

Integrity Commission (Acting Commissioner) Appointment 2021 (No 2)

Disallowable instrument DI2021–3

made under the

Integrity Commission Act 2018, s 25 (Commissioner—appointment) and s 40 (Commissioner—acting appointment)

EXPLANATORY STATEMENT

Section 209 of the *Legislation Act 2001* provides that if an appointer's power is the power to make an appointment to a position, the power to make the appointment also includes power to appoint a person, or 2 or more people, to act in the position.

Sections 218 and 219 of the *Legislation Act* permit the Speaker to decide the circumstances, conditions or limitations that attach to the appointment and to decide the terms.

Section 25 (1) of the *Integrity Commission Act 2018* (the Act) states that the Speaker must, on behalf of the Territory, appoint a person as the ACT Integrity Commissioner.

Section 40 (1) of the Act states the provisions that do not apply to the making of an acting appointment.

In making the acting appointment, the Speaker:

- is satisfied that the appointee has extensive knowledge of, and experience in—
 - criminal investigation or criminal adjudication; or
 - law enforcement or the conduct of investigations; or
 - public administration, governance or government (s 25(3)(a) of the Act).
- is satisfied that the appointed person is eligible for appointment by reason of s 26 (1) (a) of the Act;
- complied with the requirements imposed by s 26 (2) of the Act;
- is satisfied that the appointed person is not ineligible by reason of any of the matters prescribed in s 26 (3) or any other matters;
- consulted with the relevant Assembly committee (the Standing Committee on Justice and Community Safety) (s 25(2)(a)(iv) of the Act) .

Although not required under the Act, the Speaker consulted with the Chief Minister, the Leader of the Opposition and the Leader of the ACT Greens.

This instrument appoints **John Denison McMillan**, who has taken an oath or affirmation of office pursuant to s 29 of the Act, as acting ACT Integrity Commissioner in the following circumstances:

- (1) the Commissioner or an acting Commissioner cannot for any reason exercise a function or functions of the position, and
- (2) The appointee is notified by the Speaker of the function or functions to be performed and the period during which they are to be performed.

The appointment is for a period 6 months or until the appointment of a commissioner by the Speaker under s 25 of the Act commences.