



Australian Capital Territory

Justices of the Peace Act 1989

A1989-44

Republication No 5

Effective: 12 March 2005 – 27 September 2010

Republication date: 12 March 2005

Last amendment made by A2005-11

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Justices of the Peace Act 1989* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 12 March 2005. It also includes any amendment, repeal or expiry affecting the republished law to 12 March 2005.

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 or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

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 *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Justices of the Peace Act 1989

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R5
12/03/05

Justices of the Peace Act 1989
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Australian Capital Territory

Justices of the Peace Act 1989

An Act about justices of the peace

R5
12/03/05

Justices of the Peace Act 1989
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page 1

1 Name of Act

This Act is the *Justices of the Peace Act 1989*.

2 Who may be appointed justice of the peace?

- (1) A person is eligible to be appointed as a justice of the peace (an *eligible person*) if the person—
 - (a) is at least 18 years old; and
 - (b) satisfies the criteria (if any) in the guidelines made by the Minister for this section.
- (2) The Minister may make guidelines about eligibility for appointment as a justice of the peace.
- (3) A guideline is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

3 Appointments

- (1) The Minister may appoint an eligible person as a justice of the peace.
 - Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.
 - Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).
 - Note 3* A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).
- (2) The Legislation Act, division 19.3.3 (Appointments—Assembly consultation) does not apply to an appointment under this section.
- (3) An appointment under this section is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

- (4) Before beginning to perform the duties of office, a justice of the peace must take an oath of office, or make an affirmation of office, before a judge, in accordance with the relevant form in schedule 1.

3A Guidelines about the role of justice of the peace

- (1) The Minister may make guidelines about the role of a justice of the peace.
- (2) A guideline is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

3B When does a person stop being a justice of the peace?

- (1) The Minister may end a person's appointment as a justice of the peace if—
- (a) the person becomes bankrupt, or executes a personal insolvency agreement; or
 - (b) the person is convicted, in the ACT, of an offence punishable by imprisonment for at least 1 year; or
 - (c) the person is convicted outside the ACT, in Australia or elsewhere, of an offence that, if it had been committed in the ACT, would be punishable by imprisonment for at least 1 year; or
 - (d) the Minister is satisfied that the person has not complied with the guidelines (if any) made under section 3A; or
 - (e) the Minister is satisfied that the person is no longer an eligible person; or
 - (f) the criteria (if any) prescribed by regulation for this section apply to the person.

- (2) The Minister must end a person's appointment as a justice of the peace for physical or mental incapacity, if the incapacity substantially affects the exercise of the member's functions.

Note 1 The appointer's power to make the appointment includes the power to suspend the appointee. The power to suspend is exercisable in the same way, and subject to the same conditions, as the power to make the appointment (see Legislation Act, s 208).

Note 2 A person's appointment also ends if the person resigns (see Legislation Act, s 210).

4 Register

- (1) The registrar of the Supreme Court must keep a register to be known as the Register of Justices of the Peace of the Australian Capital Territory.
- (2) On the appointment of a justice of the peace, the registrar must enter his or her name in the register.
- (3) The registrar must strike off the register the name of a person whose appointment as a justice of the peace has ceased.

5 Use and disclosure of information about justices of the peace

- (1) This section applies to the personal information of a justice of the peace.
- (2) The Minister may authorise—
- (a) the use of the information to give justices of the peace in the ACT information about the A.C.T Justices of the Peace Association Incorporated (the *association*); and
- (b) the disclosure of the information to the association to help it in circulating information about services that may be given by justices of the peace in the ACT.

(3) In this section:

personal information, of a justice of the peace, means the justice's name and contact details.

Schedule 1 Oath and affirmation of office

(see s 3 (2))

Oath

I, A.B., do swear that I will well and truly serve in the office of justice of the peace of the Australian Capital Territory

So help me God!

Affirmation

I, A.B., do solemnly and sincerely affirm and declare that I will well and truly serve in the office of justice of the peace of the Australian Capital Territory.

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 and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

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

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

Endnotes

3 Legislation history

3 Legislation history

This Act was originally a Commonwealth ordinance—the *Justices of the Peace Ordinance 1989* No 44 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

Legislation before self-government

Justices of the Peace Act 1989 No 44

notified 10 May 1989

s1, s 2 commenced 10 May 1989 (s 2 (1))

remainder commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989 No S164)

as amended by

Legislation after self-government

Law Reform (Miscellaneous Provisions) Act 1999 No 66 sch 3

notified 10 November 1999 (Gaz 1999 No S45)

commenced 10 November 1999 (s 2)

Justice and Community Safety Amendment Act 2001 No 9 sch 1

notified 8 March 2001 (Gaz 2001 No 10)

commenced 8 March 2001 (s 2)

Legislation (Consequential Amendments) Act 2001 No 44 pt 203

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 203 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

**Justice and Community Safety Legislation Amendment Act 2004
(No 2) A2004-32 pt 11**

notified LR 29 June 2004
s 1, s 2 commenced 29 June 2004 (LA s 75 (1))
pt 11 commenced 13 July 2004 (s 2 (3))

**Justice and Community Safety Legislation Amendment Act 2005
(No 2) A2005-11 pt 4**

notified LR 11 March 2005
s 1, s 2 commenced 11 March 2005 (LA s 75 (1))
pt 4 commenced 12 March 2005 (s 2)

4 Amendment history

Title

title sub A2004-32 s 80

Name of Act

s 1 sub A2004-32 s 81

Who may be appointed justice of the peace?

s 2 om 2001 No 44 amdt 1.2292
ins A2005-11 s 15

Appointments

s 3 sub A2004-32 s 82
am A2005-11 s 16

Guidelines about the role of justice of the peace

s 3A ins 1999 No 66 sch 3
om A2004-32 s 82
ins A2005-11 s 17

When does a person stop being a justice of the peace?

s 3B ins A2005-11 s 17

Resignation

s 4 am A2004-32 s 83

Use and disclosure of information about justices of the peace

s 4A renum as s 5

Use and disclosure of information about justices of the peace

s 5 orig s 5 om A2004-32 s 85
(prev s 4A) ins 2001 No 9 amdt 1.18
renum A2004-32 s 84

Register—saving

s 6 om A2004-32 s 85

Endnotes

5 Earlier republications

Application of Legislation Act, s 88

s 7 ins A2004-32 s 86
exp 13 July 2004 (s 7 (2))

Oath and affirmation of office

sch 1 hdg (prev sch hdg) renum R2 LA

5 Earlier republications

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

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

Republication No	Amendments to	Republication date
1	Not amended	31 July 1991
2	A2001-44	12 March 2002
3	A2004-32	13 July 2004
4	A2004-32	14 July 2004

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