



Australian Capital Territory

Mediation Act 1997

A1997-61

Republication No 4

Effective: 1 March 2012 – 7 April 2016

Republication date: 1 March 2012

Last amendment made by [A2011-48](#)

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Mediation Act 1997* (including any amendment made under the [Legislation Act 2001](#), part 11.3 (Editorial changes)) as in force on 1 March 2012. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 1 March 2012.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the [Legislation Act 2001](#) applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The [Legislation Act 2001](#), part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see [Legislation Act 2001](#), s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the [Legislation Act 2001](#), section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see [Legislation Act 2001](#), s 133).



Australian Capital Territory

Mediation Act 1997

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Australian Capital Territory

Mediation Act 1997

An Act relating to mediation and the registration of mediators

1 Name of Act

This Act is the *Mediation Act 1997*.

2 Dictionary

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.

Note 2 A definition in the dictionary applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act 2001](#), s 155 and s 156 (1)).

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See [Legislation Act 2001](#), s 127 (1), (4) and (5) for the legal status of notes.

4 Declarations about competency standards and approved agencies

- (1) The Minister may, in writing, declare standards of competency required for the registration of a person under section 5.
- (2) The Minister may, in writing, declare an entity to be an approved agency for this Act.
- (3) A declaration under this section is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act 2001](#).

5 Registration of mediators

- (1) Subject to subsection (6), a person may apply in writing to an approved agency for registration under this section.
- (2) An approved agency shall approve an application and register the applicant if—
 - (a) any fee determined by the agency to be payable to it in relation to an application under this section has been paid to it; and
 - (b) it is satisfied that the applicant has achieved the standards of competency prescribed for section 4; and
 - (c) the applicant satisfies any requirements of the agency that relate to mediators.
- (3) A person whose application under subsection (1) has been refused may, by written notice given to the agency, require it to review the decision.

Note For how documents may be given, see [Legislation Act 2001](#), pt 19.5.

- (4) An approved agency that receives a notice under subsection (3) shall review the relevant decision.
- (5) An approved agency shall notify an applicant in writing within 7 days of determining an application under subsection (1) or a review under subsection (4)—
 - (a) of its determination; and
 - (b) if the application has not been granted—of the grounds for not granting it.
- (6) A person—
 - (a) who has made an application under subsection (1) that has been refused; or
 - (b) whose registration has been cancelled under section 8;

is not eligible to make another application under subsection (1) to any approved agency within 6 months of the refusal or cancellation.

6 Duration of registration

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.

7 Renewal of registration

- (1) A registered mediator may, before the end of his or her registration, apply to the approved agency by which he or she has been registered or to another approved agency for renewal of the registration.
- (2) The approved agency shall renew the registration of the mediator if any fee determined by the agency to be payable to it in relation to an application under this section has been paid and the agency 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 the further education in matters relating to mediation that is approved by the agency.

8 Cancellation of registration

The approved agency by which a registered mediator has been registered may cancel the registration if satisfied that—

- (a) if the mediator were an applicant under section 5 (1), he or she would not be eligible for registration; or
- (b) the mediator has made a disclosure in breach of section 10 and the circumstances are such that his or her registration should be cancelled.

9 Admissibility of evidence

- (1) Evidence of mediation material is not admissible in a proceeding except in accordance with the *Evidence Act 2011*, section 131 (Exclusion of evidence of settlement negotiations).
- (2) In this section:
mediation material means—
 - (a) a communication made in a mediation session; or
 - (b) a document, whether delivered or not, prepared—
 - (i) for or during a mediation session; or
 - (ii) following a decision made or undertaking given in a mediation session.

10 Secrecy

- (1) A person who is or has been a registered mediator shall not disclose any information obtained in a mediation session.
- (2) This section does not apply if—
 - (a) the disclosure is required by or under a ACT 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.

11 Protection from defamation

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.

12 Protection of mediators

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.

13 Regulation-making power

(1) The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the [Legislation Act 2001](#).

(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

(see s 2)

Note 1 The [Legislation Act 2001](#) contains definitions and other provisions relevant to this Act.

Note 2 In particular, the [Legislation Act 2001](#), dict, pt 1, defines the following terms:

- ACT
- contravene
- document
- person.

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

Note An entity includes an individual, see [Legislation Act 2001](#), dict, pt 1, def of ***entity***.

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).

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the [Legislation Act 2001](#), part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

Mediation Act 1997 A1997-61

notified 9 October 1997 ([Gaz 1997 No S300](#))
s 1, s 2 commenced 9 October 1997 (s 2 (1))
remainder commenced 1 July 1998 (s 2 (2))

as amended by

[Statute Law Revision \(Penalties\) Act 1998 A1998-54 sch](#)

notified 27 November 1998 ([Gaz 1998 No S207](#))
s 1, s 2 commenced 27 November 1998 (s 2 (1))
sch commenced 9 December 1998 (s 2 (2) and [Gaz 1998 No 49](#))

[Law Reform \(Miscellaneous Provisions\) Act 1999 A1999-66 sch 3](#)

notified 10 Nov 1999 ([Gaz 1999 No 45](#))
sch 3 commenced 10 Nov 1999 (s 2)

[Legislation \(Consequential Amendments\) Act 2001 A2001-44 pt 246](#)

notified 26 July 2001 ([Gaz 2001 No 30](#))
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 246 commenced 12 September 2001 (s 2 and see [Gaz 2001 No S65](#))

[Statute Law Amendment Act 2002 A2002-30 pt 3.48](#)

notified LR 16 September 2002
s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))
pt 3.48 commenced 17 September 2002 (s 2 (1))

[Evidence \(Consequential Amendments\) Act 2011 A2011-48 sch 1 pt 1.24](#)

notified LR 22 November 2011
s 1, s 2 commenced 22 November 2011 (LA s 75 (1))
sch 1 pt 1.24 commenced 1 March 2012 (s 2 (1) and see [Evidence Act 2011 A2011-12, s 2 and CN2012-4](#))

4 Amendment history

Name of Act

s 1 sub [A2002-30](#) amdt 3.594

Dictionary

s 2 om [A2001-44](#) amdt 1.2832
ins [A2002-30](#) amdt 3.595

Notes

s 3 def **approved agency** sub [A1999-66](#) s 6 sch 3
om [A2002-30](#) amdt 3.595
def **mediation session** om [A2002-30](#) amdt 3.595
def **registered mediator** om [A2002-30](#) amdt 3.595
sub [A2002-30](#) amdt 3.595

Declarations about competency standards and approved agencies

s 4 sub [A1999-66](#) s 6 sch 3
am [A2001-44](#) amdt 1.2833-1.2835

Registration of mediators

s 5 am [A2002-30](#) amdt 3.596

Renewal of registration

s 7 am [A2002-30](#) amdt 3.597

Admissibility of evidence

s 9 sub [A2011-48](#) amdt 1.40

Regulation-making power

s 13 am [A1998-54](#) sch
sub [A2001-44](#) amdt 1.2836

Dictionary

dict ins [A2002-30](#) amdt 3.598
def **approved agency** ins [A2002-30](#) amdt 3.598
def **mediation session** ins [A2002-30](#) amdt 3.598
def **party** ins [A2002-30](#) amdt 3.598
def **registered mediator** ins [A2002-30](#) amdt 3.598

Endnotes

5 Earlier replications

5 Earlier replications

Some earlier replications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised replication has been published in electronic pdf format on the ACT legislation register. A selection of authorised replications have also been published in printed format. These replications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised replication are identical.

Replication No	Amendments to	Replication date
1	A1999-66	17 April 2000
2	A2001-44	23 January 2001
3	A2002-30	25 September 2002

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