



Australian Capital Territory

# Justices of the Peace Act 1989

A1989-44

**Republication No 7**

**Effective: 12 April 2023 – 11 December 2023**

Republication date: 12 April 2023

Last amendment made by [A2023-13](#)

## 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 April 2023. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 12 April 2023.

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](http://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 includes 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](http://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 \$160 for an individual and \$810 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Justices of the Peace Act 1989

## Contents

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	Page
1 Name of Act	2
2 Who may be appointed justice of the peace?	2
3 Appointments	2
3A Guidelines about the role of justice of the peace	3
3B When does a person stop being a justice of the peace?	3
4 Register	4
5 Use and disclosure of information about justices of the peace	4
8 Permission to use retirement title	5
 <b>Schedule 1 Oath and affirmation of office</b>	 <b>6</b>
 <b>Endnotes</b>	
1 About the endnotes	7
2 Abbreviation key	7

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R7	Justices of the Peace Act 1989	contents 1
12/04/23	Effective: 12/04/23-11/12/23	

## Contents

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3	Legislation history	Page 8
4	Amendment history	10
5	Earlier republications	11



Australian Capital Territory

# Justices of the Peace Act 1989

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An Act about justices of the peace

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**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 personally insolvent; or  
*Note* **Bankrupt or personally insolvent**—see the [Legislation Act](#), dictionary, pt 1.
  - (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 person's functions as a justice of the peace.

*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.

## 8 Permission to use retirement title

- (1) A person may, in writing, apply to the commissioner for fair trading for permission to use the title "JP (Retired)" (the *retirement title*) after the person's name if—
- (a) the person's appointment as a justice of the peace has ended; and
  - (b) the person was appointed as a justice of the peace for at least 10 years in total.
- (2) The commissioner for fair trading must not give permission to use the retirement title unless satisfied that the person is of good character and standing in the ACT community.
- (3) The commissioner for fair trading may, in writing, withdraw permission to use the retirement title if—
- (a) the commissioner is no longer satisfied the person is of good character and standing in the ACT community; or
  - (b) the person notifies the commissioner, in writing, that the person no longer wishes to use the title.
- (4) Permission to use the retirement title does not authorise a person to exercise any function of a justice of the peace.
- (5) The commissioner for fair trading may make guidelines in relation to the use of the retirement title.
- (6) A guideline is a notifiable instrument.

*Note* The commissioner for fair trading may delegate the commissioner's functions under this section to a public servant (see *Fair Trading (Australian Consumer Law) Act 1992*, s 34).

## Schedule 1 Oath and affirmation of office

(see s 3 (4))

### 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 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

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### 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* A1989-21, s 5 on 11 May 1989 (self-government day).

#### Legislation before self-government

##### **Justices of the Peace Act 1989 A1989-44**

notified 10 May 1989 (Cwlth Gaz 1989 No S160)

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

remainder commenced 11 May 1989 (s 2 (2) and see [Australian Capital Territory \(Self-Government\) Act 1988](#) (Cwlth), s 2 (2) and Cwlth Gaz 1989 No S164)

as amended by

#### Legislation after self-government

##### **Law Reform (Miscellaneous Provisions) Act 1999 A1999-66 sch 3**

notified 10 November 1999 (Gaz 1999 No S45)

commenced 10 November 1999 (s 2)

##### **Justice and Community Safety Amendment Act 2001 A2001-9 sch 1**

notified 8 March 2001 (Gaz 2001 No 10)

commenced 8 March 2001 (s 2)

##### **Legislation (Consequential Amendments) Act 2001 A2001-44 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)

**Justice and Community Safety Legislation Amendment Act 2010  
(No 2) A2010-30 sch 1 pt 1.13**

notified LR 31 August 2010  
s 1, s 2 commenced 31 August 2010 (LA s 75 (1))  
s 3 commenced 1 September 2010 (s 2 (1))  
sch 1 pt 1.13 commenced 28 September 2010 (s 2 (2))

**Justice and Community Safety Legislation Amendment Act 2023  
A2023-13 pt 5**

notified LR 11 April 2023  
s 1, s 2 commenced 11 April 2023 (LA s 75 (1))  
pt 5 commenced 12 April 2023 (s 2)

## Endnotes

4 Amendment history

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### 4 Amendment history

#### Long title

long 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 [A2001-44](#) 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 [A1999-66](#) 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  
am [A2010-30](#) amdt 1.35; [A2023-13](#) s 16

#### 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 [A2001-9](#) amdt 1.18  
renum [A2004-32](#) s 84

#### Register—saving

s 6 om [A2004-32](#) s 85

#### Application of Legislation Act, s 88

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

#### Permission to use retirement title

s 8 ins [A2023-13](#) s 17

#### 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. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 31 July 1991	11 May 1989– 9 Nov 1999	not amended	initial republication since self-government
R1 (RI) 24 Sept 2013	11 May 1989– 9 Nov 1999	not amended	reissue of printed version
R1A 24 Sept 2013	10 Nov 1999– 7 Mar 2001	<a href="#">A1999-66</a>	amendments by <a href="#">A1999-66</a>
R1B 24 Sept 2013	8 Mar 2001– 11 Sept 2001	<a href="#">A2001-9</a>	amendments by <a href="#">A2001-9</a>
R2 12 Mar 2002	12 Sept 2001– 12 July 2004	<a href="#">A2001-44</a>	amendments by <a href="#">A2001-44</a>
R3 13 July 2004	13 July 2004– 13 July 2004	<a href="#">A2004-32</a>	amendments by <a href="#">A2004-32</a>
R4 14 July 2004	14 July 2004– 11 Mar 2005	<a href="#">A2004-32</a>	commenced expiry
R5 12 Mar 2005	12 Mar 2005– 27 Sept 2010	<a href="#">A2005-11</a>	amendments by <a href="#">A2005-11</a>
R6 28 Sept 2010	28 Sept 2010– 11 Apr 2023	<a href="#">A2010-30</a>	amendments by <a href="#">A2010-30</a>

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