

Queensland



Justices of the Peace and Commissioners for Declarations Act 1991

JUSTICES OF THE PEACE AND COMMISSIONERS FOR DECLARATIONS REGULATION 1991

**Reprinted as in force on 31 October 1997
(includes amendments up to SL No. 237 of 1996)**

Reprint No. 2

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

Information about this reprint

This regulation is reprinted as at 31 October 1997. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Queensland



**JUSTICES OF THE PEACE AND
COMMISSIONERS FOR
DECLARATIONS REGULATION 1991**

TABLE OF PROVISIONS

Section	Page
1 Short title	3
3 Definitions	3
4 Applications for appointment	3
5 Inquiries by registrar	4
6 Training course qualification	4
7 Citizenship qualification	4
9 Disqualification of offenders generally	4
10 Disqualification of Traffic Act offenders	5
12 Oath or affirmation for commissioner for declarations	5
13 Certificate of oath or affirmation taken	6
14 Completion of course in office	6
15 Application by transitional justice of the peace to change office to commissioner for declarations	7
16 Application fees	7
17 Miscellaneous fees	8
18 Exemptions	8

ENDNOTES

1 Index to endnotes	9
2 Date to which amendments incorporated	9
3 Key	9
4 Table of earlier reprints	10

*Justices of the Peace and Commissioners for
Declarations Regulation 1991*

5	List of legislation	10
6	List of annotations	10

JUSTICES OF THE PEACE AND COMMISSIONERS FOR DECLARATIONS REGULATION 1991

[as amended by all amendments that commenced on or before 31 October 1997]

Short title

1. This regulation may be cited as the *Justices of the Peace and Commissioners for Declarations Regulation 1991*.

Definitions

3. In this regulation—

“**approved**” means approved by the Minister;

“**offence**” does not include an offence in relation to regulated parking under Part 6A of the *Traffic Act 1949*;

“**the Act**” means the *Justices of the Peace and Commissioners for Declarations Act 1991*.

Applications for appointment

4. A person seeking appointment as a justice of the peace or commissioner for declarations is to —

- (a) give to the registrar an application in writing in the approved form; and
- (b) comply with any instructions set out in the approved form or given by the registrar relating to the manner of application, for example to complete the approved form or to provide specified documents.

*Justices of the Peace and Commissioners for
Declarations Regulation 1991*

Inquiries by registrar

5. The registrar is to make enquiries and seek character references concerning an applicant for appointment as a justice of the peace or as a commissioner for declarations reasonably necessary to ascertain whether the applicant is a fit and proper person.

Training course qualification

6.(1) This section applies if the Minister has approved a training course that a person is required to complete before being appointed to office as a justice of the peace or as a commissioner for declarations.

(2) If 1 or more examinations are set for the training course, the person is taken to have completed the training course when the person has successfully completed the final examination.

(3) The person is not qualified to be appointed to the office until the registrar has been provided with satisfactory evidence that the person has successfully completed the training course.

Citizenship qualification

7.(1) A person is not qualified to be appointed as a justice of the peace or as a commissioner for declarations unless the person is an Australian citizen.

(2) Subsection (1) does not apply to a person who continued to hold office as a justice of the peace because of section 41(a) of the Act.

Disqualification of offenders generally

9. A person—

- (a) who has been convicted of more than 2 offences other than an offence under the *Traffic Act 1949*; or
- (b) who, within 5 years before appointment, has been convicted of an offence other than an offence under the *Traffic Act 1949*;

is not qualified to be appointed as a justice of the peace or as a commissioner for declarations.

*Justices of the Peace and Commissioners for
Declarations Regulation 1991*

Disqualification of Traffic Act offenders

10.(1) A person—

- (a) who, within 5 years before appointment, has been convicted of an offence under section 16 or 16A of the *Traffic Act 1949*; or
- (b) who, within 4 years before appointment, has been convicted of more than 2 offences under the *Traffic Act 1949*; or
- (c) who, within 5 years before appointment, has been given a notice under subsection (3);

is not qualified to be appointed as a justice of the peace or as a commissioner for declarations.

(2) For the purpose of subsection (1)(b), a person who pays an amount by way of penalty for an offence without court proceedings being involved in compliance with a notice affixed to a vehicle or given to the person under the *Traffic Act 1949* is taken to have been convicted under the *Traffic Act 1949* of that offence on the day the amount is paid.

(3) If on consideration of an application by a person for appointment as a justice of the peace or as a commissioner for declarations, the registrar determines that the applicant has been convicted, for the purposes of subsection (1)(b), of more than 6 offences under the *Traffic Act 1949* within 4 years before the determination, the registrar is to give notice to the applicant that the applicant is disqualified from appointment as a justice of the peace or as a commissioner for declarations for a period of 5 years after the notice is given.

(4) The Minister may exempt an applicant for appointment as a commissioner for declarations from a disqualification mentioned in subsection (1)(b) or (c) if the Minister considers special circumstances exist.

Oath or affirmation for commissioner for declarations

12. Before a person performs any of the functions of office as a commissioner for declarations, the person is to—

- (a) take an oath of office in the following form—

*Justices of the Peace and Commissioners for
Declarations Regulation 1991*

“I, _____ do swear that I will truly and honestly discharge all the duties of a commissioner for declarations according to the best of my knowledge and ability.

So help me God!”; or

(b) make an affirmation of office in the following form —

“I, _____ do solemnly, sincerely, declare, and affirm that I will truly and honestly discharge all the duties of a commissioner for declarations according to the best of my knowledge and ability”.

Certificate of oath or affirmation taken

13.(1) The person before whom is taken or made an oath or affirmation mentioned in section 20(1) or (5) of the Act is to complete a certificate in the approved form.

(2) The certificate is to be delivered to the registrar in accordance with directions specified in the approved form.

Completion of course in office

14.(1) The Minister, in relation to a course approved under section 32 of the Act to be completed by a person or class of person while holding office as an appointed justice of the peace or as an appointed commissioner for declarations, may require—

(a) that the course be completed within a specified period; and

(b) that a person who completes the course is to give notice in a specified form and within a specified period to the registrar.

(2) If the registrar does not receive a notice required under subsection (1)(b) from a person required to complete a training course, the registrar may give the person a notice to show cause to the registrar as specified why the person’s appointment under the Act should not be revoked.

(3) If the person fails to show cause or sufficient cause the registrar is to report the matter to the Minister.

*Justices of the Peace and Commissioners for
Declarations Regulation 1991*

Application by transitional justice of the peace to change office to commissioner for declarations

15.(1) This section applies to a person who applies to be registered as a commissioner for declarations under section 44(1) of the Act.

(2) Sections 4 to 7 and 9 to 11, to the extent they apply to the appointment of a commissioner for declarations, do not apply to the appointment of a commissioner for declarations pursuant to an application under this section.

(3) The applicant is to—

- (a) give to the registrar an application in writing in the form mentioned in subsection (4); and
- (b) comply with any instructions set out in the form or given by the registrar relating to the manner of application, for example to complete the form or to provide specified documents.

(4) The form is to be an approved document requiring supply of approved details in relation to the applicant including, at least—

- (a) full name and residential address; and
- (b) date and place of birth; and
- (c) date of appointment as a justice of the peace.

Application fees

16.(1) An applicant for appointment as a justice of the peace or as a commissioner for declarations is to pay to the registrar the fee set out opposite the mention of the applicant in the table following this section.

(2) In the case of an applicant other than an applicant mentioned in subsection (3), the fee is to be paid on request by the registrar before the applicant's appointment is registered under section 21(1) of the Act.

(3) In the case of a person who applies to be registered as a commissioner for declarations under section 44 of the Act, the applicant is to pay the fee when making the application.

*Justices of the Peace and Commissioners for
Declarations Regulation 1991*

	Applicant	Fee \$
1.	An applicant currently holding office— (a) as an appointed justice of the peace other than one mentioned in item 2; or (b) as an appointed commissioner for declarations .	21.00
2.	An applicant currently holding office — (a) as an appointed justice of the peace preserved in office under section 41 of the Act; or (b) as a justice of the peace (commissioner for declarations) under section 42 of the Act	29.00
3.	An applicant not currently holding office as either an appointed justice of the peace or appointed commissioner for declarations	80.00

Miscellaneous fees

17. The fees payable for the issue of things mentioned in the following table are set out in the table.

Thing to be issued	Fee \$
a certificate of registration under section 21(6) of the Act	8.00
a replacement seal of office	15.00
a replacement manual for a commissioner for declarations, a justice of the peace (qualified) or a justice of the peace (magistrates court)	6.00 plus 3.00 postage and handling

Exemptions

18. The Minister may exempt a person or class of person from payment of a fee under section 16 or 17.

ENDNOTES

1 Index to endnotes

		Page
2	Date to which amendments incorporated	9
3	Key	9
4	Table of earlier reprints	10
5	List of legislation	10
6	List of annotations	10

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 31 October 1997. Future amendments of the Justices of the Peace and Commissioners for Declarations Regulation 1991 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

*Justices of the Peace and Commissioners for
Declarations Regulation 1991*

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	none	1 June 1992
1A	to SL No. 263 of 1995	21 June 1996
1B	to SL No. 237 of 1996	25 November 1996

5 List of legislation

Justices of the Peace and Commissioners for Declarations Regulation 1991 SL No. 114

made by the Governor in Council on 24 October 1991
pubd gaz 26 October 1991 pp 833–842
commenced on date of publication
exp 24 October 2001 (see SIA s 54)

as amended by—

Justices of the Peace and Commissioners for Declarations Amendment Regulation (No. 1) 1995 SL No. 263

notfd gaz 15 September 1995 pp 317–18
commenced on date of notification

Justices of the Peace and Commissioners for Declarations Amendment Regulation (No. 1) 1996 SL No. 237

notfd gaz 13 September 1996 pp 166–7
ss 1–2 commenced on date of notification
remaining provisions commenced 1 November 1996 (see s 2 and 1996 No. 40)

6 List of annotations

Repeal

s 2 om R1 (see RA s 40)

Citizenship qualification

s 7 amd 1996 SL No. 237 s 4

Qualification of justice of the peace (Magistrates Court)

s 8 amd 1995 SL No. 263 s 3

om 1996 SL No. 237 s 5

*Justices of the Peace and Commissioners for
Declarations Regulation 1991*

Disqualification of legal practitioner
s 11 om 1996 SL No. 237 s 6

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