

NORFOLK ISLAND



## MEDIATION ACT 2005

[Consolidated as at 3 August 2013  
on the authority of the Administrator  
and in accordance with  
the *Enactments Reprinting Act 1980*]

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NORFOLK



ISLAND

## MEDIATION ACT 2005

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An Act relating to mediation and the registration of mediators.

**BE IT ENACTED** by the Legislative Assembly of Norfolk Island as follows —

### Short title

1. This Act is the *Mediation Act 2005*.

### Commencement

2. This Act commences on the day notice of assent is published in the Gazette.

### Dictionary

3. The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain words and expressions used in this Act. The Interpretation Act 1979 contains definitions and other provisions relevant to this Act.

### Declarations about approved agencies

4. (1) The Minister may, in writing, declare an entity to be an approved agency for this Act.

(2) A declaration under this section is a disallowable instrument.

*Note* For disallowable instrument see *Interpretation Act 1979*, s. 41A.

### Registration of mediators

5. (1) A person who has been registered by an approved agency may apply to the Registrar of the Supreme Court to be registered as a mediator.

(2) If the Registrar is satisfied that the person applying under subsection (1) has been registered by an approved agency, register the person as a registered mediator.

### Duration of registration

6. Subject to section 8, the registration of a registered mediator ends 3 years after the day when he or she was registered or when his or her registration was last renewed, as the case requires.

### Renewal of registration

7. (1) A registered mediator may, before the end of his or her registration, apply to the Registrar for renewal of the registration.

(2) The Registrar shall renew the registration of the mediator if any fee payable has been paid and the Registrar is satisfied that the mediator—

- (a) would, if he or she were an applicant under section 5 (1), be eligible for registration; and
- (b) has, since his or her registration or last renewal, whichever last occurred, undertaken any further education in matters relating to mediation that is approved by the agency or the Registrar.

### Cancellation of registration

8. The Registrar shall cancel the registration of a mediator whose registration has been cancelled by an approved agency.

### Admissibility of evidence

9. Evidence of—

- (a) a communication made in a mediation session; or
- (b) a document, whether delivered or not, prepared—
  - (i) for the purposes of; or
  - (ii) in the course of; or
  - (iii) pursuant to a decision taken or undertaking given in; a mediation session;

is not admissible in any proceedings except in accordance with the *Evidence Act 2004* section 131 (Exclusion of evidence of settlement negotiations).

### Secrecy

10. (1) A person who is or has been a registered mediator shall not disclose any information obtained in a mediation session.

Penalty: (a) cancellation of registration; and  
(b) 50 penalty units

- (2) This section does not apply if—
  - (a) the disclosure is required by or under a Norfolk Island or Commonwealth law; or
  - (b) the disclosure is made with the consent of the parties; or
  - (c) the disclosure is made with the consent of the person who gave the information; or
  - (d) the person referred to in subsection (1) believes on reasonable grounds that—
    - (i) a person's life, health or property is under serious and imminent threat and the disclosure is necessary to avert, or mitigate the consequences of, its realisation; or
    - (ii) the disclosure is necessary to report to the appropriate authority the commission of an offence or prevent the likely commission of an offence.

(3) In this section—

**offence** means an offence involving—

- (a) violence, or the threat of violence, to a person; or
- (b) intentional damage to property or the threat of such damage.

#### **Protection from defamation**

11. The same privilege in relation to defamation as exists in relation to judicial proceedings exists in relation to—

- (a) a mediation session; or
- (b) a document or other material—
  - (i) produced at a mediation session; or
  - (ii) given to a registered mediator for the purpose of arranging or conducting a mediation session.

#### **Protection of mediators**

12. A registered mediator has, in the exercise in good faith of his or her functions as mediator, the same protection and immunity as a judge of the Supreme Court.

#### **Regulation-making power**

13. (1) The Administrator may make regulations for this Act.

(2) The regulations may prescribe requirements to be complied with by an approved agency.

(3) The regulations may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

#### **Dictionary**

**approved agency** means an entity that is declared under section 4(2) to be an approved agency.

**entity** includes an individual.

**mediation session** means a meeting between people in dispute and a registered mediator for the purpose of resolving the dispute by mediation, and includes anything done for the purpose of—

- (a) arranging the meeting (whether or not successfully); or
- (b) following up anything raised in the meeting.

**party**, to a mediation session, does not include the registered mediator for the session.

**registered mediator** means a person who is registered under section 5 as a mediator (Registration of mediators).

**NOTES**

The *Mediation Act 2005* as shown in this consolidation comprises Act No. 29 of 2005 and amendments as indicated in the Tables below.

<b>Enactment</b>	<b>Number and year</b>	<b>Date of commencement</b>	<b>Application saving or transitional provision</b>
<i>Mediation Act 2005</i>	29, 2005	25.11.05	
<i>Interpretation (Amendment) Act 2012</i> [to substitute throughout — Commonwealth Minister for Minister; and to substitute Minister for executive member]	14, 2012	28.12.12	

**Table of Amendments**

ad = added or inserted      am = amended      rep = repealed      rs = repealed and substituted

<b>Provisions affected</b>	<b>How affected</b>	
4	am	14, 2012

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