

CONCURRENCE COPY

COMMUNITY JUSTICE CENTRES BILL, 1983

EXPLANATORY NOTE

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

The following Bills are cognate with this Bill:—

Justices (Community Justice Centres) Amendment Bill, 1983;

Ombudsman (Community Justice Centres) Amendment Bill, 1983.

The object of this Bill is to provide for the effective establishment and operation of Community Justice Centres following the expiration on 1st December, 1983, of the Community Justice Centres (Pilot Project) Act, 1980.

The Bill contains the following provisions:—

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Arrangement.

Clause 4. Interpretation.

Clause 5 constitutes the Community Justice Centres Council ("the Council").

Clause 6 specifies certain functions of the Council.

Clause 7 subjects the Council to the direction and control of the Minister.

Clause 8 enables the Council to make use of the staff of Departments of the Government and other organisations.

Clause 9 enables the Council to delegate its functions.

Clause 10 provides for a Director for each Community Justice Centre.

Clause 11 authorises the Minister to accredit suitable persons as mediators for a Community Justice Centre.

Clause 12 requires the staff of a Community Justice Centre (other than accredited mediators) to be appointed or employed under the Public Service Act, 1979.

Clause 13 authorises the Director of a Community Justice Centre to delegate the functions of a Director.

Clause 14 authorises the establishment and operation of Community Justice Centres.

Clause 15 identifies the premises at which Community Justice Centres are to be established.

Clause 16 specifies the place of the principal office of a Community Justice Centre.

Clause 17 deals with the keeping of the records of a Community Justice Centre.

Clause 18 requires Community Justice Centres to operate as part of the Department of the Attorney General and of Justice.

Clause 19 regulates the use of the words "Community Justice Centre" and the letters "CJC".

Clause 20 requires the Director of a Community Justice Centre to provide mediation services.

Clause 21 deals with the conduct of a mediation session.

Clause 22 regulates the disputes that may be dealt with at a mediation session.

Clause 23 deals with the voluntary aspect of a mediation session.

Clause 24 enables the Director of a Community Justice Centre to refuse to accept a dispute for mediation and to terminate a mediation session at any time.

Clause 25 regulates representation at a mediation session by an agent.

Clause 26 enables the Minister to arrange for the evaluation of the operations of a Community Justice Centre.

Clause 27 exonerates certain persons from liabilities that might otherwise be incurred.

Clause 28 confers privilege in certain circumstances with respect to defamation, admission of evidence and misprision of felony.

Clause 29 imposes certain obligations with respect to secrecy.

Clause 30 authorises acceptance of appointment as a member of the Council or as a mediator in certain circumstances that would otherwise prevent it.

Clause 31 requires the Council to submit an annual report.

Clause 32 repeals the Community Justice Centres (Pilot Project) Act, 1980.

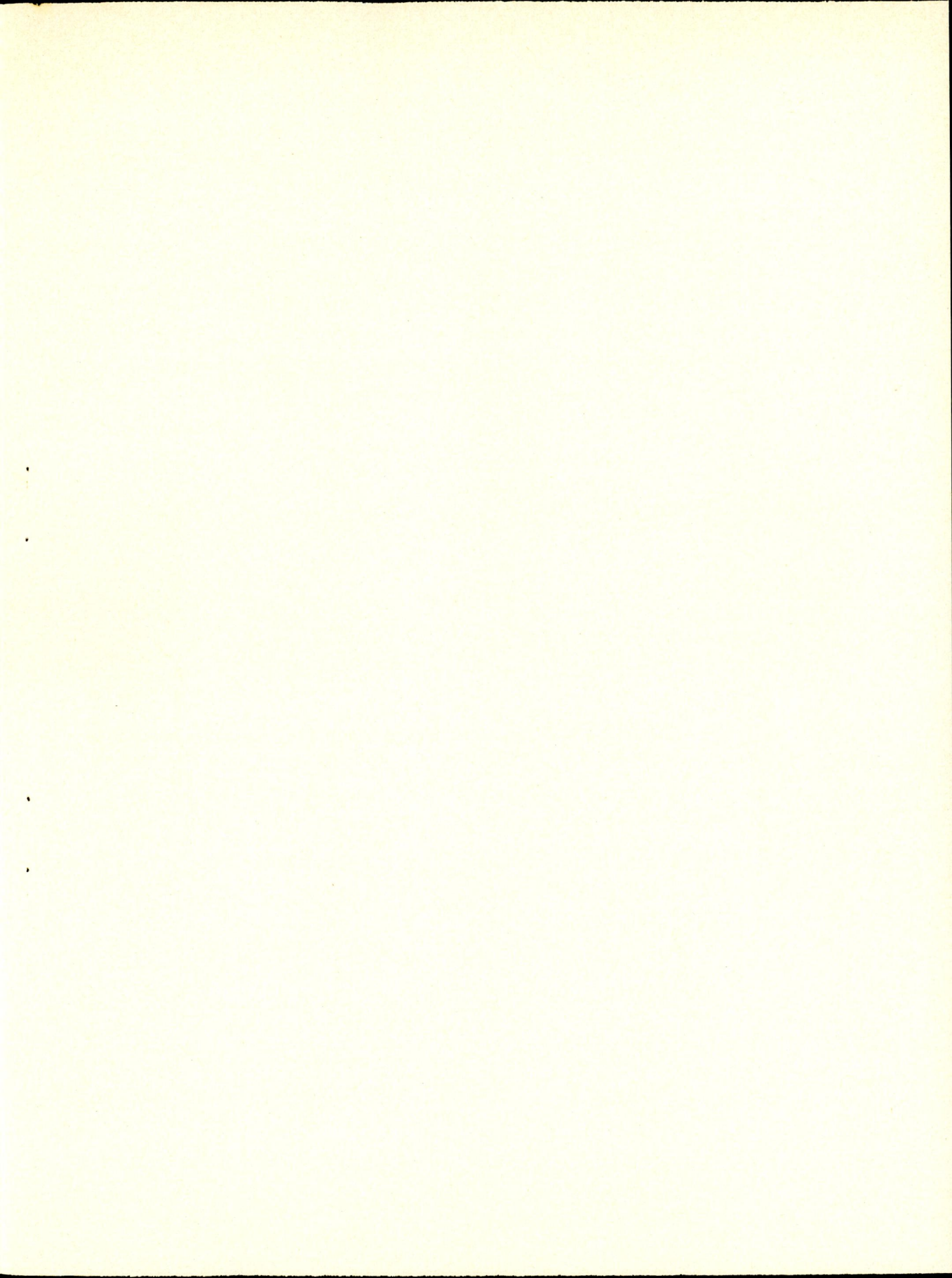
Clause 33 gives effect to the savings and transitional provisions in Schedule 4.

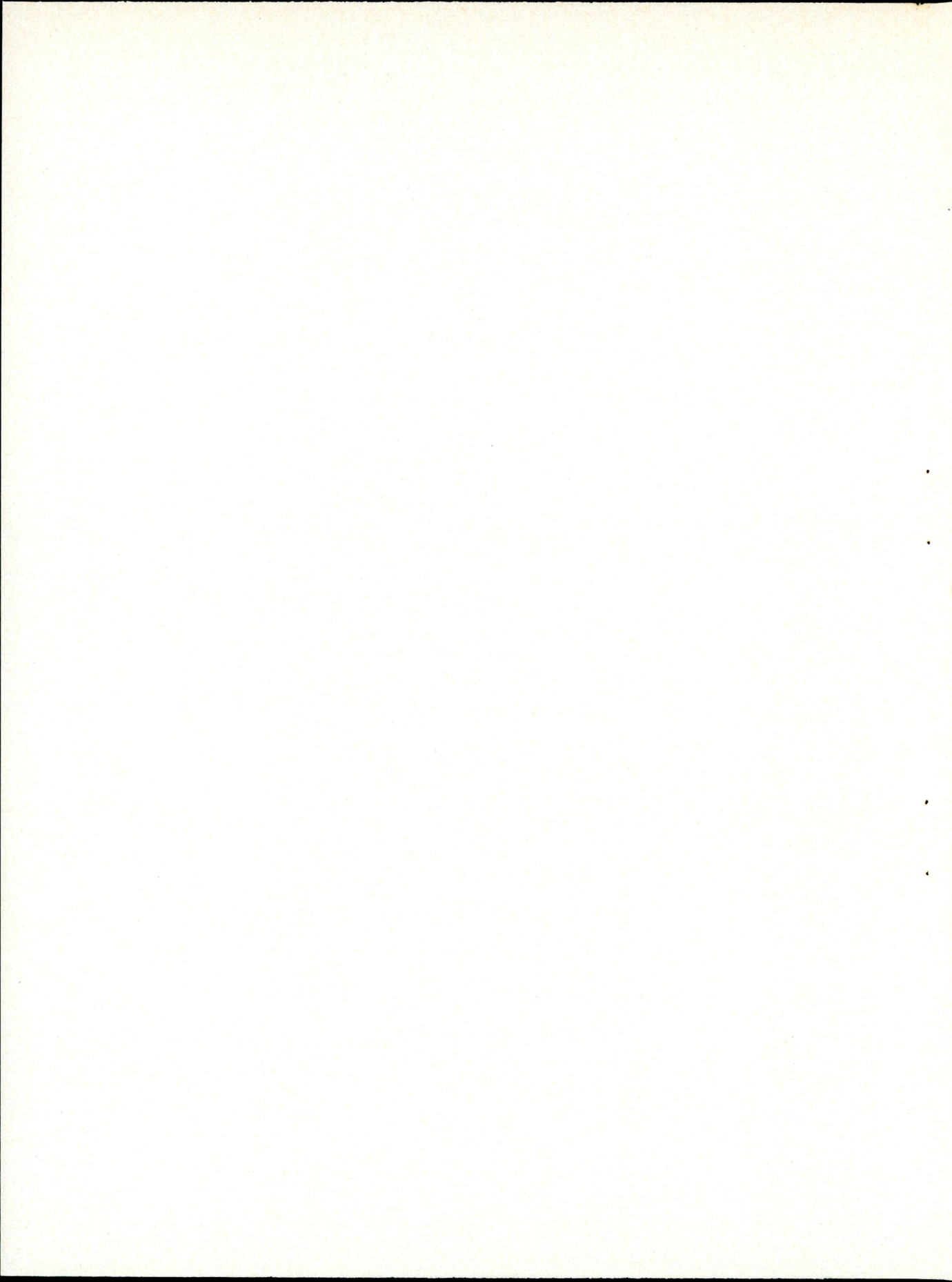
Schedule 1 contains details of the constitution of the Council and of the procedure at its meetings.

Schedule 2 specifies the form of the oath to be taken by a mediator.

Schedule 3 specifies the form of the affirmation to be made by a mediator.

Schedule 4 contains the savings and transitional provisions.





COMMUNITY JUSTICE CENTRES BILL, 1983

No. , 1983.

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 *October*, 1983.]

See also Justices (Community Justice Centres) Amendment Bill, 1983; Ombudsman (Community Justice Centres) Amendment Bill, 1983.

Community Justice Centres.

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:—

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PART I.**PRELIMINARY.****Short title.**

1. This Act may be cited as the "Community Justice Centres Act, 1983".

10 Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on 1st December, 1983.

15 Arrangement.

3. This Act is divided as follows:—

PART I.—PRELIMINARY—ss. 1–4.

PART II.—ADMINISTRATION—ss. 5–13.

DIVISION 1.—*The Council*—ss. 5–9.

20 DIVISION 2.—*Staff of Community Justice Centres*—ss. 10–13.

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

PART IV.—MEDIATION—ss. 20–25.

PART V.—MISCELLANEOUS—ss. 26–33.

SCHEDULE 1.—CONSTITUTION AND PROCEDURE OF COUNCIL.

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

SCHEDULE 3.—MEDIATOR'S AFFIRMATION OF SECRECY.

SCHEDULE 4.—SAVINGS AND TRANSITIONAL PROVISIONS.

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Interpretation.

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

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

“Council” means the Community Justice Centres Council constituted by this Act;

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

10 “functions” includes powers, authorities and duties;

“mediation” includes—

- (a) the undertaking of any activity for the purpose of promoting the discussion and settlement of disputes;
- 15 (b) the bringing together of the parties to any dispute for that purpose, either at the request of one of the parties to the dispute or on the initiative of a Director; and
- (c) the follow-up of any matter the subject of any such discussion or settlement;

20 “mediation session” means a meeting in accordance with this Act between 2 or more parties who are in dispute on any matter;

“mediator”, in relation to a Community Justice Centre, means—

- (a) the Director of the Centre; or
- (b) any person for the time being accredited under section 11 as a mediator for the Centre;

25 “member” means a member of the Council.

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

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(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 the presence, or under the supervision, of the mediator.

PART II.

ADMINISTRATION.

DIVISION 1.—*The Council.*

Constitution of Council.

5 **5. (1)** There is hereby constituted a council, to be called the “Community Justice Centres Council”.

10 **(2)** The Council has and may exercise the functions conferred or imposed on it by or under this or any other Act.

(3) Schedule 1 has effect in relation to the constitution and procedure of the Council.

Functions of the Council.

15 **6. (1)** The functions of the Council include the following:—

 (a) to determine policy guidelines for, and give directions with respect to, the operation of Community Justice Centres;

 (b) to make such reports or recommendations to the Minister on any matter relating to Community Justice Centres, or on any other
20 matter to which this Act relates, as the Council considers necessary or appropriate;

 (c) to report on and make recommendations concerning the need for an evaluation under section 26 and to assist with the making of such an evaluation; and

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(d) 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.

5 (2) In the exercise of its functions, the Council shall have regard to the financial resources available for the establishment and operation of Community Justice Centres.

Directions to Council by Minister.

7. The Council is, in the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister),
10 subject to the control and direction of the Minister.

Use of facilities and staff.

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

Delegation by Council.

9. (1) The Council may delegate to a member, sub-committee or Director
20 such of the Council'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 by the delegate from time to time in accordance with the terms of the delegation.

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

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

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(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 Council.

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

5 **10.** (1) There shall be a Director for each Community Justice Centre and the same person may be the Director for more than one Community Justice Centre.

(2) A Director is, in the exercise of his or her functions, subject to the control and direction of the Council.

10 Mediators.

11. The Minister may, on the recommendation of the Director of a Community Justice Centre made subject to and in accordance with the policy guidelines determined by, and any directions of, the Council, accredit a person (other than the Director) as a mediator for the Centre and may
15 revoke any such accreditation.

Staff.

12. (1) The staff of a Community Justice Centre (other than a mediator accredited under section 11) shall be appointed or employed under and in accordance with the Public Service Act, 1979.

20 (2) A mediator accredited under section 11 is entitled to be paid such remuneration as is determined in respect of the mediator by the Minister.

Delegation by Director.

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
25 (including any functions delegated to the Director under this Act, but not

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including this power of authorisation) as the Director thinks fit, and the Director, or any successor as Director of the Centre, may revoke wholly or in part any such authorisation.

5 (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.

10 (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 the 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 the opinion, belief or state of mind of the Director and the function is in accordance with this section authorised to be exercised by another person, the function may, subject to any restriction imposed by the Director, be exercised in accordance with the opinion, belief or state of mind of that
20 other person.

PART III.

COMMUNITY JUSTICE CENTRES.

Establishment of Community Justice Centres.

14. Community Justice Centres shall be established and operated in
25 accordance with this Act for the purpose of providing mediation services.

Community Justice Centres.

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.

Place of operation of Community Justice Centres.

5 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.

(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, 10 the Council, approve from time to time.

Records.

17. (1) The Director of a 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 a proper evaluation of Community Justice 15 Centres under section 26 to be made.

(2) The Council 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 Council.

20 Centres to be part of Department of Attorney General and of Justice.

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 25 part thereof.

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Use of certain words or letters.

5 **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 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—

- 10 (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 Council.

(2) In this section, a reference to—

- 15 (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) the letters "CJC" includes a reference to matter that is substantially the same as those letters.

PART IV.

MEDIATION.

20 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 Council, responsible for the provision of mediation services and for the operation and management of the Centre.

25 **(2)** Each mediation session shall be conducted by one or more mediators assigned for the purpose by the Director.

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

Conduct of mediation sessions.

5 **21. (1)** The procedure for commencing and conducting a mediation session at a Community Justice Centre shall, subject to the policy guidelines determined by, and any directions of, the Council, be as determined by the Director.

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

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

(4) A dispute may not be adjudicated or arbitrated upon at a mediation session.

(5) 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
15 at or participate in a mediation session with the permission of the Director.

Disputes.

20 **22. (1)** The Council 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.

(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
25 dispute on any matter if they are not in agreement on the matter (whether or not any relevant negotiations are still in progress).

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Mediation to be voluntary.

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

(2) A party to a mediation session may withdraw from the mediation
5 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, tribunal or body.

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

Refusal or 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
15 Centre.

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

Representation by agent.

25. (1) A party to a mediation session is not entitled to be represented
20 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 matter in dispute to enable the agent to represent
25 the party effectively; and

(b) the Director so approves.

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(2) Subsection (1) does not prevent—

- (a) where a corporation within the meaning of the Companies (New South Wales) Code is a party to a mediation session—an officer of the corporation:
- 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; or
- 10 (c) where any other corporation is a party to a mediation session—
an agent appointed by the corporation,
from representing that corporation.

(3) Where a Director approves of the representation of a party by an agent, the approval of the Director may be given subject to such conditions as the Director considers reasonable to ensure that any other party to the
15 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 compliance by the agent with those conditions.

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

PART V.

MISCELLANEOUS.

Evaluations.

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

Exoneration from liability.

- 27. (1)** No matter or thing done or omitted to be done by—
(a) the Council or a sub-committee of the Council;

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

- 10 (a) failure to charge a person with a crime or offence or to initiate or proceed with proceedings for a crime or offence, or any similar failure;
 - (b) the arrest of a person followed by such a failure; or
 - (c) failure to offer evidence at the hearing of a charge referred to in
- 15 paragraph (a),
- if the member of the police force or other officer or person satisfies the court that the failure was reasonable—
- (d) by reason of the reference of the dispute to which the alleged
- 20 crime or offence relates for mediation under this Act or by reason of an agreement reached by the parties to a dispute so referred; and
- (e) 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

25 instituted or proceeded with, or any evidence being offered in relation to such a charge, 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

30 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.

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(5) In subsection (2), a reference to a crime or offence does not include a reference to a domestic violence offence within the meaning of the Crimes Act, 1900.

Privilege.

5 **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.

(2) Subject to subsection (3), the like privilege with respect to defamation exists with respect to—

- 10 (a) a mediation session; or
 (b) a document or other material sent to, or produced at, a Community Justice Centre for the purpose of enabling a mediation session to be arranged,

as exists with respect to judicial proceedings and a document produced in
15 judicial proceedings.

(3) The privilege conferred by subsection (2) does not extend to a publication made otherwise than—

- (a) at a mediation session;
(b) as provided by subsection (2) (b); or
20 (c) as provided by section 29 (2).

(4) 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.

(5) A document prepared for the purposes of, or in the course of,
25 or pursuant to, a mediation session, or any copy thereof is not admissible in evidence in any proceedings before any court, tribunal or body.

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

- (a) where the persons in attendance at, or named during, the
30 mediation session and, in the case of a document, all persons named in the document, consent to admission of the evidence or document; or

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(b) in proceedings instituted with respect to any act or omission in connection with which a disclosure has been made pursuant to section 29 (2) (c).

(7) A member of the Council or a sub-committee of the Council, a mediator, a Director, a member of the staff of a Community Justice Centre, a person making 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.

10 **Secrecy.**

29. (1) A mediator shall not commence to exercise the functions of a mediator without first taking an oath before a justice of the peace in or to the effect of the form set out in Schedule 2 or making an affirmation in or to the effect of the form set out in Schedule 3.

15 **(2)** A person who is or has been a member of the Council or a sub-committee of the Council, a mediator, a Director, a member of the staff of a Community Justice Centre or a person making an evaluation under section 26 or carrying out research referred to in paragraph (e) may disclose information obtained in connection with the administration or execution
20 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;
- 25 (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;
- 30 (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 made with the consent of the parties to the mediation session for the purpose of aiding in the resolution of a dispute between those parties or assisting any such parties in any other manner;

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- (e) where the disclosure does not reveal the identity of a person without the consent of the person and is reasonably required for the purposes of research carried out by, or with the approval of, the Council or an evaluation pursuant to section 26; or
- 5 (f) in accordance with a requirement imposed by or under a law of the State (other than a requirement imposed by a subpoena or other compulsory process) or the Commonwealth.

Power to accept appointment.

10 **30. (1)** Where, by or under an Act, provision is made requiring the whole of the time of the holder of a specified office to be devoted to the duties of that office or prohibiting the holder of a specified office from engaging in employment outside the duties of that office, the provision does not operate to disqualify a holder of that office from—

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

(2) The office of a member of the Council, a member of a sub-committee of the Council or a mediator is not, for the purposes of any Act, 20 an office or place of profit under the Crown.

Annual report.

31. (1) As soon as practicable after 30th June, but on or before 31st December, in each year, the Council shall prepare and submit to the Minister a report on the activities, operations and use of Community Justice Centres 25 during the period of 12 months ending on 30th June in that year.

(2) The Minister shall lay the report, or cause it to be laid, before both Houses of Parliament.

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Repeal of Act No. 134, 1980.

32. The Community Justice Centres (Pilot Project) Act, 1980, is repealed.

Savings and transitional provisions.

5 33. Schedule 4 has effect.

SCHEDULE 1.

(Sec. 5.)

CONSTITUTION AND PROCEDURE OF COUNCIL.

Membership.

- 10 1. (1) The Council shall consist of appointed members and ex officio members.
- (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;
- 15 (b) one shall be a person nominated by the Council of Social Service of New South Wales;
- (c) one shall be an officer of the Department of Technical and Further Education nominated by the Minister for Education;
- (d) one shall be an officer of the Department of the Attorney General and of Justice selected by the Minister; and
- 20 (e) not more than 4 shall be persons selected by the Minister by reason of their having such special interests or experience as the Minister considers would be of assistance in the administration of this Act.
- (3) The ex officio members shall be the Directors of the Community Justice Centres.
- 25 (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.

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SCHEDULE 1—*continued.*CONSTITUTION AND PROCEDURE OF COUNCIL—*continued.***Chairman.**

2. (1) The Minister shall appoint a member of the Council as Chairman of the
5 Council.

(2) An appointment under subclause (1) may be made by the instrument (if
any) by which the person appointed as Chairman is appointed as a member or by
another instrument.

Age of members.

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

Term of office.

4. An appointed member shall, subject to this Schedule, hold office for such term, not
exceeding three years, as is specified in the instrument of appointment of the member,
15 but if otherwise qualified is eligible for re-appointment.

Vacation of office.

5. (1) An appointed member shall be deemed to have vacated office if the
member—

- (a) dies;
- 20 (b) is absent from 4 consecutive meetings of the Council of which reasonable
notice has been given to the member personally or in the ordinary course of
post except on leave granted by the Council, and is not, before the expiration
of 4 weeks after the last of those meetings, excused by the Council for being
absent from those meetings;
- 25 (c) becomes bankrupt, applies to take the benefit of any law for the relief of
bankrupt or insolvent debtors, compounds with his or her creditors or makes
an assignment of his or her remuneration for their benefit;
- 30 (d) 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;

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

- 5 (e) 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 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;
- (f) resigns the office by instrument in writing addressed to the Minister and the Minister accepts the resignation;
- (g) declines office;
- 10 (h) is removed from office by the Minister;
- (i) ceases to hold the office or position necessary for appointment as a member; or
- (j) attains the age of 65 years.
- 15 (2) The Minister may, for any cause which appears to the Minister sufficient, remove any appointed member from office.

Vacancies.

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 Council is constituted in accordance with clause 1.

20 Meetings of the Council.

7. (1) The procedure for the calling of meetings of the Council and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Council.
- (2) The Chairman of the Council or, in the absence of the Chairman, the member chosen by the members present at the meeting to act as Chairman may 25 preside at any meeting of the Council.
- (3) Five members shall form a quorum at any meeting of the Council and any duly convened meeting of the Council at which a quorum is present shall be competent to transact any business of the Council and shall have and may exercise all the functions of the Council.
- 30 (4) The person presiding at any meeting of the Council shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.

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SCHEDULE 1—*continued.*

CONSTITUTION AND PROCEDURE OF COUNCIL—*continued.*

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

5 **Minutes.**

8. The Council shall cause full and accurate minutes to be kept of the 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.

10 **Sub-committees.**

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

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

Procedure of sub-committee.

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

(2) A quorum of a sub-committee shall consist of such number of the members of the sub-committee as the Council 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-
25 committee.

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

Community Justice Centres.

SCHEDULE 1—continued.

CONSTITUTION AND PROCEDURE OF COUNCIL—continued.

(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.

5 Public Service Act, 1979, not to apply.

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

SCHEDULE 2.

(Sec. 29.)

MEDIATOR'S OATH OF SECRECY.

10

I,

of

being a mediator within the meaning of the Community Justice Centres Act, 1983, 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.

15

SO HELP ME GOD

20

Sworn and subscribed at
this day
of 19
before me—

}

.....
Signature

25

.....
Justice of the Peace

Community Justice Centres.

SCHEDULE 3.

(Sec. 29.)

MEDIATOR'S AFFIRMATION OF SECRECY.

I, _____ of _____
 5 being a mediator within the meaning of the Community Justice Centres Act,
 1983, 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
 10 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— }
 15 Signature

.....
 Justice of the Peace

SCHEDULE 4.

(Sec. 33.)

SAVINGS AND TRANSITIONAL PROVISIONS.

20

Interpretation.

1. (1) In this Schedule, "repealed Act" means the Community Justice Centres (Pilot Project) Act, 1980.

(2) A person holding office pursuant to this Schedule holds that office subject
 25 to this Act.

Membership of Council.

2. (1) A member of the Committee constituted under the repealed Act who was
 nominated or selected under clause 1 (2) (a), (c), (h), (i) or (j) of Schedule 1
 to that Act and held office as such a member immediately before 1st December, 1983,
 30 shall be deemed—

(a) to have been appointed on that date as a member of the Council; and

Community Justice Centres.

SCHEDULE 4—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- (b) to have had for that appointment the same qualification by nomination or selection as the member had for appointment as a member of that Committee.
- 5 (2) Subject to clause 5, the term of office of a member of the Council holding office pursuant to subclause (1) expires—
- (a) immediately before 1st December, 1986; or
- (b) on an earlier day of which the Minister notifies the member by instrument in writing,
- 10 whichever first occurs.

Chairman.

3. The person who, immediately before 1st December, 1983, held office as Chairman of the Committee constituted under the repealed Act shall be deemed to have been appointed on that date as Chairman of the Council.

15 Delegation to Director.

4. A delegation to the Director of a Community Justice Centre under section 8 of the repealed Act that was in force immediately before 1st December, 1983, shall be deemed to be a delegation on that date to the Director of that Centre under section 9 of this Act.

20 Directors.

5. On and from 1st December, 1983, a Director of a Community Justice Centre holding office under section 9 of the repealed Act immediately before that date continues in office under section 10 of this Act as the Director of that Centre.

Mediators.

- 25 6. A person accredited under section 11 of the repealed Act as a mediator for a Community Justice Centre and holding office immediately before 1st December, 1983, shall be deemed to have been accredited on that date under section 11 of this Act.

Community Justice Centres.

SCHEDULE 4—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.***Delegation by Director.**

- 5 7. An authority in force immediately before 1st December, 1983, that was conferred under section 13 of the repealed Act on a person holding office as a member of the staff of a Community Justice Centre shall, if that person is a member of the staff of that Centre on that date, be deemed to have been conferred on that date by the Director of that Centre under section 13 of this Act.

Community Justice Centres.

- 10 8. Subject to this Act, a Community Justice Centre established under section 14 of the repealed Act, and being operated immediately before 1st December, 1983, continues on and after that date as a Community Justice Centre established under section 14 of this Act.

Premises.

- 15 9. An order made and published under section 15 of the repealed Act and in force immediately before 1st December, 1983, has effect on and from that date as if it were an order made and published under section 15 of this Act.

Records.

- 20 10. Records relating to the activities of a Community Justice Centre that were made and kept under section 17 of the repealed Act and were in existence immediately before 1st December, 1983, shall be deemed to be records made under section 17 of this Act in relation to the activities of that Centre.

Mediation.

- 25 11. (1) A dispute duly accepted before 1st December, 1983, for mediation under the repealed Act shall be deemed to have been duly accepted for mediation under this Act.

(2) A dispute may be accepted for mediation under this Act notwithstanding that it arose before 1st December, 1983.

Community Justice Centres.

SCHEDULE 4—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

5 (3) A mediation session that was commenced under the repealed Act and had not been completed immediately before 1st December, 1983, shall be continued and completed as if it had been commenced under this Act.

(4) A determination made under section 22 of the repealed Act and in force immediately before 1st December, 1983, shall be deemed to be a determination made on that date under section 22 of this Act.

Agreement after mediation.

10 12. The provisions of section 23 (3) apply to and in respect of an agreement reached at, or drawn up pursuant to, a mediation session under the repealed Act in the same way as those provisions apply to and in respect of an agreement reached at, or drawn up pursuant to, a mediation session under this Act.

Exoneration from liability.

15 13. For the purposes of section 27 (2) (d), a reference to mediation under this Act includes a reference to mediation under the repealed Act.

Oath or affirmation by mediator.

14. A mediator who holds office pursuant to clause 6 and—

20 (a) has taken the oath specified in Schedule 2 to the repealed Act—shall be deemed to have taken the oath specified in Schedule 2 to this Act; or

(b) has made the affirmation specified in Schedule 3 to the repealed Act—shall be deemed to have made the affirmation specified in Schedule 3 to this Act.

Secrecy.

25 15. The provisions of section 29 (2) apply to and in respect of information obtained in the administration or execution of the repealed Act in the same way as those provisions apply to and in respect of information obtained in connection with the administration or execution of this Act.

Community Justice Centres.

SCHEDULE 4—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

Annual report.

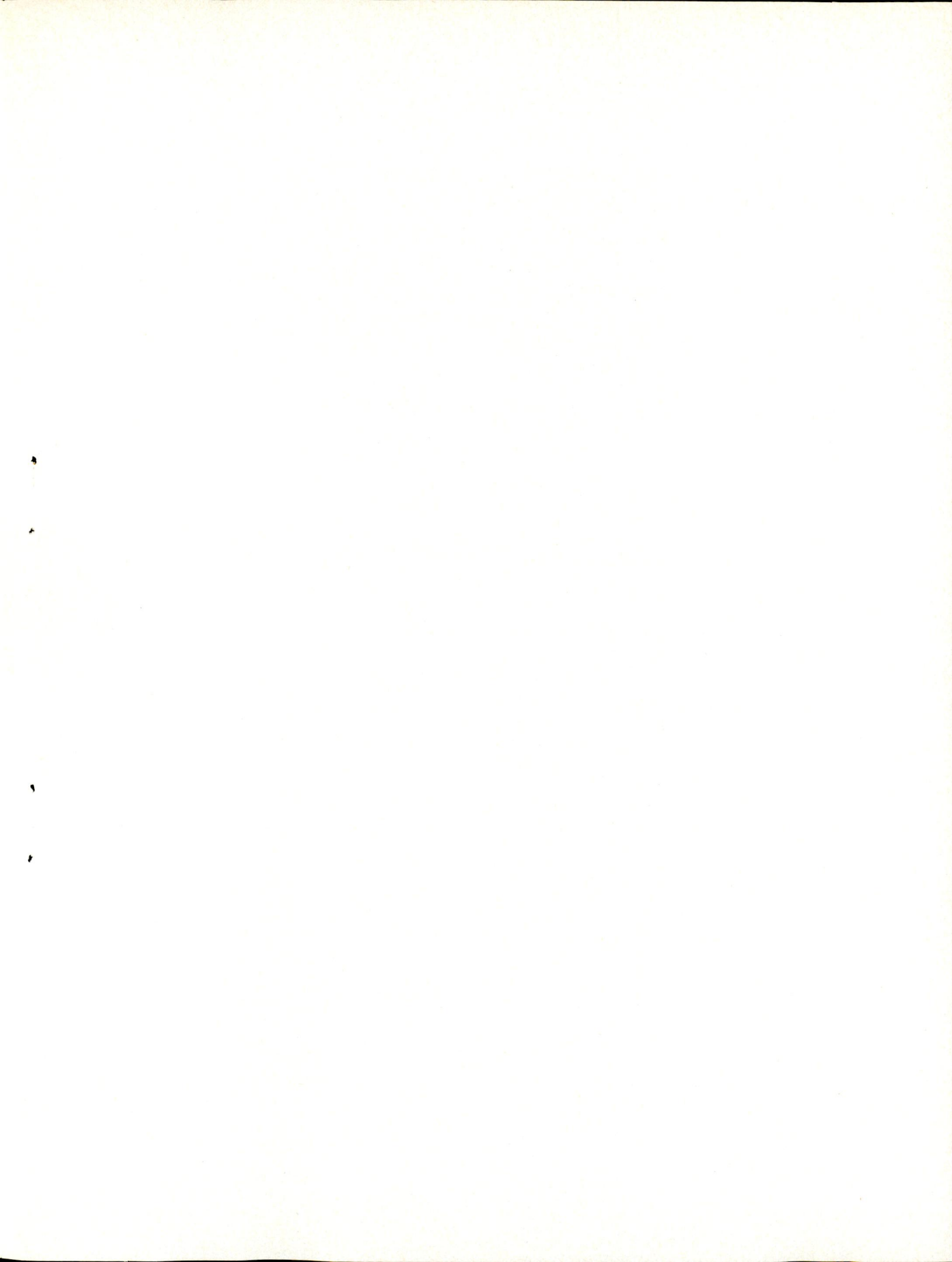
- 5 16. For the purposes of the report to be submitted by the Council in respect of the year ending on 30th June, 1984, a reference in section 31 to Community Justice Centres includes a reference to Community Justice Centres established under the repealed Act.

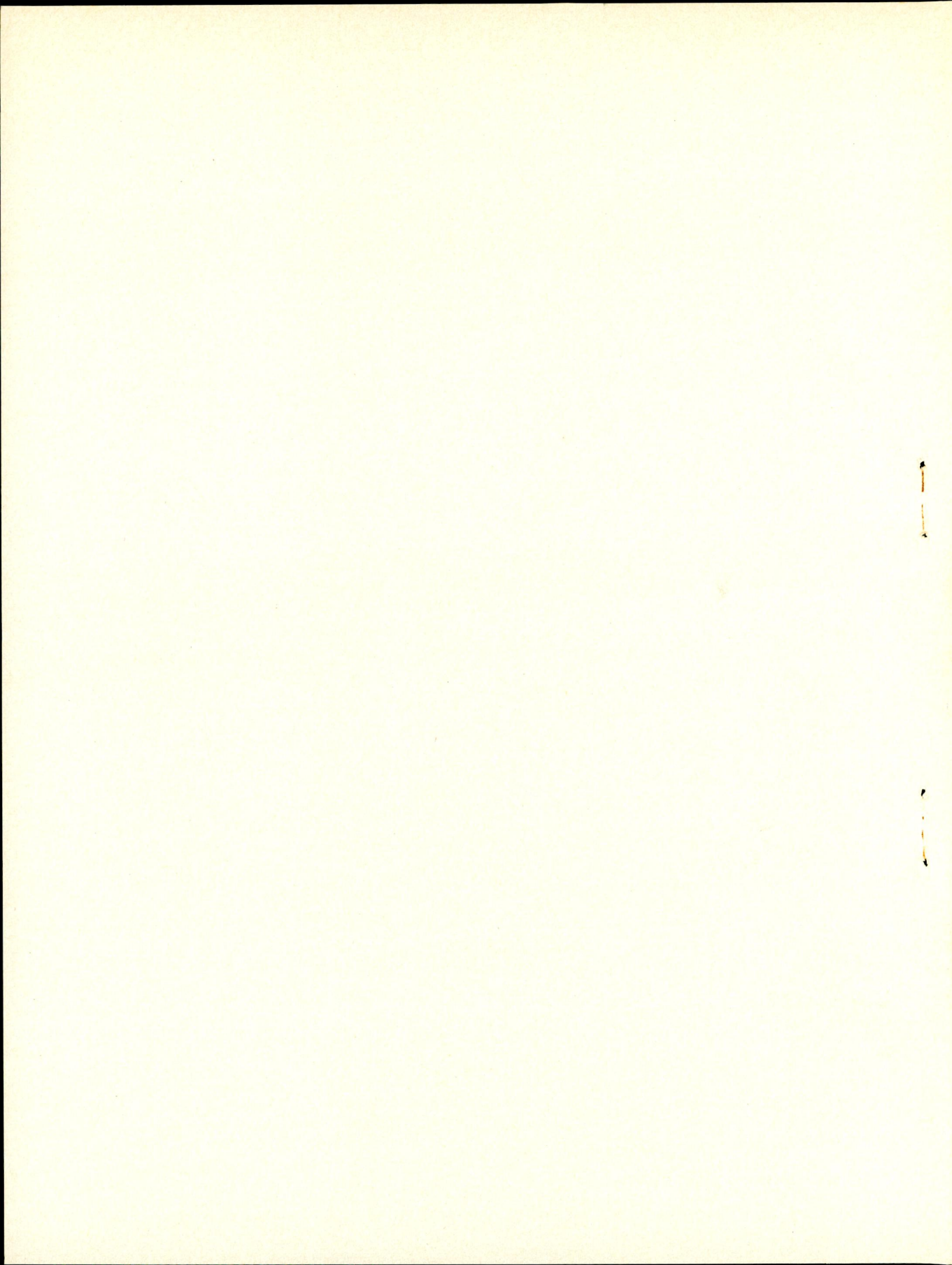
Saving of Act No. 4, 1897.

- 10 17. Nothing in this Act derogates from the operation of section 8 of the Interpretation Act, 1897.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1983





COMMUNITY JUSTICE CENTRES ACT, 1983, No. 127

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 127, 1983.

An Act to provide for the establishment and operation of Community Justice Centres to provide mediation services in connection with certain disputes. [Assented to, 20th December, 1983.]

See also Justices (Community Justice Centres) Amendment Act, 1983; Ombudsman (Community Justice Centres) Amendment Act, 1983.

Community Justice Centres.

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 Act, 1983".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on 1st December, 1983.

Arrangement.

3. This Act is divided as follows:—

PART I.—PRELIMINARY—ss. 1–4.

PART II.—ADMINISTRATION—ss. 5–13.

DIVISION 1.—*The Council*—ss. 5–9.

DIVISION 2.—*Staff of Community Justice Centres*—ss. 10–13.

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

PART IV.—MEDIATION—ss. 20–25.

PART V.—MISCELLANEOUS—ss. 26–33.

SCHEDULE 1.—CONSTITUTION AND PROCEDURE OF COUNCIL.

SCHEDULE 2.—MEDIATOR'S OATH OF SECRECY.

SCHEDULE 3.—MEDIATOR'S AFFIRMATION OF SECRECY.

SCHEDULE 4.—SAVINGS AND TRANSITIONAL PROVISIONS.

Community Justice Centres.

Interpretation.

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

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

“Council” means the Community Justice Centres Council constituted by this Act;

“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 disputes;
- (b) the bringing together of the parties to any dispute for that purpose, either at the request of one of the parties to the dispute or on the initiative of a Director; and
- (c) the follow-up of any matter the subject of any such discussion or settlement;

“mediation session” means a meeting in accordance with this Act between 2 or more parties who are in dispute on any matter;

“mediator”, in relation to a Community Justice Centre, means—

- (a) the Director of the Centre; or
- (b) any person for the time being accredited under section 11 as a mediator for the Centre;

“member” means a member of the Council.

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

Community Justice Centres.

(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 the presence, or under the supervision, of the mediator.

PART II.

ADMINISTRATION.

DIVISION 1.—*The Council.*

Constitution of Council.

5. (1) There is hereby constituted a council, to be called the “Community Justice Centres Council”.

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

(3) Schedule 1 has effect in relation to the constitution and procedure of the Council.

Functions of the Council.

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

- (a) to determine policy guidelines for, and give directions with respect to, the operation of Community Justice Centres;
- (b) 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 Council considers necessary or appropriate;
- (c) to report on and make recommendations concerning the need for an evaluation under section 26 and to assist with the making of such an evaluation; and

Community Justice Centres.

(d) 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.

(2) In the exercise of its functions, the Council shall have regard to the financial resources available for the establishment and operation of Community Justice Centres.

Directions to Council by Minister.

7. The Council is, in the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), subject to the control and direction of the Minister.

Use of facilities and staff.

8. For the purposes of this Act, the Council may, with the approval of the Minister and of the Department or local or public authority or organisation 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 or other organisation.

Delegation by Council.

9. (1) The Council may delegate to a member, sub-committee or Director such of the Council'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 by the delegate 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 Council may continue to exercise all or any of the functions delegated.

Community Justice Centres.

(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 Council.

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

Directors.

10. (1) There shall be a Director for each Community Justice Centre and the same person may be the Director for more than one Community Justice Centre.

(2) A Director is, in the exercise of his or her functions, subject to the control and direction of the Council.

Mediators.

11. The Minister may, on the recommendation of the Director of a Community Justice Centre made subject to and in accordance with the policy guidelines determined by, and any directions of, the Council, accredit a person (other than the Director) as a mediator for the Centre and may revoke any such accreditation.

Staff.

12. (1) The staff of a Community Justice Centre (other than a mediator accredited under section 11) shall be appointed or employed under and in accordance with the Public Service Act, 1979.

(2) A mediator accredited under section 11 is entitled to be paid such remuneration as is determined in respect of the mediator by the Minister.

Delegation by Director.

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 the Director under this Act, but not

Community Justice Centres.

including this power of authorisation) as the Director thinks fit, and the Director, or any successor as Director of the Centre, may revoke wholly or in part any such authorisation.

(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 the 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 the opinion, belief or state of mind of the Director and the function is in accordance with this section authorised to be exercised by another person, the function may, subject to any restriction imposed by the Director, be exercised in accordance with the opinion, belief or state of mind of that other person.

PART III.

COMMUNITY JUSTICE CENTRES.

Establishment of Community Justice Centres.

14. Community Justice Centres shall be established and operated in accordance with this Act for the purpose of providing mediation services.

Community Justice Centres.

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.

Place of operation of Community Justice Centres.

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.

(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 Council, approve from time to time.

Records.

17. (1) The Director of a 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 a proper evaluation of Community Justice Centres under section 26 to be made.

(2) The Council 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 Council.

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

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.

Community Justice Centres.

Use of certain words or letters.

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 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 Council.

(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) 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 Council, responsible for the provision of mediation services and for the operation and management of the Centre.

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

Community Justice Centres.

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

Conduct of mediation sessions.

21. (1) The procedure for commencing and conducting a mediation session at a Community Justice Centre shall, subject to the policy guidelines determined by, and any directions of, the Council, be as determined by the Director.

(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 dispute may not be adjudicated or arbitrated upon at a mediation session.

(5) 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.

Disputes.

22. (1) The Council 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.

(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.

Mediation to be voluntary.

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

(2) A party to a mediation session may withdraw from the 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, tribunal or body.

(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 or 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.

Representation by agent.

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 matter in dispute to enable the agent to represent the party effectively; and

(b) the Director so approves.

Community Justice Centres.

(2) Subsection (1) does not prevent—

- (a) where a corporation within the meaning of the Companies (New South Wales) Code is a party to a mediation session—an officer of the corporation;
- (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; or
- (c) where any other corporation is a party to a mediation session—an agent appointed by the corporation,

from representing that corporation.

(3) Where a Director approves of the representation of a party by an agent, the approval of the Director may be given subject to such conditions as the Director 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 compliance by the agent with those conditions.

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

PART V.

MISCELLANEOUS.

Evaluations.

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

Exoneration from liability.

27. (1) No matter or thing done or omitted to be done by—
- (a) the Council or a sub-committee of the Council;

Community Justice Centres.

(b) a member of, or a person acting under the direction of or with the authority of, the Council or any such sub-committee;

(c) a mediator; or

(d) 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) failure to charge a person with a crime or offence or to initiate or proceed with proceedings for a crime or offence, or any similar failure;
- (b) the arrest of a person followed by such a failure; or
- (c) failure to offer evidence at the hearing of a charge referred to in paragraph (a),

if the member of the police force or other officer or person satisfies the court that the failure was reasonable—

- (d) by reason of the reference of the dispute to which the alleged crime or offence relates for mediation under this Act or by reason of an agreement reached by the parties to a dispute so referred; and
- (e) 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 evidence being offered in relation to such a charge, 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.

(5) In subsection (2), a reference to a crime or offence does not include a reference to a domestic violence offence within the meaning of the Crimes Act, 1900.

Privilege.

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.

(2) Subject to subsection (3), the like privilege with respect to defamation exists with respect to—

- (a) a mediation session; or
- (b) a document or other material sent to, or produced at, a Community Justice Centre for the purpose of enabling a mediation session to be arranged,

as exists with respect to judicial proceedings and a document produced in judicial proceedings.

(3) The privilege conferred by subsection (2) does not extend to a publication made otherwise than—

- (a) at a mediation session;
- (b) as provided by subsection (2) (b); or
- (c) as provided by section 29 (2).

(4) 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.

(5) A document prepared for the purposes of, or in the course of, or pursuant to, a mediation session, or any copy thereof is not admissible in evidence in any proceedings before any court, tribunal or body.

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

- (a) where the persons in attendance at, or named during, the mediation session and, in the case of a document, all persons named in the document, consent to admission of the evidence or document; or

Community Justice Centres.

- (b) in proceedings instituted with respect to any act or omission in connection with which a disclosure has been made pursuant to section 29 (2) (c).

(7) A member of the Council or a sub-committee of the Council, a mediator, a Director, a member of the staff of a Community Justice Centre, a person making 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.

Secrecy.

29. (1) A mediator shall not commence to exercise the functions of a mediator without first taking an oath before a justice of the peace in or to the effect of the form set out in Schedule 2 or making 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 Council or a sub-committee of the Council, a mediator, a Director, a member of the staff of a Community Justice Centre or a person making an evaluation under section 26 or carrying out research referred to in paragraph (e) may disclose information obtained 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 made with the consent of the parties to the mediation session for the purpose of aiding in the resolution of a dispute between those parties or assisting any such parties in any other manner;

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- (e) where the disclosure does not reveal the identity of a person without the consent of the person and is reasonably required for the purposes of research carried out by, or with the approval of, the Council or an evaluation pursuant to section 26; or
- (f) in accordance with a requirement imposed by or under a law of the State (other than a requirement imposed by a subpoena or other compulsory process) or the Commonwealth.

Power to accept appointment.

30. (1) Where, by or under an Act, provision is made requiring the whole of the time of the holder of a specified office to be devoted to the duties of that office or prohibiting the holder of a specified office from engaging in employment outside the duties of that office, the provision does not operate to disqualify a holder of that office from—

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

(2) The office of a member of the Council, a member of a sub-committee of the Council or a mediator is not, for the purposes of any Act, an office or place of profit under the Crown.

Annual report.

31. (1) As soon as practicable after 30th June, but on or before 31st December, in each year, the Council shall prepare and submit to the Minister a report on the activities, operations and use of Community Justice Centres during the period of 12 months ending on 30th June in that year.

(2) The Minister shall lay the report, or cause it to be laid, before both Houses of Parliament.

Community Justice Centres.

Repeal of Act No. 134, 1980.

32. The Community Justice Centres (Pilot Project) Act, 1980, is repealed.

Savings and transitional provisions.

33. Schedule 4 has effect.

SCHEDULE 1.

(Sec. 5.)

CONSTITUTION AND PROCEDURE OF COUNCIL.**Membership.**

1. (1) The Council shall consist of appointed members and ex officio members.
 - (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 person nominated by the Council of Social Service of New South Wales;
 - (c) one shall be an officer of the Department of Technical and Further Education nominated by the Minister for Education;
 - (d) one shall be an officer of the Department of the Attorney General and of Justice selected by the Minister; and
 - (e) not more than 4 shall be persons selected by the Minister by reason of their having such special interests or experience as the Minister considers would be of assistance in the administration of this Act.
 - (3) The ex officio members shall be 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.

SCHEDULE 1—*continued.*CONSTITUTION AND PROCEDURE OF COUNCIL—*continued.***Chairman.**

2. (1) The Minister shall appoint a member of the Council as Chairman of the Council.

(2) An appointment under subclause (1) may be made by the instrument (if any) by which the person appointed as Chairman is appointed as a member or by another instrument.

Age of members.

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

Term of office.

4. An appointed member shall, subject to this Schedule, hold office for such term, not exceeding three years, as is specified in the instrument of appointment of the member, but if otherwise qualified is eligible for re-appointment.

Vacation of office.

5. (1) An appointed member shall be deemed to have vacated office if the member—

- (a) dies;
- (b) is absent from 4 consecutive meetings of the Council of which reasonable notice has been given to the member personally or in the ordinary course of post except on leave granted by the Council, and is not, before the expiration of 4 weeks after the last of those meetings, excused by the Council for being absent from those meetings;
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (d) 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;

Community Justice Centres.

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

- (e) 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 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;
- (f) resigns the office by instrument in writing addressed to the Minister and the Minister accepts the resignation;
- (g) declines office;
- (h) is removed from office by the Minister;
- (i) ceases to hold the office or position necessary for appointment as a member;
or
- (j) attains the age of 65 years.

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

Vacancies.

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 Council is constituted in accordance with clause 1.

Meetings of the Council.

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

(2) The Chairman of the Council 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 Council.

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

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

Community Justice Centres.

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

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

Minutes.

8. The Council shall cause full and accurate minutes to be kept of the 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.

Sub-committees.

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

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

Procedure of sub-committee.

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

(2) A quorum of a sub-committee shall consist of such number of the members of the sub-committee as the Council 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 Council so approves in relation to the sub-committee, have in addition to a deliberative vote a second or casting vote.

Community Justice Centres.

SCHEDULE 1—*continued.*

CONSTITUTION AND PROCEDURE OF COUNCIL—*continued.*

(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.

Public Service Act, 1979, not to apply.

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

SCHEDULE 2.

(Sec. 29.)

MEDIATOR'S OATH OF SECRECY.

I, _____ of
being a mediator within the meaning of the Community Justice Centres Act, 1983, 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

Community Justice Centres.

SCHEDULE 3.

(Sec. 29.)

MEDIATOR'S AFFIRMATION OF SECRECY.

I, _____ of
 being a mediator within the meaning of the Community Justice Centres Act, 1983, 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

SCHEDULE 4.

(Sec. 33.)

SAVINGS AND TRANSITIONAL PROVISIONS.

Interpretation.

1. (1) In this Schedule, "repealed Act" means the Community Justice Centres (Pilot Project) Act, 1980.

(2) A person holding office pursuant to this Schedule holds that office subject to this Act.

Membership of Council.

2. (1) A member of the Committee constituted under the repealed Act who was nominated or selected under clause 1 (2) (a), (c), (h), (i) or (j) of Schedule 1 to that Act and held office as such a member immediately before 1st December, 1983, shall be deemed—

(a) to have been appointed on that date as a member of the Council; and

Community Justice Centres.

SCHEDULE 4—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- (b) to have had for that appointment the same qualification by nomination or selection as the member had for appointment as a member of that Committee.

(2) Subject to clause 5, the term of office of a member of the Council holding office pursuant to subclause (1) expires—

- (a) immediately before 1st December, 1986; or
- (b) on an earlier day of which the Minister notifies the member by instrument in writing,

whichever first occurs.

Chairman.

3. The person who, immediately before 1st December, 1983, held office as Chairman of the Committee constituted under the repealed Act shall be deemed to have been appointed on that date as Chairman of the Council.

Delegation to Director.

4. A delegation to the Director of a Community Justice Centre under section 8 of the repealed Act that was in force immediately before 1st December, 1983, shall be deemed to be a delegation on that date to the Director of that Centre under section 9 of this Act.

Directors.

5. On and from 1st December, 1983, a Director of a Community Justice Centre holding office under section 9 of the repealed Act immediately before that date continues in office under section 10 of this Act as the Director of that Centre.

Mediators.

6. A person accredited under section 11 of the repealed Act as a mediator for a Community Justice Centre and holding office immediately before 1st December, 1983, shall be deemed to have been accredited on that date under section 11 of this Act.

Community Justice Centres.

SCHEDULE 4—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.***Delegation by Director.**

7. An authority in force immediately before 1st December, 1983, that was conferred under section 13 of the repealed Act on a person holding office as a member of the staff of a Community Justice Centre shall, if that person is a member of the staff of that Centre on that date, be deemed to have been conferred on that date by the Director of that Centre under section 13 of this Act.

Community Justice Centres.

8. Subject to this Act, a Community Justice Centre established under section 14 of the repealed Act, and being operated immediately before 1st December, 1983, continues on and after that date as a Community Justice Centre established under section 14 of this Act.

Premises.

9. An order made and published under section 15 of the repealed Act and in force immediately before 1st December, 1983, has effect on and from that date as if it were an order made and published under section 15 of this Act.

Records.

10. Records relating to the activities of a Community Justice Centre that were made and kept under section 17 of the repealed Act and were in existence immediately before 1st December, 1983, shall be deemed to be records made under section 17 of this Act in relation to the activities of that Centre.

Mediation.

11. (1) A dispute duly accepted before 1st December, 1983, for mediation under the repealed Act shall be deemed to have been duly accepted for mediation under this Act.

(2) A dispute may be accepted for mediation under this Act notwithstanding that it arose before 1st December, 1983.

Community Justice Centres.

SCHEDULE 4—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(3) A mediation session that was commenced under the repealed Act and had not been completed immediately before 1st December, 1983, shall be continued and completed as if it had been commenced under this Act.

(4) A determination made under section 22 of the repealed Act and in force immediately before 1st December, 1983, shall be deemed to be a determination made on that date under section 22 of this Act.

Agreement after mediation.

12. The provisions of section 23 (3) apply to and in respect of an agreement reached at, or drawn up pursuant to, a mediation session under the repealed Act in the same way as those provisions apply to and in respect of an agreement reached at, or drawn up pursuant to, a mediation session under this Act.

Exoneration from liability.

13. For the purposes of section 27 (2) (d), a reference to mediation under this Act includes a reference to mediation under the repealed Act.

Oath or affirmation by mediator.

14. A mediator who holds office pursuant to clause 6 and—

- (a) has taken the oath specified in Schedule 2 to the repealed Act—shall be deemed to have taken the oath specified in Schedule 2 to this Act; or
- (b) has made the affirmation specified in Schedule 3 to the repealed Act—shall be deemed to have made the affirmation specified in Schedule 3 to this Act.

Secrecy.

15. The provisions of section 29 (2) apply to and in respect of information obtained in the administration or execution of the repealed Act in the same way as those provisions apply to and in respect of information obtained in connection with the administration or execution of this Act.

Community Justice Centres.

SCHEDULE 4—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.***Annual report.**

16. For the purposes of the report to be submitted by the Council in respect of the year ending on 30th June, 1984, a reference in section 31 to Community Justice Centres includes a reference to Community Justice Centres established under the repealed Act.

Saving of Act No. 4, 1897.

17. Nothing in this Act derogates from the operation of section 8 of the Interpretation Act, 1897.

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

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 20th December, 1983.*

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1984



