

NORTHERN TERRITORY OF AUSTRALIA

JUSTICES OF THE PEACE ACT

As in force at 1 May 1997

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 May 1997

JUSTICES OF THE PEACE ACT

An act to consolidate legislation in relation to the office of justice of the peace

1 Short title

This Act may be cited as the *Justices of the Peace Act*.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Definitions

In this Act, unless the contrary intention appears:

clerk of the peace means the person appointed under section 13 to be the clerk of the peace.

justice of the peace means a person appointed under section 5 to be, or a person who by virtue of holding office in accordance with section 6 is, a justice of the peace.

4 Office of justice of the peace

There shall be an office of justice of the peace.

5 Appointment of justice of the peace

- (1) The Administrator may appoint to the office of justice of the peace as many persons as are necessary to carry out the functions of justices of the peace in the Territory.
- (2) An appointment under subsection (1) may be:
 - (a) limited to a term of years; and
 - (b) conditional on the person appointed residing in a particular locality.

6 Certain office holders to be justices of the peace

- (1) A person who holds or acts in an office specified in Schedule 1 is, by virtue of holding or acting in the office, a justice of the peace.
- (2) A person referred to in subsection (1) ceases to hold office as a justice of the peace if:
 - (a) the person ceases to hold or act in an office specified in Schedule 1; or
 - (b) the person's appointment as justice of the peace is terminated under section 8(1).

7 Oath of office

- (1) A justice of the peace appointed under section 5 must, before proceeding to exercise the powers or discharge the duties of the office, take an oath or make an affirmation in accordance with Schedule 2.
- (2) Where a justice of the peace has once taken an oath or made an affirmation, it is not necessary for him or her to take an oath or make an affirmation for the purpose of a subsequent appointment.

8 Termination, &c.

- (1) The Administrator may, by notice in the *Gazette*, terminate the appointment of a person as a justice of the peace.
- (2) A person whose appointment is terminated ceases to be a justice of the peace on the day specified in the notice published under subsection (1).
- (3) A justice of the peace may, at any time, resign from the office of justice of the peace by writing addressed to the clerk of the peace.

9 Vacation of office

Subject to section 6, a person ceases to hold office as a justice of the peace if:

- (a) in accordance with section 8(1), the Administrator terminates the appointment;
- (b) he or she has resigned under section 8(3);
- (c) the appointment was subject to a condition and the condition ceases to be fulfilled; or
- (d) the appointment was for a specified period which has expired.

10 Protection of justices of the peace

A justice of the peace has, in the performance of his or her judicial duties as a justice of the peace, the same protection and immunity as a magistrate has in the performance of his or her duties as a magistrate.

11 Authority of justices of the peace

- (1) A justice of the peace is entitled to use the title "Justice of the Peace" or "JP".
- (2) A justice of the peace may exercise any power conferred on a justice of the peace by the common law or this or any other Act, including an Act of the Commonwealth, a State or Territory of the Commonwealth or another country (whether enacted before or after the commencement of this Act).
- (3) A justice of the peace may:
 - (a) administer an oath;
 - (b) take an affidavit; and
 - (c) for the purpose of a law in force in the Territory, attest the execution of a document.

12 References to justices of the peace

Where by, under or for the purposes of a law in force in the Territory a power is conferred on, or a function or duty may be performed by, a justice of the peace, that power may be exercised, or the function or duty may be performed, outside the Territory by a person who is a justice of the peace, a judge or a magistrate, for the place in which it is exercised or performed.

13 Clerk of the peace

- (1) The Departmental Head of the department primarily responsible for the administration of this Act shall appoint a person to be the clerk of the peace.
- (2) The clerk of the peace shall maintain a roll of justices of the peace.
- (3) Within 28 days after changing his or her address, a justice of the peace shall, in writing, notify the clerk of the peace of the change of address and the clerk of the peace shall amend the roll accordingly.

14 **Transitional**

- (1) An appointment of a person as a justice of the peace:
 - (a) under section 10(1) of the *Justices Act*; or
 - (b) under section 10(3) of that Act, that is continued in force under section 6 of the *Transfer of Powers (Further Provisions) Act*,

that is in force immediately before the commencement of this Act continues in force as if the appointment was made under this Act and expressed to be for a period of 5 years after that commencement.
- (2) An appointment under section 10(1) of the *Justices Act* of a person that is subject to a condition under section 10(3) of that Act in force immediately before the commencement of this Act continues in force, subject to the conditions expressed in the appointment, as if the appointment was made under this Act.
- (3) A reference to a justice of the peace (however described) shall be read as a reference to a justice of the peace appointed or holding office as a justice of the peace under this Act.
- (4) Where a justice of the peace has taken an oath or made an affirmation of office required under a provision repealed by this Act, it is not necessary for him or her to take an oath or make an affirmation for the purpose of section 7 of this Act.

Schedule 1

section 6

Judge of the Supreme Court

Master of the Supreme Court

Registrar of the Supreme Court

Magistrate

Registrar of the Local Court

Judicial Registrar or Registrar of the Family Court of Australia

Mayor of a municipality

Schedule 2

section 7

OATH

I, _____, do swear that I will well and truly serve her Majesty, Queen Elizabeth the Second, Her heirs and successors, in the office of justice of the peace and that I will do right to all manner of people according to law, without fear or favour, affection or ill-will. So help me God!

AFFIRMATION

I, _____, do solemnly and sincerely affirm and declare that I will well and truly serve her Majesty, Queen Elizabeth the Second, Her heirs and successors, in the office of justice of the peace and that I will do right to all manner of people according to law, without fear or favour, affection or ill-will.

ENDNOTES

1

KEY

Key to abbreviations

amd = amended
 app = appendix
 bl = by-law
 ch = Chapter
 cl = clause
 div = Division
 exp = expires/expired
 f = forms
 Gaz = Gazette
 hdg = heading
 ins = inserted
 lt = long title
 nc = not commenced

od = order
 om = omitted
 pt = Part
 r = regulation/rule
 rem = remainder
 renum = renumbered
 rep = repealed
 s = section
 sch = Schedule
 sdiv = Subdivision
 SL = Subordinate Legislation
 sub = substituted

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LIST OF LEGISLATION

Justices of the Peace Act 1991 (Act No. 42, 1991)

Assent date	26 September 1991
Commenced	1 January 1992 (<i>Gaz</i> G50, 18 December 1991, p 3)

Statute Law Revision Act 1993 (Act No. 6, 1993)

Assent date	18 March 1993
Commenced	18 March 1993

Statute Law Revision Act 1997 (Act No. 17, 1997)

Assent date	11 April 1997
Commenced	1 May 1997 (<i>Gaz</i> G17, 30 April 1997, p 2)

3

LIST OF AMENDMENTS

s 7	amd No. 17, 1997, s 13
sch 1	amd No. 6, 1993, s 8