



New South Wales

Justices of the Peace Regulation 2009

under the

Justices of the Peace Act 2002

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Justices of the Peace Act 2002*.

JOHN HATZISTERGOS, MLC
Attorney General

Explanatory note

The object of this Regulation is to remake, with minor changes, the provisions of the *Justices of the Peace Regulation 2003* which is repealed on 1 September 2009 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This regulation makes provision with respect to the following:

- (a) the criteria (additional to those in the *Justices of the Peace Act 2002 (the Act)*) for appointment of persons as justices of the peace,
- (b) the requirements for the taking of oaths of office by justices of the peace,
- (c) the code of conduct for justices of the peace,
- (d) the circumstances (additional to those in the Act) in which justices of the peace may be removed from office,
- (e) the particulars relating to justices of the peace that are to be included in the public register of justices of the peace,
- (f) savings and formal matters.

This Regulation is made under the *Justices of the Peace Act 2002*, including sections 5 (1) (c), 7 (1), 8 (3), 9 (3) (d), 11 (2) and 14 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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Justices of the Peace Regulation 2009

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Justices of the Peace Act 2002

1 Name of Regulation

This Regulation is the *Justices of the Peace Regulation 2009*.

2 Commencement

This Regulation commences on 1 September 2009 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Justices of the Peace Regulation 2003* which is repealed on 1 September 2009 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Interpretation

- (1) In this Regulation:
the Act means the *Justices of the Peace Act 2002*.
- (2) Notes in this Regulation do not form part of this Regulation.

4 Criteria for appointment as justice of the peace

For the purposes of section 5 (1) (c) of the Act, the following criteria must be satisfied by a person for appointment as a justice of the peace:

- (a) the person must be an Australian citizen or a person who is entitled to vote at a general election for the Legislative Assembly, unless the Minister exempts the person from having to satisfy this criterion,
- (b) the person must be of good character,
- (c) the person must consent in writing to confidential inquiries being made as to the person's suitability for appointment, including a criminal records check,
- (d) the person must not be an undischarged bankrupt,
- (e) the person must establish that the person's appointment as a justice of the peace is required for reasons relating to the person's employment or to fulfil a community-based need for the appointment.

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Clause 5 Justices of the Peace Regulation 2009

5 Oath of office

For the purposes of section 7 (1) of the Act, the oath of office is to be taken, not later than 4 months after the date of appointment of the person concerned or within such further period as the Minister may approve in relation to the person, in accordance with requirements for justices of the peace under the *Oaths Act 1900*.

6 Code of conduct

For the purposes of section 8 (3) of the Act, the code of conduct set out in Schedule 1 is prescribed.

7 Additional circumstances for removal from office

For the purposes of section 9 (3) (d) of the Act, a person may be removed from office as a justice of the peace in the following circumstances:

- (a) if the person fails to take the oath of office in accordance with clause 5,
- (b) if the Minister is of the opinion that the person does not satisfy or no longer satisfies the criteria for appointment as a justice of the peace,
- (c) if the Minister is of the opinion that the person has failed to carry out properly the person's functions as a justice of the peace.

8 Contents of register

- (1) For the purposes of section 11 (2) of the Act, the register of justices of the peace is to contain the following particulars in relation to a justice of the peace:
 - (a) the full name of the justice of the peace,
 - (b) the suburb or town where the justice of the peace carries out most of his or her functions as a justice of the peace, and the postcode of that suburb or town,
 - (c) a telephone number, nominated by the justice of the peace, on which members of the public may contact the justice of the peace.
- (2) Despite subclause (1), the particulars referred to in subclause (1) (b) and (c) may not be included on, and must be removed from, the register if:
 - (a) a justice of the peace who exercises functions as a justice of the peace primarily for purposes related to his or her employment notifies the Director-General of the Attorney General's Department in writing that the justice of the peace does not consent to their inclusion, or

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- (b) any justice of the peace notifies the Director-General of the Attorney General's Department that the safety or well-being of the justice of the peace would be affected if the information is included or not removed and the Director-General is satisfied that the exclusion or removal is necessary for that reason.

9 Savings

Any act, matter or thing that, immediately before the repeal of the *Justices of the Peace Regulation 2003*, had effect under that Regulation is taken to have effect under this Regulation.

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Schedule 1 Code of conduct for justices of the peace

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(Clause 6)

1 Access to services

- (1) A justice of the peace must not unreasonably refuse to provide justice of the peace services and must treat all persons seeking such services with courtesy, dignity and respect.
- (2) A justice of the peace must deal with requests for justice of the peace services in a timely manner.

2 Conduct and integrity

- (1) A justice of the peace must not engage in dishonest activities or conduct himself or herself in such a way as to bring the office of justice of the peace into disrepute.
- (2) A justice of the peace must keep safe and must not reveal information which is private, confidential or commercially sensitive and which the justice of the peace has obtained when providing justice of the peace services, unless authorised by law.
- (3) A justice of the peace must remain independent and impartial when providing justice of the peace services.
- (4) If a justice of the peace has a personal, family, financial or business interest in a matter before them, the justice of the peace must disclose the interest to the person seeking justice of the peace services or decline to provide such services in that matter.
- (5) If the term of appointment of a justice of the peace expires and the person has not been reappointed or if the appointment of a justice of the peace has been revoked by the Governor, the person must immediately cease providing justice of the peace services.

3 Financial and personal benefit

- (1) A justice of the peace must not charge a fee or accept a gift for providing justice of the peace services.
- (2) A justice of the peace must not use the title of justice of the peace to advance or appear to advance his or her business, commercial or personal interests, but a justice of the peace may use the title of a justice of the peace after his or her name on a business card or letterhead.

4 Knowledge and competence

- (1) A justice of the peace must be familiar with and follow the instructions in the Attorney General's Department's publication *A handbook for Justices of the Peace in New South Wales*.
Note. The handbook is available at www.jp.nsw.gov.au.
- (2) When providing justice of the peace services, a justice of the peace must clearly record his or her justice of the peace registration number together with his or her full name and signature on the document.
- (3) A justice of the peace must never witness a document unless he or she is satisfied as to the identity of the person and has seen the person sign the document.
- (4) Where an Act of Parliament provides that a declaration or instrument be signed or attested by a justice of the peace, the justice of the peace must do so in accordance with any instructions under that Act and any instructions on the declaration or instrument.
- (5) A justice of the peace must not offer legal advice in his or her capacity as a justice of the peace.

5 Notifications

- (1) A justice of the peace must, as soon as practicable after:
 - (a) being convicted of a criminal offence, or
 - (b) being found to have acted dishonestly by any court or tribunal, or
 - (c) becoming bankrupt or applying for relief of a similar nature, or
 - (d) being disqualified from being involved in the management of any company under the *Corporations Act 2001* of the Commonwealth,notify the Attorney General's Department in writing of that matter.
- (2) A justice of the peace must notify the Attorney General's Department in writing of any of the following changes as soon as practicable after that change:
 - (a) a change to the name of the justice of the peace,
 - (b) a change to his or her postal or email address,
 - (c) a change to the telephone number on which the justice of the peace can be contacted in relation to justice of the peace services.