

2001

AUSTRALIAN CAPITAL TERRITORY

MEDIATION ACT 1997

DECLARATION UNDER SUBSECTION 4(1)

Disallowable Instrument No. 313 of 2001

EXPLANATORY STATEMENT

Circulated by authority

of

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Attorney-General

BACKGROUND

The *Mediation Act 1997* (“the Act”) was passed by the ACT Legislative Assembly on Tuesday 23 September 1997. It was notified in the *ACT Gazette* S300 on 9 October 1997. The substantive provisions of the Act commenced on 1 July 1998.

The Act allows for the declaration of competency standards required for the registration of a mediator by an agency approved under section 5 of the Act. Subsection 4(1) provides that the Minister may declare such standards.

PURPOSE OF THE DECLARATION

By Instrument No. 65 of 2000, the applicable competency standards are as set out in the publication: *ACT Competency Standards for Mediators*, published by the ACT Community Services and Health Industry Training Advisory Board Inc. in 1995.

The Declaration provides that these standards do not apply to judicial officers or other officers of ACT Courts.

The *Supreme Court Act 1933* does not provide the ACT Supreme Court with specific powers to mediate matters or refer matters to mediation. Therefore, there is no specific protection in the Supreme Court Act for judicial officers or other Court officers who may be requested by the Court to conduct mediations with respect to cases which are already before the Court.

However, certain matters before the Court may be amenable to mediation and parties may wish to have these matters mediated by Court officers.

To attract the immunities and privileges granted to mediators and mediation sessions by the Act, it is necessary for Court officers wishing to act as mediators to be registered under the Act.

It is inappropriate for judicial and other Court officers who may wish to be registered as mediators to be assessed in terms of the highly particularised requirements of the competency standards for mediators otherwise applying under the Act.