



Queensland

# Justices of the Peace and Commissioners for Declarations Regulation 2017

## Subordinate Legislation 2017 No. 151

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 2017*.

## 2 Commencement

This regulation commences on 2 September 2017.

## 3 Dictionary

The dictionary in schedule 2 defines particular words used in this regulation.

## 4 Application for appointment

- (1) A person seeking appointment (the *applicant*) must—
  - (a) complete an application in the approved form to be given to the registrar; 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.
- (2) However, if because of time, distance or business reasons it is inconvenient for the applicant to call on the member, the applicant may be nominated, in the approved form, for the appointment by—
  - (a) if the applicant seeks appointment to perform functions in a financial institution or insurance office (the *institution*)—the general manager of the institution; or
  - (b) if the applicant seeks appointment to perform functions in a department or Commonwealth department—the chief executive of the department or Commonwealth department; or
  - (c) if the applicant does not seek appointment to perform functions in an institution, department or Commonwealth department—a member of a parliament in Australia.

- (3) The approved form must require the nominator to state each of the following—
- (a) if the nominator is the member of Parliament mentioned in subsection (1)(b)—the nominator is satisfied the applicant lives in the nominator’s electoral district;
  - (b) if subsection (2)(a) or (b) applies—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, than to call on the member;

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

The applicant works during business hours.

- (c) whether the applicant is a fit and proper person to be appointed to the office to which the applicant is seeking appointment.

*Examples of a statement for paragraph (c)—*

- 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.

- (4) The approved form may require the nominator to state other information relevant to the nomination.

*Example of other information for subsection (4)—*

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 the appointment is necessary to enable the applicant to perform the applicant’s functions in the bank.
- (5) If the applicant has completed a training course as required under section 16(1)(c) of the Act, the application must be accompanied by evidence to the satisfaction of the registrar that the applicant has completed the course.
- (6) Before the application is given to the registrar, the applicant must give the application and any referees’ reports required to

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be given to the registrar with the application to the nominator for the nominator to check.

- (7) Either the applicant or the nominator may give the application to the registrar.

## **5 Inquiries by registrar**

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

## **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 examinations are set for the training course, the person is taken to have completed the training course when the person has successfully completed all of the examinations.

## **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

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

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

- (1) If, under section 32 of the Act, the Minister approves a training course that is 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, the Minister 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 a person does not give notice to the registrar as required under subsection (1)(b), the registrar may give the person a notice requiring the person to give reasons why the person’s appointment should not be revoked.
- (3) If the person fails to give a satisfactory reason why the appointment should not be revoked, the registrar must report the matter to the Minister.

## **10 Application by transitional office holder 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.

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- (2) Subject to subsection (4), sections 4 to 6, to the extent they apply to the appointment of a person as 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 to state—
  - (a) the nominator is satisfied the applicant lives in the nominator's electoral district; and
  - (b) 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 stated in schedule 1.

- (2) The fees must be paid to the registrar.
- (3) The fee for an application for appointment must be paid—
  - (a) if an applicant is applying to be registered as a commissioner for declarations under section 44(1) of the Act—when the application is made; or
  - (b) otherwise—when the registrar asks the applicant to pay the fee.
- (4) The Minister may exempt a person or class of person from payment of a fee under the Act.

### **13 Continuing application of expired regulation to existing applications**

- (1) This section applies if an application for appointment under the *Justices of the Peace and Commissioners for Declarations Regulation 2007* (the *expired regulation*) was made, but not decided, before the commencement.
- (2) The expired regulation continues to apply to the application.

### **14 References to expired regulation**

- (1) In a document, a reference to the expired *Justices of the Peace and Commissioners for Declarations Regulation 2007* may, if the context permits, be taken to be a reference to this regulation.
- (2) Subsection (1) does not limit the application of the *Acts Interpretation Act 1954*, section 14H.

## **Schedule 1      Fees**

section 12(1)

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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)	32.05
(b) an appointed commissioner for declarations	32.05
(c) a justice of the peace (commissioner for declarations) under section 42 of the Act	45.05
2    Application under section 4(1) by a person not mentioned in item 1	124.70
3    Application under section 10 by a person currently holding office as a justice of the peace (commissioner for declarations) under section 42(1) of the Act	45.05
4    Certificate of registration under section 21(7) of the Act	12.45
5    Replacement seal of office	23.75



## Schedule 2      Dictionary

### section 3

*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*.

Endnotes

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ENDNOTES

- 1 Made by the Governor in Council on 17 August 2017.
- 2 Notified on the Queensland legislation website on 18 August 2017.
- 3 The administering agency is the Department of Justice and Attorney-General.

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