



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 27 November 2006

Reprint No. 3

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

NOT FURTHER AMENDED
LAST REPRINT BEFORE REPEAL
See SIA s 56A(2) and SIR s 5 sch 3

Information about this reprint

This regulation is reprinted as at 27 November 2006. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- use different spelling consistent with current drafting practice (s 26(2))
- use standard punctuation consistent with current drafting practice (s 27)
- use aspects of format and printing style consistent with current drafting practice (s 35).

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

Also see endnotes for information about—

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

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

Replacement reprint date If the date of a hard copy reprint is the same as the date shown on another hard copy reprint it means that one is the replacement of the other.



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Justices of the Peace and Commissioners for Declarations Regulation 1991

[as amended by all amendments that commenced on or before 27 November 2006]

1 Short title

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

3 Definitions

In this regulation—

approved form means a form approved under section 15A.

offence does not include an offence in relation to regulated parking under the *Transport Operations (Road Use Management) Act 1995*, chapter 5, part 6.

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

4 Application for appointment

(1) A person seeking appointment as a justice of the peace or commissioner for declarations 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 under the *Electoral Act 1992* in which the applicant resides; or

(ii) if the applicant seeks appointment to carry out duties in a financial institution or insurance office (an *institution*) and because of time, distance or

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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 carry out duties 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 carry out duties 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 any parliament in Australia.

(2) The approved form—

(a) must, if the nominator is the member of Parliament for the electoral district under the *Electoral Act 1992* in which the applicant resides, require the nominator to state that the nominator is satisfied the applicant resides within the electoral district; and

(b) must require the nominator to make a statement about 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 mentioned in paragraph (b)—

- the applicant is a fit and proper person to be appointed to the office
- 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

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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 relevant to the nomination—

If the applicant is seeking appointment to carry out duties in, for example, a bank—

- (a) the applicant is familiar with and appreciates the obligations of the office; and
- (b) the nominator is satisfied that the appointment is necessary to enable the applicant to carry out the applicant's duties in the bank.
- (3) The application and any referees' reports required to be lodged with the application must be given to the nominator for checking by the nominator and sending by the nominator to the registrar.

5 Inquiries by registrar

The registrar is to make inquiries 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.

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 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.

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7 Citizenship qualification

- (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.

9 Disqualification of offenders generally

A person—

- (a) who has been convicted of more than 2 offences other than an offence under the *Transport Operations (Road Use Management) Act 1995*; or
- (b) who, within 5 years before appointment, has been convicted of an offence other than an offence under the *Transport Operations (Road Use Management) Act 1995*;

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

10 Disqualification of traffic offenders

- (1) A person—
 - (a) who, within 5 years before appointment, has been convicted of an offence under the *Transport Operations (Road Use Management) Act 1995*, section 79 or 80; or
 - (b) who, within 4 years before appointment, has been convicted of more than 2 offences under the *Transport Operations (Road Use Management) Act 1995*; 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

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proceedings being involved in compliance with a notice affixed to a vehicle or given to the person under the *Transport Operations (Road Use Management) Act 1995* is taken to have been convicted under the *Transport Operations (Road Use Management) Act 1995* 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 *Transport Operations (Road Use Management) Act 1995* 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.

12 Oath or affirmation for commissioner for declarations

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—

“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”.

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13 Certificate of oath or affirmation taken

- (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.

14 Completion of course in office

- (1) The Minister, in relation to a course approved under section 32¹ 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.

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

- (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

¹ Section 32 (Approved training courses) of the Act

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to the appointment of a commissioner for declarations pursuant to an application under this section.

- (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 under the *Electoral Act 1992* in which the applicant resides.
- (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 a commissioner for declarations.

Examples of a statement mentioned in paragraph (b)—

- the applicant is a fit and proper person to be appointed a commissioner for declarations
 - the nominator is unaware of any reason to suggest the applicant is not a fit and proper person to be appointed a commissioner for declarations
- (5) The approved form must require the applicant to state details in relation to the applicant including at least 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.

15A Approved forms

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

16 Application fees

- (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

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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)² 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.

Applicant	Fee
	\$
1 An applicant currently holding office as—	
(a) an appointed justice of the peace, other than one mentioned in item 2; or	
(b) an appointed commissioner for declarations	22.50
2 An applicant currently holding office as—	
(a) an appointed justice of the peace preserved in office under section 41 of the Act; or	
(b) a justice of the peace (commissioner for declarations) under section 42 of the Act.	31.00
3 An applicant not currently holding office as either an appointed justice of the peace or appointed commissioner for declarations	86.00

17 Miscellaneous fees

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

2 Section 21 (Registration of justices of the peace and commissioners for declarations) of the Act

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	Thing to be issued	Fee
		\$
1	A certificate of registration under section 21(6) of the Act	8.60
2	A replacement seal of office	16.50

18 Exemptions

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

Endnotes

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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 27 November 2006. 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.

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3 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
amdt	= amendment	prov	= provision
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	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prev	= previous		
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	26 October 1991	1 June 1992
1A	1995 SL No. 263	15 September 1995	21 June 1996
1B	1996 SL No. 237	1 November 1996	25 November 1996
2	1996 SL No. 237	1 November 1996	31 October 1997
2A	1999 SL No. 286	1 December 1999	7 January 2000
2B	2000 SL No. 268	20 October 2000	3 November 2000

Reprint No.	Amendments included	Effective	Notes
2C	2004 SL No. 178	20 September 2004	
2D	2005 SL No. 326	19 December 2005	
2E	2006 SL No. 193	28 July 2006	
2F	2006 SL No. 284	27 November 2006	R2F withdrawn, see R3
3	—	27 November 2006	

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 31 August 2007 (see SIA s 56A(2) and SIR s 5 sch 3)

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

amending legislation—

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)

Road Transport Reform Regulation 1999 SL No. 286 ss 1, 2(2), 4 sch 2

notfd gaz 19 November 1999 pp 1149–52

ss 1–2 commenced on date of notification

remaining provisions commenced 1 December 1999 (see s 2(2))

Justices of the Peace and Commissioners for Declarations Amendment Regulation (No. 1) 2000 SL No. 268

notfd gaz 20 October 2000 pp 647–8

commenced on date of notification

Justice Legislation (Costs and Fees) Amendment Regulation (No. 1) 2004 SL No. 178

notfd gaz 10 September 2004 pp 173–7

ss 1–2 commenced on date of notification

remaining provisions commenced 20 September 2004 (see s 2)

Justice and Other Legislation (Costs and Fees) Amendment Regulation (No. 1) 2005 SL No. 326 ss 1–3 sch

notfd gaz 16 December 2005 pp 1490–6

ss 1–2 commenced on date of notification

remaining provisions commenced 19 December 2005 (see s 2)

Justices of the Peace and Commissioners for Declarations Amendment Regulation (No. 1) 2006 SL No. 193

notfd gaz 28 July 2006 pp 1480–2

commenced on date of notification

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Justice and Other Legislation (Fees) Amendment Regulation (No. 1) 2006 SL No. 284

notfd gaz 24 November 2006 pp 1476–9

ss 1–2 commenced on date of notification

remaining provisions commenced 27 November 2006 (see s 2)

6 List of annotations

Repeal

s 2 om R1 (see RA s 40)

Definitions

s 3 def “**approved**” om 2006 SL No. 193 s 3
def “**approved form**” ins 2006 SL No. 193 s 3
def “**offence**” amd 1999 SL No. 286 s 4 sch 2

Application for appointment

s 4 sub 2006 SL No. 193 s 4

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

Disqualification of offenders generally

s 9 amd 1999 SL No. 286 s 4 sch 2

Disqualification of traffic offenders

prov hdg amd 1999 SL No. 286 s 4 sch 2
s 10 amd 1999 SL No. 286 s 4 sch 2

Disqualification of legal practitioner

s 11 om 1996 SL No. 237 s 6

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

s 15 amd 2006 SL No. 193 s 5

Approved forms

s 15A ins 2006 SL No. 193 s 6

Application fees

s 16 amd 2004 SL No. 178 s 3 sch; 2005 SL No. 326 s 3 sch; 2006 SL No. 284 s 3 sch

Miscellaneous fees

s 17 amd 2000 SL No. 268 s 3; 2004 SL No. 178 s 3 sch; 2005 SL No. 326 s 3 sch; 2006 SL No. 284 s 3 sch

7 List of forms notified or published in the gazette

(The following information about forms is taken from the gazette. Because failure to notify or publish a form in the gazette does not invalidate the form, it may be necessary to check with the relevant government department for the latest information about forms (see SIA s 58(8)).)

Form 1 Version 2—Application for appointment as a Commissioner for Declarations
pubd gaz 11 August 2006 p 1714

Form 2 Version 2—Application for appointment as a Justice of the Peace (Qualified)
pubd gaz 11 August 2006 p 1714

**Form 4 Version 2—Application for transfer to be registered as a Commissioner for
Declarations**
pubd gaz 11 August 2006 p 1714

**Form 5 Version 2—Application for upgrade to be registered as a Justice of the Peace
(Qualified)**
pubd gaz 11 August 2006 p 1714

**Form 5a Version 2—Application for upgrade to be registered as a Justice of the Peace
(Qualified)**
pubd gaz 11 August 2006 p 1714