

Explanatory Statement

Mental Health (Treatment and Care) (Official Visitors) Appointment 2012 (No 1)

Disallowable Instrument DI2012-183

made under the

Mental Health (Treatment and Care) Act 1994, Part 11 – Official Visitors, Subsection 121(1) (Appointment)

Section 121 (1) of the *Mental Health (Treatment and Care) Act 1994* (the Act) allows for the Minister for Health to appoint one or more official visitors. Section 122 of the Act provides for the functions and duties; powers; and reports by Official Visitors.

This instrument makes the appointment under the *Legislation Act 2001*. Accordingly, the instrument is a disallowable instrument.

This instrument appoints Ms Pamela Burton as an Official Visitor for a period of three years from the day after notification of the disallowable instrument on the ACT Legislation Register.

The appointment complies with the provisions of *section 121 (2) of the Act*

- (2) *A person is eligible for appointment as an official visitor if the person —*
- a) is a legal practitioner who has not less than 5 years practising experience; or*
 - (d) has experience and skill in the care of persons with a mental dysfunction or mental illness.*

Ms Burton is eligible for appointment as an official visitor as she is qualified legal practitioner who has more than 5 years legal practising experience and, has extensive experience and skills in the care of persons with a mental illness.

Further Ms Burton is not excluded from appointment under *section 121 (3) of the Act* in that;

- (3) *A person shall not be appointed an official visitor if the person—*
- (a) is a public servant; or*
 - (b) has a direct interest in a contract with an approved mental health facility or a mental health care provider; or*
 - (c) has a financial interest in a private hospital.*

Ms Burton is not a public servant, has no direct interest in a contract with an approved mental health facility or a mental health care provider, and has no financial interest in a private hospital.

In accordance with paragraph 227(2) (a) of the *Legislation Act 2001* the appointment contained in this instrument is not a public servant.

The Standing Committee on Health, Community and Social Services considered the appointment on 30 May 2012 and agreed to the appointment of Ms Burton.