



Queensland

Justices of the Peace and Commissioners for Declarations Regulation 2007

Subordinate Legislation 2007 No. 186

made under the

Justices of the Peace and Commissioners for Declarations Act 1991

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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 14.

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 Citizenship qualification

- (1) A person is not qualified for appointment 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.

8 Disqualification of offenders generally

- (1) A person is not qualified for appointment if the person—
- (a) has been convicted of more than 2 relevant offences; or
 - (b) has, within 5 years before appointment, been convicted of a relevant offence.
- (2) In this section—
- relevant offence* means an offence other than an offence under the Road Use Act.

9 Disqualification of traffic offenders

- (1) A person is not qualified for appointment if the person—
- (a) has, within 5 years before appointment, been convicted of an offence under the Road Use Act, section 79 or 80; or
 - (b) has, within 4 years before appointment, been convicted of more than 2 offences under the Road Use Act; or
 - (c) has, within 5 years before appointment, been given a notice under subsection (3).
- (2) For 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 fixed to a vehicle or given to the person under the Road Use Act is taken to have been convicted under that Act of that offence on the day the amount is paid.
- (3) If, on consideration of an application by a person for appointment, the registrar decides that the applicant has been convicted, for subsection (1)(b), of more than 6 offences under the Road Use Act within 4 years before the decision, the registrar must give notice to the applicant that the applicant is disqualified from appointment for 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.

10 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.’.

11 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.

12 Training course while 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 appointed commissioner for declarations, may require—

1 Section 32 (Approved training courses) of the Act

- (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 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.

13 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 9, 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.

14 Approved forms

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

15 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.

Schedule Fees

section 15(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)	22.50
(b) an appointed commissioner for declarations	22.50
(c) a justice of the peace (commissioner for declarations) under section 42 of the Act	31.00
2 Application under section 13 by a person currently holding office as a justice of the peace (commissioner for declarations) under section 42 of the Act	31.00
3 Application under section 4(1) by a person not mentioned in item 1	86.00
4 Certificate of registration under section 21(6) of the Act	8.60
5 Replacement seal of office.	16.50

ENDNOTES

- 1 Made by the Governor in Council on 2 August 2007.
- 2 Notified in the gazette on 3 August 2007.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Justice and Attorney-General.