



Queensland

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

# **Justices of the Peace and Commissioners for Declarations Regulation 2007**

Current as at 1 July 2016





Queensland

# Justices of the Peace and Commissioners for Declarations Regulation 2007

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# Justices of the Peace and Commissioners for Declarations Regulation 2007

## 1 Short title

This regulation may be cited as the *Justices of the Peace and Commissioners for Declarations Regulation 2007*.

## 2 Commencement

This regulation commences on 1 September 2007.

## 3 Definitions

In this regulation—

***appointment*** means appointment as a justice of the peace or commissioner for declarations.

***approved form*** means a form approved under section 11.

***electoral district*** means an electoral district under the *Electoral Act 1992*.

***offence*** does not include an offence in relation to regulated parking under the Road Use Act, chapter 5, part 6.

***Road Use Act*** means the *Transport Operations (Road Use Management) Act 1995*.

## 4 Application for appointment

(1) A person seeking appointment must—

(a) give the registrar an application in the approved form; and

(b) be nominated, in that approved form, for the appointment by—

(i) the member of Parliament for the electoral district in which the applicant lives; or

- (ii) if the applicant seeks appointment to perform functions in a financial institution or insurance office (the *institution*) and because of time, distance or business reasons it is inconvenient for the applicant to call on the member—the general manager of the institution; or
  - (iii) if the applicant seeks appointment to perform functions in a department or Commonwealth department and because of time, distance or business reasons it is inconvenient for the applicant to call on the member—the chief executive of the department or Commonwealth department; or
  - (iv) if the applicant does not seek appointment to perform functions in an institution, department or Commonwealth department and because of time, distance or business reasons it is inconvenient for the applicant to call on the member—a member of a parliament in Australia.
- (2) The approved form—
- (a) must, if the nominator is the member of Parliament mentioned in subsection (1)(b)(i), require the nominator to state that the nominator is satisfied the applicant lives in the electoral district; and
  - (b) must require the nominator to state whether the applicant is a fit and proper person to be appointed to the office to which appointment is sought; and
- Examples of a statement for paragraph (b)—*
- 1 The applicant is a fit and proper person to be appointed to the office.
  - 2 The nominator is unaware of any reason to suggest the applicant is not a fit and proper person to be appointed to the office.
- (c) must, if subsection (1)(b)(ii) or (iii) applies, require the nominator to state the reason it is more convenient for the applicant to be nominated by the general manager of the institution, or by the chief executive of the department or Commonwealth department, rather than call on the member; and

*Example of a reason for paragraph (c)—*

The applicant works during business hours.

- (d) may require the nominator to state other information relevant to the nomination.

*Example of other information for paragraph (d)—*

If the applicant is seeking appointment to perform functions in, for example, a bank—

- (a) the applicant is familiar with and appreciates the obligations of the office of the appointment; and
  - (b) the nominator is satisfied that the appointment is necessary to enable the applicant to perform the applicant's functions in the bank.
- (3) The application and any referees' reports required to be given to the registrar with the application must be given to the nominator for checking by the nominator and sending by the nominator to the registrar.
- (4) If the Minister has approved a training course as mentioned in section 16(1)(c) of the Act, the application must be accompanied by evidence satisfying the registrar that the applicant has completed the course.

## **5 Inquiries by registrar**

The registrar must make inquiries and seek character references about an applicant for appointment that are reasonably necessary to find out whether the applicant is a fit and proper person to be appointed to the office.

## **6 Training course qualification**

- (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 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.

## **7 Oath or affirmation for commissioner for declarations**

Before a person performs any of the functions of office as a commissioner for declarations, the person must—

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

‘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 and 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.’.

## **8 Certificate of oath or affirmation**

- (1) The person before whom is taken or made an oath or affirmation mentioned in section 20(1) or (5) of the Act must complete a certificate in the approved form.
- (2) The certificate must be given to the registrar in the way stated in the approved form.

## **9 Training course while in office**

- (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 appointed commissioner for declarations, may require—
- (a) that the course be completed within a stated period; and
- (b) that a person who completes the course give notice in a stated form and within a stated 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



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show cause to the registrar as stated in the notice why the person's appointment should not be revoked.

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

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

- (1) This section applies to a person who applies under section 44(1) of the Act to be registered as a commissioner for declarations.
- (2) Subject to subsection (4), sections 4 to 6, to the extent they apply to the appointment of a commissioner for declarations, do not apply to the appointment of the person as a commissioner for declarations under section 44 of the Act.
- (3) The applicant must—
- (a) give the registrar an application in the approved form; and
  - (b) be nominated, in that approved form, for the appointment by the member of Parliament for the electoral district in which the applicant lives.
- (4) The approved form must require the nominator—
- (a) to state that the nominator is satisfied that the applicant resides within the electoral district; and
  - (b) to make a statement about whether the applicant is a fit and proper person to be appointed as a commissioner for declarations.

*Examples of a statement mentioned in paragraph (b)—*

- 1 The applicant is a fit and proper person to be appointed as a commissioner for declarations.
  - 2 The nominator is unaware of any reason to suggest the applicant is not a fit and proper person to be appointed as a commissioner for declarations.
- (5) The approved form must require the applicant to state the applicant's details including the applicant's—
- (a) full name and residential address; and

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

## **11 Approved forms**

The chief executive may approve forms for use under this regulation.

## **12 Fees**

- (1) The fees payable under the Act are in the schedule.
- (2) The fees must be paid to the registrar.
- (3) The fee payable by an applicant for appointment must be paid—
  - (a) for an applicant other than an applicant mentioned in paragraph (b)—when asked by the registrar before the appointment is registered under section 21(1) of the Act; or
  - (b) for an applicant for registration as a commissioner for declarations under section 44 of the Act—when the application is made.
- (4) The Minister may exempt a person or class of person from payment of a fee under the Act.

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## Schedule Fees

section 12(1)

|   | \$     |
|---|--------|
| 1 Application under section 4(1) by a person currently holding office as—   |        |
| (a) an appointed justice of the peace not mentioned in paragraph (c)  | 30.95  |
| (b) an appointed commissioner for declarations  | 30.95  |
| (c) a justice of the peace (commissioner for declarations) under section 42 of the Act  | 43.55  |
| 2 Application under section 4(1) by a person not mentioned in item 1  | 120.50 |
| 3 Application under section 10 by a person currently holding office as a justice of the peace (commissioner for declarations) under section 42 of the Act | 43.55  |
| 4 Certificate of registration under section 21(7) of the Act  | 12.05  |
| 5 Replacement seal of office  | 22.95  |

## 1 Index to endnotes

- 2 Key
- 3 Table of reprints
- 4 List of legislation
- 5 List of annotations

## 2 Key

### Key to abbreviations in list of legislation and annotations

| Key  | Explanation                    | Key    | Explanation         |
|------|--------------------------------|--------|---------------------|
| AIA  | = Acts Interpretation Act 1954 | (prev) | = previously        |
| amd  | = amended                      | proc   | = proclamation      |
| amd  | = amendment                    | prov   | = provision         |
| t    |                                |        |                     |
| ch   | = chapter                      | pt     | = part              |
| def  | = definition                   | pubd   | = published         |
| div  | = division                     | R[X]   | = Reprint No. [X]   |
| exp  | = expires/expired              | RA     | = Reprints Act 1992 |
| gaz  | = gazette                      | reloc  | = relocated         |
| hdg  | = heading                      | renu   | = renumbered        |
|      |                                | m      |                     |
| ins  | = inserted                     | rep    | = repealed          |
| lap  | = lapsed                       | (retro | = retrospectively   |
|      |                                | )      |                     |
| notf | = notified                     | rv     | = revised version   |
| d    |                                |        |                     |
| num  | = numbered                     | s      | = section           |

|               |                           |              |  |
|---------------|---------------------------|--------------|--|
| <b>Key</b>    | <b>Explanation</b>        | <b>Key</b>   | <b>Explanation</b>                             |
| <b>o in c</b> | = <b>order in council</b> | <b>sch</b>   | = <b>schedule</b>                              |
| <b>om</b>     | = <b>omitted</b>          | <b>sdiv</b>  | = <b>subdivision</b>                           |
| <b>orig</b>   | = <b>original</b>         | <b>SIA</b>   | = <b>Statutory Instruments Act 1992</b>        |
| <b>p</b>      | = <b>page</b>             | <b>SIR</b>   | = <b>Statutory Instruments Regulation 2012</b> |
| <b>para</b>   | = <b>paragraph</b>        | <b>SL</b>    | = <b>subordinate legislation</b>               |
| <b>prec</b>   | = <b>preceding</b>        | <b>sub</b>   | = <b>substituted</b>                           |
| <b>pres</b>   | = <b>present</b>          | <b>unnum</b> | = <b>unnumbered</b>                            |
|               |                           | <b>m</b>     |  |
| <b>prev</b>   | = <b>previous</b>         |              |  |

### 3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email [legislation.queries@oqpc.qld.gov.au](mailto:legislation.queries@oqpc.qld.gov.au).

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

| <b>Reprint No.</b> | <b>Amendments included</b> | <b>Effective</b> | <b>Notes</b> |
|--------------------|----------------------------|------------------|--------------|
| 1                  | none                       | 1 September 2007 |              |
| 1A                 | 2007 SL No. 275            | 26 November 2007 |              |

## Endnotes

| <b>Reprint No.</b> | <b>Amendments included</b> | <b>Effective</b> | <b>Notes</b> |
|--------------------|----------------------------|------------------|--------------|
| 1B                 | 2008 SL No. 266            | 1 September 2008 |              |
| 1C                 | 2009 SL No. 5              | 30 January 2009  |              |
| 1D                 | 2009 SL No. 181            | 1 September 2009 |              |
| 1E                 | 2010 SL No. 155            | 1 July 2010      |              |
| 1F                 | 2011 SL No. 115            | 1 July 2011      |              |
| 1G                 | 2012 SL No. 102            | 13 July 2012     |              |

| <b>Current as at</b> | <b>Amendments included</b> | <b>Notes</b> |
|----------------------|----------------------------|--------------|
| 1 July 2013          | 2013 SL No. 122            |              |
| 1 July 2014          | 2014 SL No. 128            |              |
| 1 July 2015          | 2015 SL No. 53             |              |
| 1 July 2016          | 2016 SL No. 85             |              |

## 4 List of legislation

### Regulatory impact statements

For subordinate legislation that has a regulatory impact statement, specific reference to the statement is included in this list.

### Explanatory notes

All subordinate legislation made on or after 1 January 2011 has an explanatory note. For subordinate legislation made before 1 January 2011 that has an explanatory note, specific reference to the note is included in this list.

### Justices of the Peace and Commissioners for Declarations Regulation 2007 SL No. 186

made by the Governor in Council on 2 August 2007  
 notfd gaz 3 August 2007 pp 1785–6  
 ss 1–2 commenced on date of notification  
 remaining provisions commenced 1 September 2007 (see s 2)  
[exp 1 September 2017](#) (see SIA s 54)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

amending legislation—

**Justice and Other Legislation (Fees) Amendment Regulation (No. 1) 2007 SL No. 275**

notfd gaz 9 November 2007 pp 1355–7

ss 1–2 commenced on date of notification

remaining provisions commenced 26 November 2007 (see s 2)

**Justice and Other Legislation (Fees) Amendment Regulation (No. 1) 2008 SL No. 266**

notfd gaz 22 August 2008 pp 2651–6

ss 1–2 commenced on date of notification

remaining provisions commenced 1 September 2008 (see s 2)

**Justices of the Peace and Commissioners for Declarations Amendment Regulation (No. 1) 2009 SL No. 5**

notfd gaz 30 January 2009 pp 449–50

commenced on date of notification

**Justice Legislation (Fees) Amendment Regulation (No. 1) 2009 SL No. 181**

notfd gaz 28 August 2009 pp 1491–6

ss 1–2 commenced on date of notification

remaining provisions commenced 1 September 2009 (see s 2)

**Justice Legislation (Fees) Amendment Regulation (No. 1) 2010 SL No. 155**

notfd gaz 25 June 2010 pp 823–30

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2010 (see s 2)

**Justice (Fees) Amendment Regulation (No. 1) 2011 SL No. 115**

notfd gaz 1 July 2011 pp 589–96

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2011 (see s 2)

**Justice Legislation (Fees) Amendment Regulation (No. 1) 2012 SL No. 102**

notfd gaz 13 July 2012 pp 820–5

ss 1–2 commenced on date of notification

remaining provisions commenced 13 July 2012 (see s 2)

**Justice Legislation (Fees) Amendment Regulation (No. 1) 2013 SL No. 122**

notfd gaz 28 June 2013 pp 739–47

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2013 immediately after the Uniform Civil Procedure and Another Rule Amendment Rule (No. 1) 2013 (see s 2)

**Justice Legislation (Fees) Amendment and Repeal Regulation (No. 1) 2014 SL No. 128**

notfd <[www.legislation.qld.gov.au](http://www.legislation.qld.gov.au)> 27 June 2014

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2014 (see s 2(1))

**Justice Legislation (Fees) Amendment Regulation (No. 1) 2015 SL No. 53 pts 1, 28**

notfd <[www.legislation.qld.gov.au](http://www.legislation.qld.gov.au)> 26 June 2015

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2015 (see s 2)

**Justice Legislation (Fees) Amendment Regulation (No. 1) 2016 SL No. 85 pts 1, 29**

notfd <www.legislation.qld.gov.au> 17 June 2016

ss 1–2 commenced on date of notification

pt 29 commenced 1 July 2016 (see s 2)

## **5 List of annotations**

### **Definitions**

s 3 def *approved form* amd 2009 SL No. 5 s 3

### **Oath or affirmation for commissioner for declarations**

s 7 prev s 7 om 2009 SL No. 5 s 4

pres s 7 (prev s 10) renum 2009 SL No. 5 s 6

### **Certificate of oath or affirmation**

s 8 prev s 8 om 2009 SL No. 5 s 4

pres s 8 (prev s 11) renum 2009 SL No. 5 s 6

### **Training course while in office**

s 9 prev s 9 om 2009 SL No. 5 s 4

pres s 9 (prev s 12) renum 2009 SL No. 5 s 6

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

s 10 (prev s 13) amd 2009 SL No. 5 s 5

renum 2009 SL No. 5 s 6

### **Approved forms**

s 11 (prev s 14) renum 2009 SL No. 5 s 6

### **Fees**

s 12 (prev s 15) renum 2009 SL No. 5 s 6

### **SCHEDULE—FEES**

sub 2007 SL No. 275 s 3 sch; 2008 SL No. 266 s 3 sch

amd 2009 SL No. 5 s 7

sub 2009 SL No. 181 s 3 sch; 2010 SL No. 155 s 3 sch; 2011 SL No. 115 s 3 sch;

2012 SL No. 102 s 3 sch; 2013 SL No. 122 s 3 sch; 2014 SL No. 128 s 3 sch;

2015 SL No. 53 s 57; 2016 SL No. 85 s 59