

Justices of the Peace (Eligibility) Guideline 2011

Disallowable instrument DI2011—249

made under the

Justices of the Peace Act 1989, S 2 (Who may be appointed justice of the peace?)

EXPLANATORY STATEMENT

This instrument approves a guideline, which sets out who is eligible to be appointed as an ACT Justice of the Peace. This guideline is made under section 2 of the *Justices of the Peace Act 1989*. The guideline replaces the guideline made in 2006. The only change to this guideline is to provide that the Minister may appoint a person as a Justice of the Peace if they are not a permanent resident, if the Minister is satisfied that their attendance in the ACT will enable them to satisfactorily undertake the duties of the office of Justice of the Peace. This will remove any doubt about the ability of NSW residents who work in the ACT to be appointed as a Justice of the Peace.

In the ACT, Justices of the Peace are appointed by the Minister, under the *Justices of the Peace Act 1989*, but the Act does not prescribe the role. Generally, the role of Justices of the Peace in the ACT is determined by procedural requirements of other ACT legislation. Justices of the Peace may, however, perform a wider range of functions under Commonwealth law, including the witnessing of statutory declarations.

Justices of the Peace in the ACT serve the community primarily by:

- administering oaths or affidavits, and taking statutory declarations and affirmations;
- witnessing signatures; and
- attesting and certifying documents.

The guideline requires prospective Justices of the Peace to be Australian citizens and to be either residents of the ACT, on the ACT electoral roll or their attendance in the ACT will enable them to satisfactorily undertake the duties of the office of Justice of the Peace. Prospective Justices of the Peace must have completed a relevant course or have relevant experience, must be of good character and standing and cannot be an undischarged bankrupt. In addition, the applicant must be willing to have their name and contact details being made available to the ACT community and must be available to perform his or her role as a Justice of the Peace at all reasonable times.

The guideline states that a person will not be appointed as a Justice of the Peace unless there is a demonstrated community need for that appointment. Further, the guideline sets out what documents can be produced to demonstrate permanent residency in the ACT or attendance and what evidence is required to prove good character and standing in the ACT community.