

TASMANIA

JUSTICES OF THE PEACE BILL 2017

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JUSTICES OF THE PEACE BILL 2017

*(Brought in by the Minister for Justice, the Honourable Dr
Vanessa Goodwin)*

A BILL FOR

An Act to provide for the appointment and duties of justices, for the issuing of a code of conduct that applies to justices, for the suspension and revocation of the appointment of justices, for the use of titles by justices and retired justices and for related purposes

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Justices of the Peace Act 2017*.

2. Commencement

This Act commences on the day on which the *Magistrates Court (Criminal and General Division) Act 2017* commences.

THIS BILL IS COGNATE WITH THE *MAGISTRATES COURT (CRIMINAL AND GENERAL DIVISION) BILL 2017*

3. Interpretation

In this Act, unless the contrary intention appears –

appointed justice means a justice who holds the office of Justice of the Peace under an appointment under section 5;

code of conduct means a code of conduct prescribed by the regulations for the purposes of section 18;

duties includes powers and a reference to carrying out duties includes a reference to exercising powers;

insolvent, in relation to a person, means that the person –

- (a) is bankrupt; or
- (b) has applied to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
- (c) is compounding with his or her creditors; or
- (d) has made an assignment of his or her remuneration or estate for the benefit of his or her creditors;

investigator means a person authorised under section 24 or 35 to undertake an investigation of the conduct of a justice or other person;

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justice means –

- (a) a Justice of the Peace appointed under section 5; or
- (b) the mayor of a council who is a Justice of the Peace by reason of section 7; or
- (c) a magistrate.

mayor has the same meaning as in the *Local Government Act 1993*;

removal from the office of Justice of the Peace means –

- (a) the revocation of the appointment as Justice of the Peace of an appointed justice; or
- (b) the removal from the office of Justice of the Peace of a justice who is a justice because he or she is a mayor;

Secretary means the Secretary of the Department.

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Part 2 – Appointment and Powers of Justices of the Peace

**PART 2 – APPOINTMENT AND POWERS OF
JUSTICES OF THE PEACE**

4. Application to be appointed as justice

- (1) A person may apply to be appointed as a Justice of the Peace.
- (2) An application is to be –
 - (a) in a form approved by the Secretary; and
 - (b) lodged with the Secretary.

5. Appointment of justice

- (1) In this section –

eligible person means a person who –

- (a) has attained the age of 18 years but has not attained the age of 75 years; and
- (b) is an Australian citizen; and
- (c) in the opinion of the Minister –
 - (i) understands the role and duties of a justice; and
 - (ii) has sufficient proficiency in the English language to carry out the duties of a justice; and

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- (iii) ordinarily resides in Tasmania; and
 - (iv) is likely to be reasonably available to exercise the powers of a justice for the purpose of meeting the needs of the community in the area in which he or she resides or works and to be reasonably active in doing so; and
 - (d) has completed any training required by the regulations to be undertaken before being appointed as a Justice of the Peace.
- (2) The Governor may appoint such eligible persons resident in Tasmania as he or she thinks appropriate to the office of Justice of the Peace for Tasmania.
- (3) Despite subsection (2), the Governor may only appoint an eligible person as a Justice of the Peace if satisfied that there is a need for a Justice of the Peace, or another Justice of the Peace, in the area in which the eligible person resides or works.
- (4) An appointment of a person as a Justice of the Peace is to be notified in the *Gazette*.

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Part 2 – Appointment and Powers of Justices of the Peace

6. Oaths to be taken by justices

An appointed justice is not entitled to exercise any of the powers of the office of Justice of the Peace until he or she has taken the judicial oath in accordance with the *Promissory Oaths Act 1869* on that appointment.

7. Mayors as justices

- (1) The mayor of a municipal area is a Justice of the Peace by virtue of holding the office of mayor.
- (2) Despite subsection (1) –
 - (a) a mayor may be suspended, or removed, from the office of Justice of the Peace under Part 4; and
 - (b) if a mayor is so removed from that office, subsection (1) ceases to apply to the mayor.

8. Magistrates as justices

- (1) A magistrate is a Justice of the Peace by virtue of holding the office of magistrate.
- (2) Sections 15, 16, 17 and 18 and Part 4 do not apply to a justice who holds the office of Justice of the Peace because he or she is a magistrate.

9. Powers of justices

- (1) A justice may exercise the powers conferred on a Justice of the Peace by –

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- (a) this and any other Act; and
 - (b) any other law.
- (2) A power conferred on a Justice of the Peace at common law is exercisable only by a justice who is a magistrate.

10. Ratepayer not disabled from acting as justice

A justice is not disabled from exercising the powers of a Justice of the Peace in any matter relating to a municipal area by reason only of being –

- (a) a ratepayer; or
- (b) a member of, or interested in, the concerns of the council.

11. Validity of acts of justice

- (1) An act by an appointed justice in his or capacity as a Justice of the Peace is not invalid only because –
- (a) of a defect or irregularity in, or in connection with, his or her appointment as a Justice of the Peace; or
 - (b) of the failure of the justice to take an oath or affirmation of office as required by section 6; or

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- (c) the justice is suspended from the office of Justice of the Peace at the time of doing the act; or
 - (d) the appointment of the justice was terminated under section 45(4) before the doing of the act but, at the time of the doing of the act, the justice was unaware of the termination of the appointment.
- (2) An act by a mayor in his or her capacity as a Justice of the Peace is not invalid only because of a defect or irregularity in, or in connection with, his or her election as a mayor.
- (3) An act by a magistrate in his or her capacity as a Justice of the Peace is not invalid only because of a defect or irregularity in, or in connection with, his or her appointment as a magistrate.

12. Termination of appointment as Justice of the Peace, &c.

- (1) An appointed justice ceases to hold the office of Justice of the Peace, and his or her instrument of appointment is terminated, if –
- (a) the justice resigns from the office of Justice of the Peace; or
 - (b) the justice attains the age of 75 years; or
 - (c) the justice ceases to be an Australian citizen; or
 - (d) the justice ceases to reside ordinarily in Tasmania; or

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- (e) the justice becomes insolvent; or
 - (f) the justice is convicted or found guilty of –
 - (i) an offence punishable by a term of imprisonment of 6 months or more; or
 - (ii) an offence that, if committed in Tasmania, would constitute an offence referred to in subparagraph (i); or
 - (g) the justice is removed from office under section 29.
- (2) At any time, an appointed justice may resign from the office of Justice of the Peace by notifying the Secretary, in writing, of the resignation.
- (3) If an appointed justice is no longer capable of carrying out the duties of a Justice of the Peace for any reason, a person responsible for the justice, within the meaning of the *Guardianship and Administration Act 1995*, may notify the Secretary, in writing, of that fact and, on behalf of the justice, resign the justice from the office of Justice of the Peace.
- (4) A notice under subsection (3) is not valid for the purposes of the resignation of a justice from the office of Justice of the Peace unless accompanied by a certificate from a medical practitioner, or a statutory declaration by the person responsible, stating that the justice is

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incapable of carrying out the duties of a Justice of the Peace.

- (5) The resignation of a justice takes effect when the notice of resignation is received by the Secretary.
- (6) A justice who holds the office of Justice of the Peace because he or she is a mayor ceases to hold the office of Justice of the Peace if –
 - (a) the justice ceases to hold the office of mayor; or
 - (b) the justice (regardless of whether he or she remains a mayor) becomes insolvent; or
 - (c) the justice (regardless of whether he or she remains a mayor) is convicted or found guilty of an offence referred to in subsection (1)(f); or
 - (d) the justice (regardless of whether he or she remains a mayor) is removed from office under section 29.
- (7) A justice who holds the office of Justice of the Peace because he or she is a magistrate ceases to hold the office of Justice of the Peace if the justice ceases to hold the office of magistrate.

PART 3 – DUTIES OF JUSTICES

13. Duties of justices

A justice has the duties imposed by this Act and by any other Act.

14. Providing information to Secretary

(1) The Secretary, in writing, may require an appointed justice to provide to the Secretary information relating to one or more of the following:

- (a) the name, residential address and contact details of the justice;
- (b) the date of birth of the justice;
- (c) the extent to which the justice has been, or proposes to be, available to exercise the powers of a justice for the purpose of meeting the needs of the community where he or she works or resides;
- (d) the carrying out of the justice's duties;
- (e) any matter that the justice is required to report to the Secretary;
- (f) any matter that may be a ground for suspension of the justice or revocation of the justice's appointment;
- (g) any other prescribed matter.

(2) A requirement may be made –

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- (a) at any time but not more than once in every five years; or
- (b) at any time, regardless of when the last requirement was made, if the Secretary reasonably believes that –
 - (i) the justice may have contravened a requirement of this Act or any other Act; or
 - (ii) there may be grounds for the suspension of the justice or the revocation of his or her appointment.
- (3) A justice must comply with a requirement within a reasonable time.

15. Notifying of change in circumstances

- (1) In this section –

change in circumstances, in relation to a justice, means any of the following changes in circumstances:

- (a) a change in the name, residential address, work address or contact details of the justice;
- (b) the justice ceases to be an Australian citizen;
- (c) in the case of a justice who holds that office because he or she is a

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mayor, the justice ceases to be a mayor;

- (d) the justice becomes insolvent;
- (e) the justice has been charged with, or found guilty of –
 - (i) an offence punishable by a term of imprisonment of 6 months or more; or
 - (ii) an offence that, if committed in Tasmania, would constitute an offence referred to in subparagraph (i);
- (f) any other change in circumstances prescribed by the regulations.

(2) Not later than 21 days after a change in his or her circumstances, a justice must notify the Secretary, in writing, of that change.

(3) A justice who has been charged with an offence referred to in paragraph (e)(i) or (ii) of the definition of *change in circumstances* in subsection (1) must notify the Secretary, in writing, of the outcome of the proceedings on the charge within 21 days after the charge has been determined.

16. Requirement to undertake training or professional development

- (1) A justice must undertake and complete –
 - (a) any training or professional development prescribed by the regulations; and
 - (b) any training that the Secretary requires to be undertaken by the justice or a class of justices of which the justice is a member.
- (2) The Secretary may require an individual justice, by written notice provided to the justice, to undertake the training or professional development specified in the notice.
- (3) The Secretary may require all members of a class of justices specified in a notice published on the Department's website, or in such other manner as the Secretary determines, to undertake the training or professional development specified in the notice.
- (4) In addition to publishing a notice referred to in subsection (3), the Secretary may provide a copy of that notice to any or all members of the class of justices specified in the notice.

17. Justice to be reasonably available and active

A justice must be reasonably available to exercise his or her powers as a justice and reasonably active in doing so in the areas in which he or she resides or works.

18. Justice to comply with code of conduct

A justice must comply with –

- (a) any code of conduct prescribed by the regulations that applies to all justices; and
- (b) any code of conduct prescribed by the regulations that applies to a class of justices of which the justice is a member.

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Part 4 – Suspension and Removal from Office of Justice of the Peace

**PART 4 – SUSPENSION AND REMOVAL FROM
OFFICE OF JUSTICE OF THE PEACE**

Division 1 – Suspension from office of Justice of the Peace

19. Suspension of justice

- (1) The Secretary may suspend a justice from the office of Justice of the Peace if satisfied on reasonable grounds that –
- (a) an investigation is warranted as to whether there are grounds for the revocation of the appointment of the justice; or
 - (b) the justice is charged with an offence referred to in section 12(1)(f); or
 - (c) the justice has failed to undertake training or professional development as required by or under section 16.
- (2) The Secretary may not suspend a justice from the office of Justice of the Peace under subsection (1) unless satisfied that the suspension is required –
- (a) to protect the administration of justice; or
 - (b) because public confidence in the office of Justice of the Peace may be damaged if the justice is not suspended.

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20. Notice of suspension

- (1) If the Secretary decides to suspend a justice from the office of Justice of the Peace, the Secretary is to provide written notice of the suspension to the justice.
- (2) A notice is to specify –
 - (a) the grounds for the suspension; and
 - (b) the day on which the suspension takes effect.

21. Term of suspension

The suspension of a justice takes effect on the day specified in the notice provided under section 20 and continues until whichever of the following first occurs:

- (a) the suspension is revoked under section 22;
- (b) the justice is removed from the office of Justice of the Peace.

22. Revocation of suspension

- (1) If a justice is suspended from the office of Justice of the Peace under section 19(1)(a), the Secretary is to revoke the suspension on receipt of a report from an investigator under section 26 which includes the finding that there are no grounds for the removal from the office of Justice of the Peace of the justice.

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- (2) If a justice is suspended from the office of Justice of the Peace under section 19(1)(b), the Secretary is to revoke the suspension (whether or not it has taken effect) if the charge is dismissed or the justice is found not guilty on the charge.
- (3) The Secretary does not need to comply with subsection (2) if satisfied that there are other grounds for continuing the suspension of the justice from the office of Justice of the Peace.
- (4) The Secretary, at any time, may revoke a suspension (whether or not it has taken effect and whether it was imposed under section 19(1)(a) or (b)) if satisfied that it is appropriate to do so.
- (5) Without limiting the grounds on which the Secretary may determine under subsection (4) that it is appropriate to revoke a suspension, the Secretary may so revoke a suspension imposed because the justice had failed to undertake training or professional development as required by section 16 if satisfied that the justice has undertaken that training or professional development.
- (6) A revocation of the suspension of a justice from the office of Justice of the Peace takes effect on the day specified in the notice of the revocation provided to the justice under section 23.

23. Notice of revocation of suspension

If the Secretary revokes the suspension of a justice from the office of Justice of the Peace,

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the Secretary is to provide to the justice written notice of the revocation and the day on which the revocation takes effect.

Division 2 – Investigation of justice’s conduct

24. Authorisation of investigator

- (1) If the Secretary suspends a justice from the office of Justice of the Peace on any ground other than that the justice has been charged with an offence referred to in section 12(1)(f), the Secretary is to authorise a State Service officer or State Service employee employed in the Department to undertake an investigation into the justice’s conduct.
- (2) If the Secretary is satisfied on reasonable grounds that an investigation is warranted as to whether there are grounds for the removal from the office of Justice of the Peace of a justice, but the justice has not been suspended from that office, the Secretary may authorise a State Service officer or State Service employee employed in the Department to undertake an investigation into the justice’s conduct.

25. Conduct of investigation of justice’s conduct

- (1) An investigator is to investigate whether there are grounds for the removal from the office of Justice of the Peace of a justice.

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- (2) Before commencing an investigation, the investigator must provide to the justice written notice stating –
 - (a) the reason for the investigation; and
 - (b) that, within 21 days after receiving the notice the justice may make submissions to the investigator, either orally or in writing, or both, in relation to the matters specified in the notice.
- (3) If the investigator and justice agree, the investigator, by written notice provided to the justice, may extend the period within which the justice may make submissions.
- (4) The investigator must not make a report under section 26 unless the investigator has considered any submissions made by the justice within the period allowed for such submissions under this section.

26. Report of investigator

- (1) On concluding an investigation into the conduct of a justice, the investigator is to provide to the Secretary a report on the investigation which includes –
 - (a) the investigator’s finding as to whether or not there are grounds for the removal from the office of Justice of the Peace of the justice; and

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- (b) if he or she finds that there are such grounds, what those grounds are.
- (2) If the investigator finds that there are no grounds for the removal from the office of Justice of the Peace of the justice, the investigator may include in his or her report recommendations in relation to the justice.
- (3) Without limiting the recommendations that the investigator may include in his or her report under subsection (2), the recommendations may include requiring the justice to take any actions, take any actions, including, but not limited to –
 - (a) apologising; and
 - (b) undertaking training or professional development.
- (4) On receiving a report from the investigator that finds that there are grounds for the removal from the office of Justice of the Peace of the justice, the Secretary is to provide a copy of it to the Minister together with –
 - (a) the recommendations of the Secretary as to whether or not the justice should be removed from the office of Justice of the Peace; and
 - (b) if the Secretary recommends not removing the justice from the office of Justice of the Peace, recommendations as to whether it would be suitable to require the justice to take any actions, including, but not limited to –

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- (i) apologising; and
 - (ii) undertaking training or professional development;
- (5) The Minister is to proceed under section 28 on receiving a copy of the report and the recommendations of the Secretary.
- (6) On receiving a report from the investigator that finds that there are no grounds for the removal from the office of Justice of the Peace of the justice, the Secretary, in addition to proceeding to revoke any relevant suspension of the justice, may require the justice to take any actions the Secretary considers appropriate, including, but not limited to –
- (a) apologising;
 - (b) undertaking training or professional development.
- (7) If the Secretary, under subsection (6), requires a justice to apologise or undertake training or profession development, the Secretary may continue the suspension of the justice until satisfied that the justice has complied with that requirement.

Division 3 – Removal of justice from office of Justice of the Peace

27. Grounds for removal from office of Justice of the Peace

The grounds for the removal from the office of Justice of the Peace of a justice are –

- (a) the justice has committed serious or repeated breaches of the code of conduct; or
- (b) the justice has failed, unreasonably, to undertake training or professional development as required by or under section 16; or
- (c) the justice has failed to comply with another requirement made or given by the Secretary under this Act; or
- (d) the justice, without reasonable excuse and on at least 3 occasions, has failed to carry out his or her duties; or
- (e) the justice has failed, unreasonably, to comply with any provision of this Act; or
- (f) the justice no longer has the physical or mental capacity to carry out the duties of the office of Justice of the Peace; or
- (g) the justice has brought the office of Justice of the Peace into disrepute.

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Part 4 – Suspension and Removal from Office of Justice of the Peace

28. Recommendation that justice be removed from office of Justice of the Peace

- (1) The Minister may recommend to the Governor that a justice be removed from the office of Justice of the Peace if the report of an investigator in relation to the conduct of the justice includes the finding that there are grounds for the removal.
- (2) If, despite a report of an investigator finding that there are grounds for the removal of a justice from the office of Justice of the Peace, the Minister determines not to recommend to the Governor that a justice be removed from the office of Justice of the Peace –
 - (a) the Minister is to notify the Secretary of that determination as soon as reasonably practicable; and
 - (b) may inform the Secretary that he or she is to require the justice to take one or more actions which may include, but are not limited to –:
 - (i) apologising; or
 - (ii) undertaking training or professional development; and
 - (c) if the justice is suspended from the office of Justice of the Peace, the Secretary is to revoke the suspension.
- (3) If the Secretary, in compliance with subsection (2)(b), requires a justice who is

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suspended to apologise or undertake training or professional development, the justice may continue the suspension of the justice until satisfied that the justice has complied with that requirement.

29. Removal from office of Justice of the Peace

- (1) The Governor may remove a justice from the office of Justice of the Peace on the recommendation of the Minister.
- (2) If the Governor removes a justice from the office of Justice of the Peace, notice of that removal is to be –
 - (a) provided to the justice; and
 - (b) published in the *Gazette*.
- (3) Subsection (2) does not apply to a removal of a justice from the office of Justice of the Peace on the ground that the justice no longer has the physical or mental capacity to carry out the duties of that office.

30. Re-appointment after removal from office of Justice of the Peace

- (1) A person who has been removed from the office of Justice of the Peace may not be appointed to that office within the period of 5 years commencing on the day on which the notice of the removal is published in the *Gazette* under section 29(2)(b).

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Part 4 – Suspension and Removal from Office of Justice of the Peace

- (2) A person who has been removed from the office of Justice of the Peace may be appointed to that office again only on application.
- (3) An application –
 - (a) may be made only after the end of the 5-year period referred to in subsection (1); and
 - (b) is to be in writing; and
 - (c) is to include the ground on which the applicant was removed from the office of the Justice of the Peace; and
 - (d) is to include any other information prescribed by the regulations or required by the Secretary; and
 - (e) is to be lodged with the Secretary.
- (4) If a person who has been removed from the office of Justice of the Peace is elected or re-elected as a mayor after that removal from office, section 7(1) does not apply to the person until the expiration of the period of 5 years commencing on the day on which the notice of the removal is published in the *Gazette* under section 29(2)(b).

PART 5 – USE OF TITLES

31. Use of title by justice

A person who holds the office of Justice of the Peace may use the title “Justice of the Peace” or “JP” after the person’s name.

32. Permission for retired justice to use title

- (1) An application may be made to the Secretary by, or on behalf of, a person for permission to use the title “Justice of the Peace (Retired)” or “JP (Retired)” after the person’s name.
- (2) An application –
 - (a) must be made within 12 months after the person ceases to hold office as Justice of the Peace; and
 - (b) must be in writing.
- (3) On receipt of an application, the Secretary may grant the permission sought in the application if the person has ceased to hold office as a Justice of the Peace and –
 - (a) the person has performed not less than 20 years of service as a justice; or
 - (b) the person has performed not less than 10 years of service as a justice and –
 - (i) at the time the person ceased to hold the office of Justice of the

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Peace, the person had attained the age of 75 years; or

(ii) the person ceased to hold the office of Justice of the Peace on the grounds of ill-health.

- (4) For the purposes of subsection (3), the period of service as a justice need not be continuous.
- (5) The Secretary may not grant the permission sought in the application if –
- (a) the person’s appointment as Justice of the Peace was terminated under section 12(1)(c), (d), (e) or (f); or
 - (b) the person was removed from the office of Justice of the Peace under section 29.

33. Retired justice may not exercise powers

A person who is granted permission under section 32 to use the title of “Justice of the Peace (Retired)” or “JP (Retired)” after his or her name is not entitled to exercise any of the powers of a justice.

34. Duty of retired justice to notify of change in circumstances

- (1) In this section –

change in circumstances, in relation to a person, means any of the following changes in circumstances:

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- (a) a change in the name, residential address, work address or contact details of the justice;
 - (b) any other change in circumstances prescribed by the regulations.
- (2) Not later than 21 days after a change in his or her circumstances, a person who is granted permission under section 32 to use the title of “Justice of the Peace (Retired)” or “JP (Retired)” after his or her name must notify the Secretary, in writing, of that change.

35. Rescission of permission to use title

- (1) A permission of a person, granted under section 32, to use the title of “Justice of the Peace (Retired)” or “JP (Retired)” after his or her name is rescinded –
- (a) on the day on which the Secretary receives written notice from or on behalf of the person that the person no longer wishes to use the title; or
 - (b) on the day on which the person ceases to be an Australian citizen; or
 - (c) on the day on which the person becomes insolvent; or
 - (d) on the day on which the person is convicted, or found guilty, of an offence referred to in section 12(1)(f); or

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- (e) if the permission is rescinded by the Minister under subsection (2), on the day determined by the Minister as the day on which the rescission is to take effect.
- (2) The Minister may rescind the permission of a person, granted under section 32, to use the title of “Justice of the Peace (Retired)” or “JP (Retired)” after his or her name on any of the following grounds:
- (a) the Minister is satisfied that the person’s use of the title, or his or her other behaviour, is such that the continued use of the title by the person may bring the office of Justice of the Peace into disrepute;
 - (b) a ground prescribed by the regulations.
- (3) The Minister, under subsection (2), may not rescind the permission of a person, granted under section 32, to use the title of “Justice of the Peace (Retired)” or “JP (Retired)” after his or her name unless an investigator appointed by the Secretary to investigate the conduct of the person finds grounds for the rescission.
- (4) Sections 25 and 26 apply, with any necessary modification and adaptation, to an investigation conducted under this section.
- (5) If the Minister, under subsection (2), rescinds the permission of a person, granted under section 32, to use the title of “Justice of the Peace (Retired)” or “JP (Retired)” after his or her name, the

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Minister is to determine the day on which the rescission takes effect.

- (6) If the permission of a person, granted under section 32, to use the title of “Justice of the Peace (Retired)” or “JP (Retired)” after his or her name is rescinded as specified in subsection (1)(a) or (e), the Secretary is to notify the person of the rescission and the day on which the rescission took, or is to take, effect.

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PART 6 – OFFENCES

36. Impersonating justice

A person who is not a justice must not hold himself or herself out to be a justice.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months, or both.

37. Use of title without permission

A person must not use “Justice of the Peace (Retired)” or “JP (Retired)” unless –

- (a) the person is permitted under Part 5 to use the title; or
- (b) the person is otherwise authorised under the laws of the Commonwealth, another State, a Territory or another country to use the title.

Penalty: Fine not exceeding 10 penalty units.

38. False or misleading information

- (1) A person must not, in providing any information under this Act to the Minister, the Secretary or an investigator –

- (a) make a statement knowing it to be false or misleading; or

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- (b) omit any matter from a statement knowing that without that matter the statement is false or misleading.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months, or both.

- (2) Proceedings for an offence against subsection (1) may be commenced at any time within the period of 3 years commencing on the day on which the offence was allegedly committed.

39. Demanding or accepting fee, gratuity, &c.

- (1) A justice must not demand, take or accept from a person any fee, gratuity, patronage or reward for carrying out the duties of a justice.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 12 months, or both.

- (2) Subsection (1) does not apply to the remuneration paid to a mayor or a magistrate in respect of his or her office as mayor or magistrate.

- (3) For the purposes of subsection (1), it is immaterial –

- (a) whether the fee, gratuity, patronage or reward is paid to the justice or to another person; or

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- (b) whether the justice personally benefits from the fee, gratuity, patronage or reward.

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PART 7 – MISCELLANEOUS

40. Abrogation of assignment of justices under commission of the peace

A person may not be assigned a justice under a commission of the peace.

41. Register of justices

- (1) The Secretary is to maintain a register of –
- (a) the name, address and date of birth of each appointed justice; and
 - (b) the registration number allocated to each appointed justice; and
 - (c) in the case of an appointed justice –
 - (i) the date of his or her appointment; and
 - (ii) the date on which he or she will attain the age of 75 years, being the date on which his or her appointment is terminated under section 12(1)(b); and
 - (d) in the case of –
 - (i) the termination, under section 12(1)(c), (d), (e) or (f), of a justice's appointment as Justice of the Peace; or

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- (ii) the removal of the justice from the office of Justice of the Peace under section 29 –

the date of that termination or removal;
and

- (e) such other matters as the Secretary considers appropriate.

- (2) The Secretary may publish the register, or information contained in the register –

- (a) if he or she considers it appropriate and convenient; and
- (b) in such manner as he or she considers appropriate.

42. Guidelines

- (1) The Secretary may issue guidelines for or with respect to any matter relating to justices including, but not limited to –

- (a) the process relating to the appointment of justices; and
- (b) the manner in which justices are to carry out their duties; and
- (c) the handling of complaints against justices; and
- (d) the use of titles by retired justices.

- (2) The Secretary may amend, revoke or revoke and substitute the guidelines.
- (3) The Secretary is to publish the guidelines in such manner as he or she considers appropriate.

43. Delegation by Secretary

The Secretary may delegate to a State Service officer, or State Service employee, employed in the Department any of his or her functions or powers under this Act, other than this power of delegation.

44. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may be made in relation to –
 - (a) a code of conduct applying to all, or a class of, justices that includes, but is not limited to –
 - (i) the use of titles; and
 - (ii) conflicts of interest; and
 - (iii) competency and knowledge requirements; and
 - (iv) confidentiality of information obtained by justices in the course of exercising their powers; and

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- (v) the requirement to be reasonably available to exercise the powers of a justice for the purpose of meeting the needs of the community in the area in which the justice resides or works and to be reasonably active in doing so; and
 - (b) the courses of training or professional development to be completed by any of the following:
 - (i) a person seeking to be appointed as a justice;
 - (ii) an appointed justice;
 - (iii) a justice who holds that office because he or she is a mayor; and
 - (c) the records to be kept by justices.
- (3) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
- (4) The regulations may –
- (a) provide that a contravention of any of the regulations is an offence; and
 - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 50 penalty units and, in the case of a continuing offence, a further fine not

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exceeding 10 penalty units for each day during which the offence continues.

- (5) The regulations may authorise any matter to be from time to time determined, applied or regulated by a person or body specified in the regulations.
- (6) The regulations may adopt, either wholly or in part and with or without modification, and either specifically or by reference any rules, codes or guidelines, whether the rules, codes or guidelines were published or issued before or after the commencement of this Act.
- (7) A reference in subsection (6) to rules, codes or guidelines includes a reference to an amendment of those rules, codes or guidelines whether the amendment is published or issued before or after the commencement of this Act.

45. Transitional and savings

- (1) In this section –

commencement day means the day on which this Act commences.

- (2) If, before the commencement day, a person was appointed as a Justice of the Peace under section 4(1) of the *Justices Act 1959*, the person may notify the Secretary, in the form provided by the Secretary, that he or she wishes to continue in the office of Justice of the Peace.

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- (3) If under subsection (2) a person notifies the Secretary, before the commencement day, that he or she wishes to continue in the office of Justice of the Peace and the person is eligible under this Act to be appointed as a Justice of the Peace –
- (a) the person is taken to have been appointed as a Justice of the Peace under section 5 of this Act; and
 - (b) this Act, accordingly, applies to the person in his or her capacity as Justice of the Peace; and
 - (c) a reference in his or her instrument of appointment to a section of the *Justices Act 1959* is taken to be a reference to the corresponding section of this Act or the *Magistrates Court (Criminal and General Division) Act 2017*, as appropriate.
- (4) If, before the commencement day, a person who holds an appointment to the office of Justice of the Peace under section 4(1) of the *Justices Act 1959* –
- (a) has not notified the Secretary, under subsection (2), that he or she wishes to continue in the office of Justice of the Peace; or
 - (b) has so notified the Secretary but is not eligible under this Act to be appointed to the office of Justice of the Peace –

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the appointment of the person to the office of Justice of the Peace is terminated on the commencement day.

- (5) A person who was assigned a justice under a commission of the peace is taken to have been appointed under section 5.

46. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Justice; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Justice.