

Domestic Violence Agencies (Council) Acting Appointment 2019 (No 5)

Disallowable instrument DI2019–62

made under the

Domestic Violence Agencies Act 1986, s 6 (Membership of council) and Legislation Act 2001, s 209 (Power of appointment includes power to make acting appointment)

EXPLANATORY STATEMENT

Section 5 (1) of the *Domestic Violence Agencies Act 1986* (the Act) states that the objective of the Domestic Violence Prevention Council (the Council) is to reduce the incidence of domestic violence offences. Section 5 (2) of the Act sets out the functions of the Council. Under section 5 (2) (c), one of these functions is to advise the Minister on any matter relating to domestic violence.

Section 6 of the Act stipulates that the Council is constituted by the Domestic Violence Project Coordinator and twelve other members appointed by the Minister. Section 6 (2) (a) specifies that the appointed members must consist of at least six community members, including at least one representative of the Domestic Violence Crisis Service Incorporated.

Section 229 of the *Legislation Act 2001* states that the instrument making an appointment to which division 19.3.3 applies is a disallowable instrument.

Section 227 of the *Legislation Act* provides that division 19.3.3 does not apply to appointees who are public servants. The person appointed by this instrument is not public servants and as a result the Standing Committee on Justice and Community Safety has been consulted. The Committee supports the appointments.

In accordance with section 6 (3) of the Act, this instrument states that the person is appointed in the capacity of a community member of the Council, representing the Domestic Violence Crisis Service Incorporated.

The authority to appoint an acting member to the Council is provided by section 209 (2) of the *Legislation Act*. One of the requirements in making appointments pursuant to section 209 is that the power to appoint a person to act is ‘exercisable in the same way, and subject to the same conditions, as the powers to make the appointment’. This means that the conditions provided for in section 6 (4) of the Act must be complied with in making an appointment.

Accordingly, in making the acting appointment, the Minister is satisfied that the appointee is familiar with the views and interests of the community on matters relating to domestic violence and is capable of representing those views and interests as required by section 6 (4) of the Act.

Section 217 (1) (a) of the Legislation Act provides that an acting appointment can be made by naming the person.