continued.*

2. One of the members of the Committee shall, in and by the instrument of his appointment or a later instrument, be appointed as Chairman of the Committee. Chairman.
3. A person who is of or above the age of 65 years shall not be appointed as a member. Age of members.
4. (1) A member deemed to be appointed by clause 3 of Schedule 4 shall, subject to this Act, hold office for a term of 3 years, but is eligible for re-appointment. Term of office.
- (2) An appointed member (other than a member referred to in subclause (1)) shall, subject to this Act, hold office for such term, not exceeding 3 years, as is specified in the instrument of his appointment, but is eligible for re-appointment.
5. (1) An appointed member shall be deemed to have vacated his office— Vacation of office.
- (a) if he dies;
- (b) if he is absent from 4 consecutive meetings of the Committee of which reasonable notice has been given to him personally or in the normal course of post except on leave granted by the Committee, and is not before the expiration of 4 weeks after the last of those meetings, excused by the Committee for his absence from those meetings;
- (c) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his estate for their benefit;
- (d) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (e) if he is convicted in New South Wales of a crime or offence which is punishable by imprisonment for a period of 12 months or more, or if he is convicted elsewhere than in New South Wales of a crime or offence which if committed in New South Wales would be a crime or offence so punishable;

Community Justice Centres (Pilot Project).

SCHEDULE 1—*continued.*CONSTITUTION AND PROCEDURE OF COMMITTEE—*continued.*

- (f) if he resigns his office by writing under his hand to the Minister and the Minister accepts his resignation;
- 5 (g) if he declines office;
- (h) if he is removed from office by the Minister;
- (i) if he ceases to hold the office or position by virtue of which he was qualified for appointment; or
- (j) on the day on which he attains the age of 65 years.
- 10 (2) The Minister may, for any cause which appears to him sufficient, remove any appointed member from office.
6. On the occurrence of a vacancy in the office of an appointed member, the Minister may appoint a person to the vacant office so that the Committee is constituted in accordance with clause 1. Vacancies.
- 15 7. (1) The procedure for the calling of meetings of the Committee and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Committee. Meetings of the Committee.
- (2) The Chairman of the Committee or, in the absence of the Chairman, the member chosen by the members present at the meeting to act as chairman may preside at any meeting of the Committee.
- 20
- (3) Eight members shall form a quorum at any meeting of the Committee and any duly convened meeting of the Committee at which a quorum is present shall be competent to transact any business of the Committee and shall have and may exercise and perform all the functions of the Committee.
- 25
- (4) The person presiding at any meeting of the Committee shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.
- (5) A decision supported by a majority of the votes of the members present and voting at a meeting of the Committee shall be the decision of the Committee.
- 30

Community Justice Centres (Pilot Project).

SCHEDULE 1—*continued.*

CONSTITUTION AND PROCEDURE OF COMMITTEE—*continued.*

8. The Committee shall cause full and accurate minutes to be kept of the **Minutes.**
proceedings at its meetings, and shall submit to the Minister a copy of the
5 minutes (whether or not confirmed) of each meeting within 14 days after
the day on which the meeting is held.

9. (1) The Committee may establish such standing or special sub- **Sub-**
committees as it thinks fit to assist and advise it in connection with the **committees.**
exercise of its functions or to exercise, pursuant to a delegation made
10 under section 8, the functions of the Committee that have been delegated
to the sub-committee.

(2) A person may be appointed as a member of a sub-committee
whether or not he is a member of the Committee.

10. (1) The procedure for the calling of meetings of a sub-committee **Proceedings**
15 and for the conduct of business at those meetings shall, subject to this Act **of sub-**
and any direction given by the Committee, be as determined by the **committees.**
sub-committee.

(2) A quorum of a sub-committee shall consist of such number of
the members of the sub-committee as the Committee determines, and any
20 duly convened meeting of a sub-committee at which a quorum is present
is competent to transact any business of the sub-committee and shall have
and may exercise all the functions of the sub-committee.

(3) The person presiding at any meeting of a sub-committee shall,
if the Committee so approves in relation to that sub-committee, have in
25 addition to a deliberative vote a second or casting vote.

(4) A decision supported by a majority of the votes of the members
present and voting at a meeting of a sub-committee shall be the decision
of the sub-committee.

11. The Public Service Act, 1979, does not apply to or in respect of the **Public**
30 appointment of a member, and a member is not, in his capacity as a **Service**
member, subject to that Act during his term of office. **Act, 1979,**
not to
apply.

Community Justice Centres (Pilot Project).

SCHEDULE 2.

Sec. 29.

MEDIATOR'S OATH OF SECRECY.

I, _____ of _____
 5 being a mediator within the meaning of the Community Justice Centres
 (Pilot Project) Act, 1980, do swear that I will not, either directly or
 indirectly, except as permitted under section 29 of that Act, and either
 while I am or after I cease to be, a mediator, make a record of, or
 10 divulge or communicate to any person, court or tribunal any informa-
 tion, document or other matter disclosed during or incidentally to a
 mediation session.

SO HELP ME GOD

Sworn and subscribed at
 this _____ day
 of _____ 19
 15 before me—

.....
Signature

.....
Justice of the Peace

SCHEDULE 3.

Sec. 29.

MEDIATOR'S AFFIRMATION OF SECRECY.

1, _____ of _____
 25 being a mediator within the meaning of the Community Justice Centres
 (Pilot Project) Act, 1980, do solemnly, sincerely and truly declare and
 affirm that I will not, either directly or indirectly, except as permitted
 under section 29 of that Act, and either while I am or after I cease
 to be, a mediator, make a record of, or divulge or communicate to
 30 any person, court or tribunal any information, document or other
 matter disclosed during or incidentally to a mediation session.

Subscribed at
 this _____ day
 of _____ 19
 35 before me—

.....
Signature

.....
Justice of the Peace

Community Justice Centres (Pilot Project).

SCHEDULE 4.

Sec. 31.

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

1. In this Schedule, "the former committee" means the Co-ordinating Interpretation Committee constituted before the commencement of section 5 in connection with Community Justice Centres.
2. On the commencement of section 5, the former committee is abolished.
3. The members of the former committee holding office immediately before the commencement of section 5, other than the persons who become ex officio members of the Committee on that commencement, shall be deemed to be duly appointed as appointed members of the Committee.
4. Anything done or omitted to be done by or in relation to the former committee shall be deemed to have, subject to and in accordance with this Act, been done or omitted to be done by or in relation to the Committee.
5. This Act applies to disputes arising before, as well as to disputes arising after, the commencement of Part IV.

Interpre-

5

Abolition
of former
committee.

10

Members of
former
committee.Decision of
former
committee.Existing
disputes.

 BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980

(55c)

CHAPTER 101. GENERAL PROVISIONS

SECTION 101.01. SHORT TITLE

SECTION 101.02. PURPOSE AND SCOPE

101.02.01. The purpose of this chapter is to provide a uniform set of general provisions for the various chapters of this title.

101.02.02. This chapter shall apply to all chapters of this title unless otherwise provided.

101.02.03. The provisions of this chapter shall be construed to give effect to the intent and purpose of the legislature.

101.02.04. The provisions of this chapter shall be construed to give effect to the intent and purpose of the legislature.

101.02.05. The provisions of this chapter shall be construed to give effect to the intent and purpose of the legislature.

**COMMUNITY JUSTICE CENTRES (PILOT
PROJECT) ACT, 1980, No. 134**

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

Act No. 134, 1980.

An Act to provide for the establishment and operation of Community Justice Centres to provide mediation services in connection with certain disputes. [Assented to, 9th December, 1980.]

Community Justice Centres (Pilot Project).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

Short title. **1.** This Act may be cited as the "Community Justice Centres (Pilot Project) Act, 1980".

Commence-
ment. **2.** (1) Except as provided in subsections (2) and (3), this Act shall commence on the date of assent to this Act.

(2) Section 5 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Part IV shall commence on such day (being later than the day appointed and notified under subsection (2)) as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Arrange-
ment. **3.** This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1-4.

PART II.—ADMINISTRATION—ss. 5-13.

DIVISION 1.—*The Committee*—ss. 5-8.

DIVISION 2.—*Staff of Community Justice Centres*—ss. 9-13.

PART III.—COMMUNITY JUSTICE CENTRES—ss. 14-19.

Community Justice Centres (Pilot Project).

PART IV.—MEDIATION—*ss.* 20–25.

PART V.—MISCELLANEOUS—*ss.* 26–32.

SCHEDULE 1.—CONSTITUTION AND PROCEDURE OF THE
COMMITTEE.

SCHEDULE 2.—MEDIATOR'S OATH OF SECRECY.

SCHEDULE 3.—MEDIATOR'S AFFIRMATION OF SECRECY.

SCHEDULE 4.—SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpre-
tation.

“Committee” means the Community Justice Centres Co-ordinating Committee constituted by this Act;

“Community Justice Centre” means a Community Justice Centre established under this Act;

“Co-ordinator” means the Co-ordinator of a Community Justice Centre;

“Director” means a person holding office or duly acting as Director of a Community Justice Centre;

“functions” includes powers, authorities and duties;

“mediation” includes—

- (a) the undertaking of any activity for the purpose of promoting the discussion and settlement of a dispute by 2 or more parties to the dispute;
- (b) the bringing together of the parties to any such dispute for this purpose; and
- (c) the follow-up of any matter the subject of any such discussion or settlement;

Community Justice Centres (Pilot Project).

“mediation session” means a mediation session undertaken at a Community Justice Centre in accordance with this Act, between 2 or more parties who are in dispute on any matter;

“mediator” means any person for the time being accredited as a mediator for a Community Justice Centre, and includes the Director of the Centre;

“member” means a member of the Committee;

“Pilot Project” means the Community Justice Centres Pilot Project as approved by the Minister.

(2) A reference in this Act to the exercise of a function includes, where that function is a duty, a reference to the performance of that duty.

(3) A reference in this Act to the parties to a mediation session includes a reference to the parties to a dispute in respect of which an application for a mediation session is duly made, but does not include a reference to the mediator conducting the mediation session.

(4) A reference in this Act to the conduct of a mediation session by a mediator includes a reference to the conduct of a mediation session in his presence or under his supervision.

PART II.

ADMINISTRATION.

DIVISION 1.—*The Committee.*

Constitu-
tion of
Committee.

5. (1) There is hereby constituted a committee, to be called the “Community Justice Centres Co-ordinating Committee”.

Community Justice Centres (Pilot Project).

(2) The Committee shall have and may exercise the functions conferred or imposed on it by or under this or any other Act.

(3) The Committee shall, in the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister) be subject to the control and direction of the Minister.

(4) Schedule 1 has effect in relation to the constitution and procedure of the Committee.

6. (1) The functions of the Committee include the following :— the Functions
of the
Committee.

- (a) to co-ordinate the implementation and operation of the Pilot Project;
- (b) to determine policy guidelines for, and give directions with respect to, the operation of Community Justice Centres;
- (c) to make such reports or recommendations to the Minister on any matter relating to Community Justice Centres, or on any other matter to which this Act relates, as the Committee considers necessary or appropriate;
- (d) to provide such assistance as may be necessary to facilitate an evaluation to be made under section 26;
- (e) to make recommendations to the Minister on the desirability of maintaining, modifying or extending the operation of Community Justice Centres after the period during which this Division remains in force; and
- (f) to do such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise of its functions or the establishment and operation of Community Justice Centres.

Community Justice Centres (Pilot Project).

(2) In the exercise of its functions, the Committee shall have regard to—

- (a) the financial resources available for the establishment and operation of Community Justice Centres; and
- (b) the temporary nature of this Act.

Use of
facilities
and staff.

7. For the purposes of this Act, the Committee may, with the approval of the Minister and of the Department or local or public authority concerned, and on such terms as may be arranged, make use of the facilities, or the services of any officers, employees or other staff, of any Department of the Government or of any local or public authority.

Delegation
of
Committee's
functions.

8. (1) The Committee may delegate to a member, sub-committee or Director such of the Committee's functions (other than this power of delegation) as it thinks fit, and may revoke wholly or in part any such delegation.

(2) A function which is delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

(3) A delegation under this section may be made subject to conditions or limitations.

(4) Notwithstanding any delegation under this section, the Committee may continue to exercise all or any of the functions delegated.

(5) Any act or thing done in the exercise of a function delegated under this section has the same force and effect as if it had been done by the Committee.

Community Justice Centres (Pilot Project).

DIVISION 2.—Staff of Community Justice Centres.

9. (1) There shall be a Director for each Community Justice Centre. Directors.

(2) A Director shall, in the exercise of his functions, be subject to the control and direction of the Committee.

10. (1) There shall be a Co-ordinator for each Community Justice Centre. Co-ordinators.

(2) Where there is a vacancy in the office of a Director or a Director is through absence or any other cause unavailable to exercise his functions, the Co-ordinator may exercise the functions of the Director and shall be deemed to be the Director, unless another person is appointed to act as Director in accordance with law.

11. The Director of a Community Justice Centre may, subject to and in accordance with the policy guidelines determined by and any directions of the Committee, accredit persons, whom he considers to have suitable qualifications or experience, to be mediators for the Centre, and may revoke any such accreditation. Mediators.

12. The staff of a Community Justice Centre (including the Director, Co-ordinator and mediators) shall be appointed or employed under and in accordance with the Public Service Act, 1979. Staff appointments.

13. (1) The Director of a Community Justice Centre may authorise a member of the staff of the Centre to exercise such of the Director's functions (including any functions delegated to him under this Act, but not including this power of authorisation) as he thinks fit, and may revoke wholly or in part any such authorisation. Delegation of Director's functions.

Community Justice Centres (Pilot Project).

(2) A function which is authorised to be exercised under this section may, while the authorisation remains unrevoked, be exercised from time to time in accordance with the terms of the authorisation.

(3) An authorisation under this section may be made subject to conditions or limitations.

(4) Notwithstanding any authorisation under this section, the Director may continue to exercise all or any of the functions to which the authorisation relates.

(5) Any act or thing done in the exercise of a function by a person authorised under this section to exercise that function has the same force and effect as if it had been done by the Director.

(6) Where the exercise of a function of the Director depends on his opinion, belief or state of mind and the function is in accordance with this section authorised to be exercised by another person, the other person may, subject to any restriction imposed by the Director, exercise the function on his own opinion, belief or state of mind, as the case may require.

PART III.

COMMUNITY JUSTICE CENTRES.

Establishment and operation of Community Justice Centres: general provisions.

14. Centres, to be known as Community Justice Centres, shall be established and operated in accordance with this Act for the purpose of providing mediation services to parties to disputes.

Premises of Community Justice Centres.

15. Community Justice Centres shall be established at such premises as the Governor may determine by order published in the Gazette.

Community Justice Centres (Pilot Project).

16. (1) The principal office of a Community Justice Centre shall be at the premises specified in relation to the Centre in the order under section 15.

Places at which Community Justice Centres may operate.

(2) The activities of a Community Justice Centre may be conducted at its principal office or at such other places as the Director of the Centre may, subject to the policy guidelines determined by and any directions of the Committee, approve from time to time.

17. (1) The Director of each Community Justice Centre shall ensure that such records relating to the activities of the Centre are made and kept as are necessary or appropriate to enable the evaluation of Community Justice Centres under section 26 to be properly made.

Records.

(2) The Committee is entitled to inspect any records of a Community Justice Centre.

(3) The records of a Community Justice Centre may be disposed of only in accordance with the directions of the Committee.

18. Community Justice Centres shall operate within and as parts of the Department of the Attorney General and of Justice, and nothing in this Act derogates from the operation of the provisions of the Public Service Act, 1979, or any other law so far as they apply to that Department and any such part thereof.

Centres to be within Department of Attorney General and of Justice.

19. (1) The words "Community Justice Centre" or the letters "CJC" shall not be used in the name of any centre, organisation, body or group, or any other place or establishment, or any part thereof, nor shall any centre, organisation, body or group, or any

Use of expression "Community Justice Centre".

Community Justice Centres (Pilot Project).

other place or establishment, or any part thereof, be held out as a Community Justice Centre (whether or not as established under this Act) by the use of the words "Community Justice Centre" or the letters "CJC" or in any other manner—

- (a) unless in either case it is in fact a Community Justice Centre established under this Act; or
- (b) except in either case with the consent of the Committee.

(2) In this section, a reference to—

- (a) the words "Community Justice Centre" includes a reference to those words whether or not they appear consecutively and to words that are substantially the same as those words; and
- (b) a reference to the letters "CJC" includes a reference to matter that is substantially the same as those letters.

PART IV.

MEDIATION.

Provision
of
mediation
services.

20. (1) The Director of a Community Justice Centre is, subject to the policy guidelines determined by and any directions of the Committee, responsible for the provision of mediation services at the Centre and for the operation and management of the Centre.

(2) Each mediation session at a Community Justice Centre shall be conducted by one or more mediators assigned for the purpose by the Director.

(3) No dispute shall be accepted for mediation under this Act at a Community Justice Centre except with the consent of the Director.

Community Justice Centres (Pilot Project).

21. (1) The procedure for commencing and conducting mediation sessions shall, subject to the policy guidelines determined by and any directions of the Committee, be as determined by the Director. ^{Conduct of mediation sessions.}

(2) Mediation sessions shall be conducted with as little formality and technicality, and with as much expedition, as possible.

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

(4) A mediation session shall be conducted in the absence of the public, but persons who are not parties to a mediation session may be present at or participate in a mediation session with the permission of the Director.

22. (1) The Committee may determine that specified classes of disputes are not to be the subject of mediation sessions, or that specified classes of disputes may be the subject of mediation sessions, but nothing in this subsection limits any other provisions of this Act. ^{Disputes.}

(2) A mediation session may be commenced or continued whether or not the dispute is justiciable before any court, tribunal or body and whether or not the dispute is the subject of any legal proceedings.

(3) For the purposes of this Act, persons may be treated as being in dispute on any matter if they are not in agreement on the matter (whether or not any relevant negotiations are still in progress).

Community Justice Centres (Pilot Project).

Mediation
to be
voluntary.

23. (1) Attendance at and participation in mediation sessions are voluntary.

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

(3) Notwithstanding any rule of law or equity, any agreement reached at or drawn up pursuant to a mediation session is not enforceable in any court or tribunal.

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

Refusal,
and
termination
of
mediation.

24. (1) The Director of a Community Justice Centre may decline to consent to the acceptance of any dispute for mediation under this Act at the Centre.

(2) A mediation session may be terminated at any time by the mediator or by the Director.

Agents.

25. (1) A party to a mediation session is not entitled to be represented by an agent unless—

(a) it appears to the Director that—

(i) an agent should be permitted to facilitate mediation; and

(ii) the agent proposed to be appointed has sufficient knowledge of the issue in dispute to enable him to represent the party effectively; and

(b) the Director so approves.

Community Justice Centres (Pilot Project).

(2) Subsection (1) does not prevent—

- (a) an officer within the meaning of the Companies Act, 1961, of a corporation; or
- (b) where a corporation that is a body corporate constituted under the Strata Titles Act, 1973, is a party to a mediation session—the proprietor or, if there is more than one proprietor, one of the proprietors constituting that corporation,

from representing that corporation.

(3) Where a Director approves of the representation of a party by an agent, the Director may subject his approval to such conditions as he considers reasonable to ensure that any other party to the mediation session is not substantially disadvantaged by the agent appearing at the mediation session and, where the Director does so, the entitlement of the agent to represent the party shall be subject to his compliance with those conditions.

(4) Contravention of any provision of this section does not invalidate any mediation session.

PART V.

MISCELLANEOUS.

26. The Minister shall cause or arrange for an evaluation to be made, at such times and in respect of such periods as he thinks fit, of Community Justice Centres and of their operation and activities.

Evaluation
of Com-
munity
Justice
Centres.

Community Justice Centres (Pilot Project).

Exoneration
from
liability.

27. (1) No matter or thing done or omitted to be done by—

- (a) the Committee or a sub-committee of the Committee;
- (b) a member of, or a person acting under the direction of or with the authority of, the Committee or any such sub-committee; or
- (c) a Director or a member of the staff of a Community Justice Centre,

shall, if the matter or thing was done in good faith for the purpose of executing this Act, subject any of them to any action, liability, claim or demand.

(2) A member of the police force, or any other officer or person, is not liable to be proceeded against in respect of—

- (a) the failure to charge a person with a crime or offence, or to initiate or proceed with proceedings for a crime or offence, or for any similar failure; or
- (b) the arrest of a person followed by such a failure,

if he satisfies the court that the failure was reasonable—

- (c) by reason of the reference of the dispute to which the alleged crime or offence relates for mediation under this Act; and
- (d) in all the circumstances of the case.

(3) Nothing in this Act prevents a charge referred to in subsection (2) (a) from being laid or any proceedings so referred to from being instituted or proceeded with or any incidental act, matter or thing from being done by any person at any time.

(4) No person shall be concerned to inquire whether or not any circumstance has arisen requiring or authorising a person to act in the office of a member or of a Director, and anything done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences as if it had been done or omitted to be done by that member or Director.

Community Justice Centres (Pilot Project).

28. (1) In this section, “mediation session” includes any steps taken in the course of making arrangements for a mediation session or in the course of the follow-up of a mediation session. Privilege.

(2) The like privilege with respect to defamation exists with respect to mediation sessions as exists with respect to judicial proceedings.

(3) Evidence of anything said or of any admission made in a mediation session is not admissible in any proceedings before any court, tribunal or body.

(4) No document prepared for the purposes of, or in the course of, or pursuant to, a mediation session, or any copy thereof, is admissible in evidence in any proceedings before any court, tribunal or body.

(5) Subsections (3) and (4) do not apply with respect to any evidence or document—

- (a) where the parties to the mediation session give their consent to admission of the evidence or document; or
- (b) in proceedings instituted with respect to any act or omission in connection with which a disclosure has been made pursuant to section 29 (3) (c).

(6) A member of the Committee or a sub-committee of the Committee, a Director, a member of the staff of a Community Justice Centre, a person conducting an evaluation under section 26 or a party to a mediation session is not liable to be proceeded against for misprision of felony in respect of any information obtained in connection with the administration or execution of this Act.

Community Justice Centres (Pilot Project).

Secrecy.

29. (1) A mediator shall not commence to exercise his functions as a mediator unless he has first taken an oath before a justice of the peace in or to the effect of the form set out in Schedule 2 or has made an affirmation in or to the effect of the form set out in Schedule 3.

(2) A person who is or has been a member of the Committee or a sub-committee of the Committee, a Director, a member of the staff of a Community Justice Centre or a person conducting an evaluation under section 26 may disclose information obtained by him in connection with the administration or execution of this Act only as follows :—

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act;
- (c) where there are reasonable grounds to believe that disclosure is necessary to prevent or minimise the danger of injury to any person or damage to any property;
- (d) where 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 the disclosure is for the purpose of aiding in the resolution of a dispute between parties to a mediation or assisting any such parties in any other manner;
- (e) where the disclosure is reasonably required for the purposes of research and evaluation carried out by, or with the approval of, the Committee or pursuant to section 26; or
- (f) in accordance with a requirement imposed by or under a law of the State or the Commonwealth.

Community Justice Centres (Pilot Project).

30. (1) Where by or under any Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or prohibiting him from engaging in employment outside the duties of his office, that provision shall not operate to disqualify him from—

Power to accept appointment.

- (a) holding that office and also the office of a member of the Committee or of a sub-committee of the Committee; or
- (b) holding that office and also the office of a mediator or retaining any remuneration payable to him as a mediator.

(2) The office of a member of the Committee or of a sub-committee of the Committee or a mediator shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

31. Schedule 4 has effect.

Savings, transitional and other provisions.

32. (1) This Act (except this Part and Division 1 of Part II) expires—

Expiry of Act.

- (a) subject to paragraph (b)—on 1st December, 1982; or
- (b) if the Governor so directs by proclamation published in the Gazette—on such later day (but not later than 1st December, 1983) as is specified therein.

(2) One or more than one proclamation may be made and published under subsection (1) (b), but any such proclamation has no effect unless it is made and published before the day on which the expiry would, but for the proclamation, take effect.

(3) Division 1 of Part II expires on such day (but not earlier than the day of expiry provided for under subsection (1)) as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Community Justice Centres (Pilot Project).

SCHEDULE 1.

Sec. 5.

CONSTITUTION AND PROCEDURE OF COMMITTEE.

1. (1) The Committee shall consist of appointed members and ex officio members. Member-
ship.

(2) The appointed members shall be appointed by the Minister, and of them—

- (a) one shall be a stipendiary magistrate nominated by the Chairman of the Bench of Stipendiary Magistrates;
- (b) one shall be a member of the police force nominated by the Commissioner of Police;
- (c) one shall be a person nominated by the Council of Social Service of New South Wales;
- (d) one shall be a person nominated by the Council of The Law Society of New South Wales;
- (e) one shall be a person nominated by the Ethnic Affairs Commission of New South Wales;
- (f) one shall be a member of the Department of Corrective Services nominated by the Minister for Corrective Services;
- (g) one shall be a member of the Department of Youth and Community Services nominated by the Minister for Youth and Community Services;
- (h) one shall be a member of the Department of Technical and Further Education nominated by the Minister for Education;
- (i) one shall be a member of the Department of the Attorney General and of Justice selected by the Minister; and
- (j) two shall be persons selected by the Minister by reason of their having such special interests or experience as appear or appears to the Minister to be of value to the Pilot Project.

(3) The ex officio members shall be—

- (a) the Director, Magistrates Courts Administration; and
- (b) the Directors of the Community Justice Centres.

(4) Where, for the purposes of this Schedule, a nomination of a person for appointment as a member is not made within the time or in the manner specified by the Minister in a notice in writing given to the body or person entitled to make the nomination, the Minister may appoint any person to be a member instead of the person required to be appointed on that nomination.

Community Justice Centres (Pilot Project).

SCHEDULE 1—*continued.*CONSTITUTION AND PROCEDURE OF COMMITTEE—*continued.*

2. One of the members of the Committee shall, in and by the instrument of his appointment or a later instrument, be appointed as Chairman of the Committee. Chairman.

3. A person who is of or above the age of 65 years shall not be appointed as a member. Age of members.

4. (1) A member deemed to be appointed by clause 3 of Schedule 4 shall, subject to this Act, hold office for a term of 3 years, but is eligible for re-appointment. Term of office.

(2) An appointed member (other than a member referred to in subclause (1)) shall, subject to this Act, hold office for such term, not exceeding 3 years, as is specified in the instrument of his appointment, but is eligible for re-appointment.

5. (1) An appointed member shall be deemed to have vacated his office— Vacation of office.

- (a) if he dies;
- (b) if he is absent from 4 consecutive meetings of the Committee of which reasonable notice has been given to him personally or in the normal course of post except on leave granted by the Committee, and is not before the expiration of 4 weeks after the last of those meetings, excused by the Committee for his absence from those meetings;
- (c) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his estate for their benefit;
- (d) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (e) if he is convicted in New South Wales of a crime or offence which is punishable by imprisonment for a period of 12 months or more, or if he is convicted elsewhere than in New South Wales of a crime or offence which if committed in New South Wales would be a crime or offence so punishable;

Community Justice Centres (Pilot Project).

SCHEDULE 1—*continued.*

CONSTITUTION AND PROCEDURE OF COMMITTEE—*continued.*

- (f) if he resigns his office by writing under his hand to the Minister and the Minister accepts his resignation;
- (g) if he declines office;
- (h) if he is removed from office by the Minister;
- (i) if he ceases to hold the office or position by virtue of which he was qualified for appointment; or
- (j) on the day on which he attains the age of 65 years.

(2) The Minister may, for any cause which appears to him sufficient, remove any appointed member from office.

6. On the occurrence of a vacancy in the office of an appointed member, the Minister may appoint a person to the vacant office so that the Committee is constituted in accordance with clause 1.

7. (1) The procedure for the calling of meetings of the Committee and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Committee. Meetings of the Committee.

(2) The Chairman of the Committee or, in the absence of the Chairman, the member chosen by the members present at the meeting to act as chairman may preside at any meeting of the Committee.

(3) Eight members shall form a quorum at any meeting of the Committee and any duly convened meeting of the Committee at which a quorum is present shall be competent to transact any business of the Committee and shall have and may exercise and perform all the functions of the Committee.

(4) The person presiding at any meeting of the Committee shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.

(5) A decision supported by a majority of the votes of the members present and voting at a meeting of the Committee shall be the decision of the Committee.

Community Justice Centres (Pilot Project).

SCHEDULE 1—*continued.*

CONSTITUTION AND PROCEDURE OF COMMITTEE—*continued.*

8. The Committee shall cause full and accurate minutes to be kept of the Minutes. proceedings at its meetings, and shall submit to the Minister a copy of the minutes (whether or not confirmed) of each meeting within 14 days after the day on which the meeting is held.

9. (1) The Committee may establish such standing or special sub-Sub-committees as it thinks fit to assist and advise it in connection with the committees. exercise of its functions or to exercise, pursuant to a delegation made under section 8, the functions of the Committee that have been delegated to the sub-committee.

(2) A person may be appointed as a member of a sub-committee whether or not he is a member of the Committee.

10. (1) The procedure for the calling of meetings of a sub-committee Proceedings and for the conduct of business at those meetings shall, subject to this Act of sub- and any direction given by the Committee, be as determined by the committees. the sub-committee.

(2) A quorum of a sub-committee shall consist of such number of the members of the sub-committee as the Committee determines, and any duly convened meeting of a sub-committee at which a quorum is present is competent to transact any business of the sub-committee and shall have and may exercise all the functions of the sub-committee.

(3) The person presiding at any meeting of a sub-committee shall, if the Committee so approves in relation to that sub-committee, have in addition to a deliberative vote a second or casting vote.

(4) A decision supported by a majority of the votes of the members present and voting at a meeting of a sub-committee shall be the decision of the sub-committee.

11. The Public Service Act, 1979, does not apply to or in respect of the Public appointment of a member, and a member is not, in his capacity as a Service member, subject to that Act during his term of office. Act, 1979, not to apply.

Community Justice Centres (Pilot Project).

SCHEDULE 2.

Sec. 29.

MEDIATOR'S OATH OF SECRECY.

I, _____ of

being a mediator within the meaning of the Community Justice Centres (Pilot Project) Act, 1980, do swear that I will not, either directly or indirectly, except as permitted under section 29 of that Act, and either while I am or after I cease to be, a mediator, make a record of, or divulge or communicate to any person, court or tribunal any information, document or other matter disclosed during or incidentally to a mediation session.

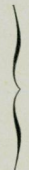
SO HELP ME GOD

Sworn and subscribed at

this _____ day

of _____ 19

before me—



.....

Signature

.....

Justice of the Peace

SCHEDULE 3.

Sec. 29.

MEDIATOR'S AFFIRMATION OF SECRECY.

I, _____ of

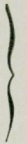
being a mediator within the meaning of the Community Justice Centres (Pilot Project) Act, 1980, do solemnly, sincerely and truly declare and affirm that I will not, either directly or indirectly, except as permitted under section 29 of that Act, and either while I am or after I cease to be, a mediator, make a record of, or divulge or communicate to any person, court or tribunal any information, document or other matter disclosed during or incidentally to a mediation session.

Subscribed at

this _____ day

of _____ 19

before me—



.....

Signature

.....

Justice of the Peace

Community Justice Centres (Pilot Project).

SCHEDULE 4.

Sec. 31.

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

1. In this Schedule, "the former committee" means the Co-ordinating Interpretation Committee constituted before the commencement of section 5 in connection with Community Justice Centres.
2. On the commencement of section 5, the former committee is abolished. Abolition of former committee.
3. The members of the former committee holding office immediately before the commencement of section 5, other than the persons who become ex officio members of the Committee on that commencement, shall be deemed to be duly appointed as appointed members of the Committee. Members of former committee.
4. Anything done or omitted to be done by or in relation to the former committee shall be deemed to have, subject to and in accordance with this Act, been done or omitted to be done by or in relation to the Committee. Decision of former committee.
5. This Act applies to disputes arising before, as well as to disputes arising after, the commencement of Part IV. Existing disputes.

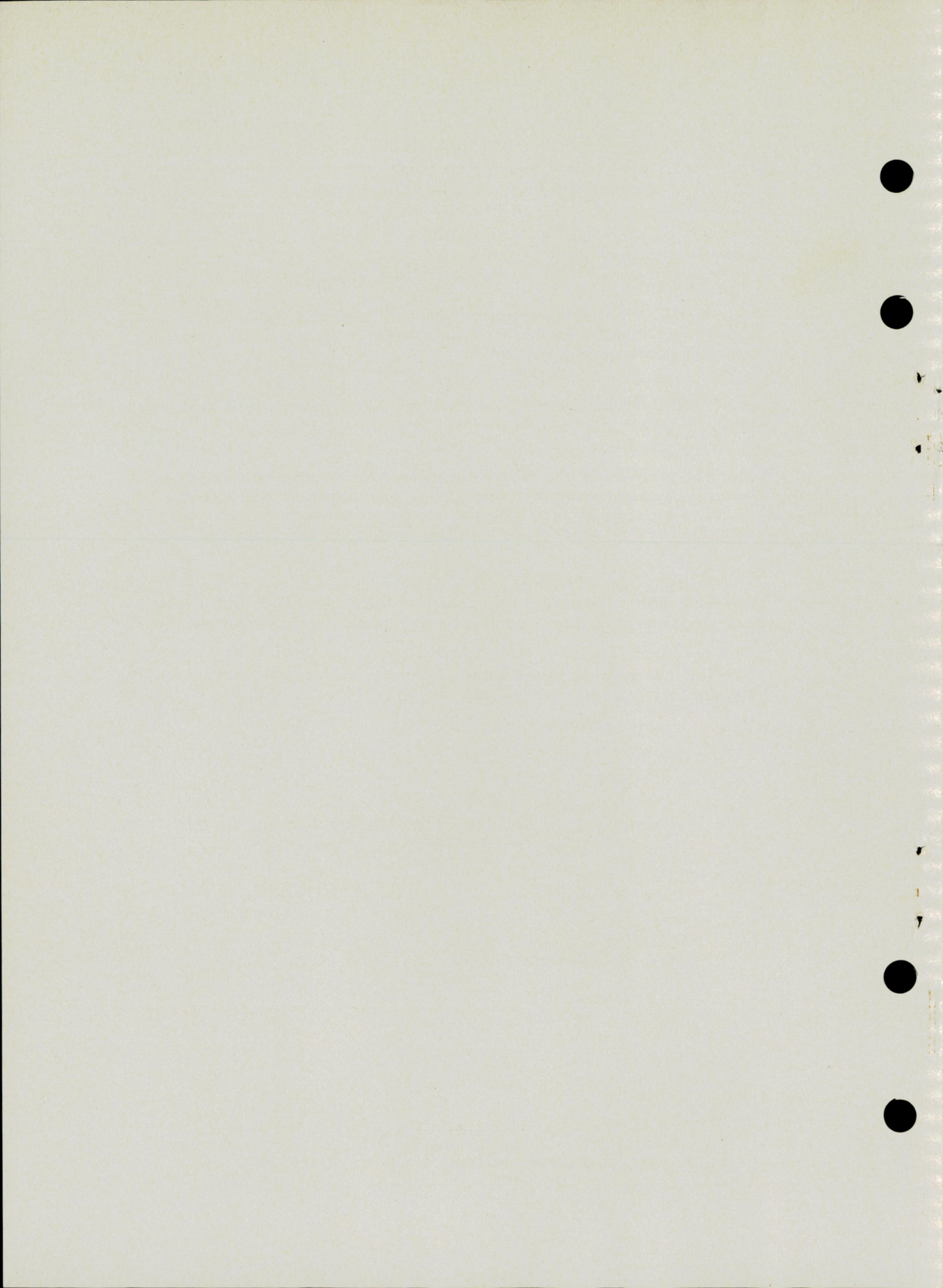
In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 9th December, 1980.*

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1981



**COMMUNITY JUSTICE CENTRES (PILOT PROJECT)
BILL, 1980**

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to establish Community Justice Centres for the mediation of disputes between 2 or more persons; and
- (b) to provide for the appointment of a Co-ordinating Committee (“the Committee”) whose responsibility is, under the Minister, to co-ordinate the establishment and operation of Community Justice Centres.

The Bill contains the following provisions:—

PART I.—PRELIMINARY.

Clause 1. Short title.

Clause 2. Commencement. The Committee is to take office, as constituted by the proposed Act, on a day to be proclaimed. Mediation services are to be available from a later day to be proclaimed.

Clause 3. Arrangement of the clauses of the Bill.

Clause 4. Interpretation.

PART II.—ADMINISTRATION.

Clause 5 provides for the constitution of the Committee, and for it to be subject to ministerial control and direction.

Clause 6 sets out the principal functions of the Committee, including—

- (a) the co-ordination of the implementation and operation of the Community Justice Centres Pilot Project;
- (b) the determination of policy guidelines for the operation of Community Justice Centres and the giving of directions with respect to the operation of Centres; and
- (c) the making of reports and recommendations to the Minister.

Clause 7 enables the Committee to make use of the staff and facilities of Departments and other authorities.

Clause 8 permits the delegation of functions of the Committee to a limited class of delegates.

Clause 9 provides for there to be a Director for each Community Justice Centre, who is to be subject to the control and direction of the Committee.

Clause 10 provides for there to be a Co-ordinator for each Community Justice Centre. The Co-ordinator acts as Director during the absence of the Director.

Clause 11 provides for the accreditation of mediators for Community Justice Centres.

Clause 12 requires the staff of Community Justice Centres to be appointed or employed under the Public Service Act, 1979.

Clause 13 permits the Director of a Community Justice Centre to authorise any of his functions to be exercised by members of the staff of the Centre.

PART III.—COMMUNITY JUSTICE CENTRES.

Clause 14 is a general provision requiring the establishment and operation of Community Justice Centres.

Clause 15 requires the establishment of Community Justice Centres at premises specified by order of the Governor-in-Council.

Clause 16 permits the activities of a Community Justice Centre to be conducted at the premises referred to in clause 15 or elsewhere.

Clause 17 deals with the records to be kept relating to the activities of Community Justice Centres.

Clause 18 makes it clear that Community Justice Centres operate within the Department of the Attorney General and of Justice.

Clause 19 places limitations on the use of the words "Community Justice Centre" and the letters "CJC".

PART IV.—MEDIATION.

Clause 20 (1) makes the Director of a Community Justice Centre responsible, subject to the Committee's policy guidelines and directions, for the operation and management of the Centre. Clause 20 (2) provides for a mediation session to be conducted by one or more mediators assigned by the Director. Clause 20 (3) permits disputes to be accepted for mediation only with the consent of the Director.

Clause 21 makes provision for the manner of conduct of mediation sessions. Subject to the policy guidelines and directions of the Committee, the Director is empowered to determine the procedure for commencing and conducting mediation sessions. The clause requires informality and expedition, and provides that the rules of evidence do not apply. The public are to be excluded, but non-parties may be present at a mediation session with the approval of the Director.

Clause 22 makes it clear that classes of disputes may be specified by the Committee as being, or not being, acceptable for mediation, and that a dispute may be accepted for mediation whether or not any legal proceedings are pending.

Clause 23 provides for the voluntary nature of mediation sessions, and states that any agreement reached at or as a result of a mediation session is not enforceable by legal proceedings.

Clause 24 enables the termination of mediation sessions at any time, and permits the Director to decline to consent to accept any dispute for mediation.

Clause 25 permits persons to be represented by agents in limited circumstances only.

PART V.—MISCELLANEOUS.

Clause 26 requires an evaluation to be made of Community Justice Centres.

Clause 27 provides exoneration from legal liability for certain acts or omissions done in connection with the Community Justice Centres.

Clause 28 gives privilege with respect to defamatory statements made at mediation sessions, statements and admissions made at mediation sessions, documents prepared in connection with mediation sessions, and for other matters.

Clause 29 requires mediators to take an oath or affirmation of secrecy. The clause also specifies the circumstances in which information obtained in connection with the administration or execution of the proposed Act may only be disclosed.

Clause 30 removes certain legal obstacles to the appointment of persons as members of the Committee or as mediators.

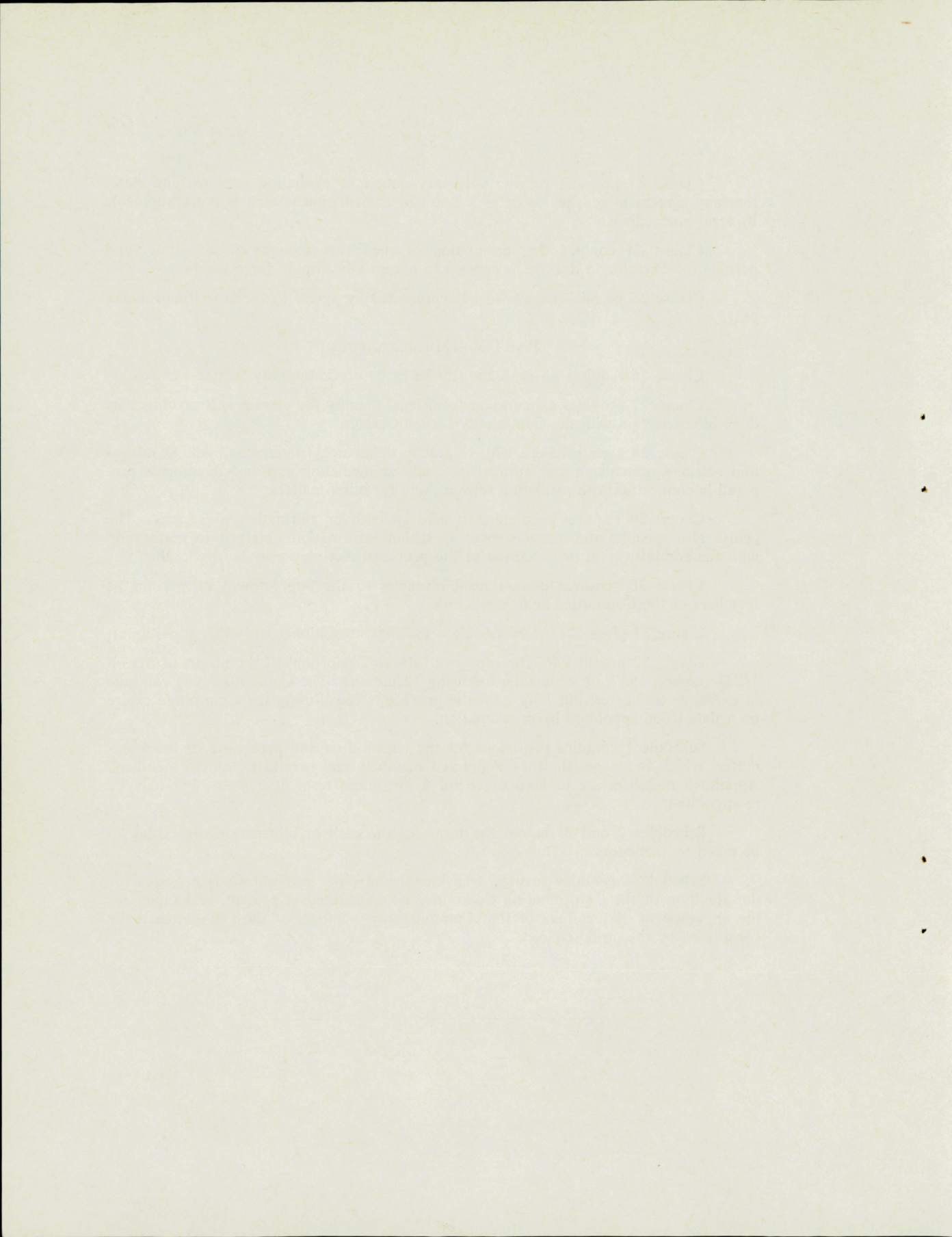
Clause 31 gives effect to Schedule 4 (savings, transitional and other provisions).

Clause 32 provides for the expiry of substantial portions of the proposed Act on 1st December, 1982, or within the following 12 months. The Committee may continue in existence thereafter, but only until the provisions constituting the Committee expire on a date to be appointed by proclamation.

Schedule 1 contains provisions for the constitution and procedure of the Committee, which is to consist of 11 appointed members and several ex officio members. Appointed members are to hold office for a maximum term of 3 years, but may be re-appointed.

Schedules 2 and 3 set out the terms of the oath or affirmation of secrecy to be taken by mediators.

Schedule 4 contains savings, transitional and other provisions. It provides for the abolition of the Co-ordinating Committee as constituted at present, and facilitates the appointment of members of that Committee as members of the Committee to be constituted by the proposed Act.



COMMUNITY JUSTICE CENTRES (PILOT PROJECT) BILL, 1980

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to establish Community Justice Centres for the mediation of disputes between 2 or more persons; and
- (b) to provide for the appointment of a Co-ordinating Committee (“the Committee”) whose responsibility is, under the Minister, to co-ordinate the establishment and operation of Community Justice Centres.

The Bill contains the following provisions:—

PART I.—PRELIMINARY.

Clause 1. Short title.

Clause 2. Commencement. The Committee is to take office, as constituted by the proposed Act, on a day to be proclaimed. Mediation services are to be available from a later day to be proclaimed.

Clause 3. Arrangement of the clauses of the Bill.

Clause 4. Interpretation.

PART II.—ADMINISTRATION.

Clause 5 provides for the constitution of the Committee, and for it to be subject to ministerial control and direction.

Clause 6 sets out the principal functions of the Committee, including—

- (a) the co-ordination of the implementation and operation of the Community Justice Centres Pilot Project;
- (b) the determination of policy guidelines for the operation of Community Justice Centres and the giving of directions with respect to the operation of Centres; and
- (c) the making of reports and recommendations to the Minister.

Clause 7 enables the Committee to make use of the staff and facilities of Departments and other authorities.

Clause 8 permits the delegation of functions of the Committee to a limited class of delegates.

Clause 9 provides for there to be a Director for each Community Justice Centre, who is to be subject to the control and direction of the Committee.

Clause 10 provides for there to be a Co-ordinator for each Community Justice Centre. The Co-ordinator acts as Director during the absence of the Director.

Clause 11 provides for the accreditation of mediators for Community Justice Centres.

Clause 12 requires the staff of Community Justice Centres to be appointed or employed under the Public Service Act, 1979.

Clause 13 permits the Director of a Community Justice Centre to authorise any of his functions to be exercised by members of the staff of the Centre.

PART III.—COMMUNITY JUSTICE CENTRES.

Clause 14 is a general provision requiring the establishment and operation of Community Justice Centres.

Clause 15 requires the establishment of Community Justice Centres at premises specified by order of the Governor-in-Council.

Clause 16 permits the activities of a Community Justice Centre to be conducted at the premises referred to in clause 15 or elsewhere.

Clause 17 deals with the records to be kept relating to the activities of Community Justice Centres.

Clause 18 makes it clear that Community Justice Centres operate within the Department of the Attorney General and of Justice.

Clause 19 places limitations on the use of the words "Community Justice Centre" and the letters "CJC".

PART IV.—MEDIATION.

Clause 20 (1) makes the Director of a Community Justice Centre responsible, subject to the Committee's policy guidelines and directions, for the operation and management of the Centre. Clause 20 (2) provides for a mediation session to be conducted by one or more mediators assigned by the Director. Clause 20 (3) permits disputes to be accepted for mediation only with the consent of the Director.

Clause 21 makes provision for the manner of conduct of mediation sessions. Subject to the policy guidelines and directions of the Committee, the Director is empowered to determine the procedure for commencing and conducting mediation sessions. The clause requires informality and expedition, and provides that the rules of evidence do not apply. The public are to be excluded, but non-parties may be present at a mediation session with the approval of the Director.

Clause 22 makes it clear that classes of disputes may be specified by the Committee as being, or not being, acceptable for mediation, and that a dispute may be accepted for mediation whether or not any legal proceedings are pending.

Clause 23 provides for the voluntary nature of mediation sessions, and states that any agreement reached at or as a result of a mediation session is not enforceable by legal proceedings.

Clause 24 enables the termination of mediation sessions at any time, and permits the Director to decline to consent to accept any dispute for mediation.

Clause 25 permits persons to be represented by agents in limited circumstances only.

PART V.—MISCELLANEOUS.

Clause 26 requires an evaluation to be made of Community Justice Centres.

Clause 27 provides exoneration from legal liability for certain acts or omissions done in connection with the Community Justice Centres.

Clause 28 gives privilege with respect to defamatory statements made at mediation sessions, statements and admissions made at mediation sessions, documents prepared in connection with mediation sessions, and for other matters.

Clause 29 requires mediators to take an oath or affirmation of secrecy. The clause also specifies the circumstances in which information obtained in connection with the administration or execution of the proposed Act may only be disclosed.

Clause 30 removes certain legal obstacles to the appointment of persons as members of the Committee or as mediators.

Clause 31 gives effect to Schedule 4 (savings, transitional and other provisions).

Clause 32 provides for the expiry of substantial portions of the proposed Act on 1st December, 1982, or within the following 12 months. The Committee may continue in existence thereafter, but only until the provisions constituting the Committee expire on a date to be appointed by proclamation.

Schedule 1 contains provisions for the constitution and procedure of the Committee, which is to consist of 11 appointed members and several ex officio members. Appointed members are to hold office for a maximum term of 3 years, but may be re-appointed.

Schedules 2 and 3 set out the terms of the oath or affirmation of secrecy to be taken by mediators.

Schedule 4 contains savings, transitional and other provisions. It provides for the abolition of the Co-ordinating Committee as constituted at present, and facilitates the appointment of members of that Committee as members of the Committee to be constituted by the proposed Act.

