

[Act 2002 No 27]



New South Wales

Justices of the Peace Bill 2002

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to provide for the appointment and functions of justices of the peace.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 defines certain words and expressions used in the proposed Act.

Part 2 Appointment and functions of justices of the peace

Clause 4 provides for the appointment of justices of the peace. The Governor may, on the recommendation of the Minister, appoint eligible persons as justices of the peace. A person appointed as a justice of the peace holds office for a period of 5 years and may be re-appointed.

Clause 5 provides that a person is eligible to be appointed as a justice of the peace if the person is aged at least 18 years, is nominated for appointment by a member of the New South Wales Parliament and satisfies the criteria for appointment prescribed by the regulations for the purposes of the proposed section. A person seeking re-appointment need not be nominated by a member of the New South Wales Parliament. The Minister may also issue guidelines with respect to the appointment of justices of the peace.

Clause 6 provides for applications to be made to the Minister for appointment or re-appointment as a justice of the peace.

Clause 7 provides that a person who is appointed as a justice of the peace must not exercise the functions of a justice of the peace unless the person has taken the prescribed oath of office.

Clause 8 sets out the functions of a justice of the peace. A justice of the peace may exercise any function conferred or imposed on a justice of the peace by or under the *Oaths Act 1900* or any other Act.

Clause 9 provides for the circumstances in which a person vacates the office of a justice of the peace. A person ceases to hold office:

- (a) if the person completes a term of office and fails to apply for re-appointment before the end of the term, or is not re-appointed, or
- (b) if the person resigns the office by instrument in writing addressed to the Minister, or
- (c) if the person is removed from office by the Governor.

A person may be removed from office at any time by the Governor, including for the following reasons:

- (a) if the person becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit,
- (b) if the person becomes a mentally incapacitated person,
- (c) if the person is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable,
- (d) in any other circumstances prescribed by the regulations.

Part 3 Miscellaneous

Clause 10 provides that a justice of the peace must notify the Minister of any matter that may cause the justice of the peace to cease to satisfy the prescribed criteria for appointment as a justice of the peace or to satisfy certain grounds for ceasing to hold the office of justice of the peace (being bankruptcy or insolvency, mental incapacity or conviction of certain offences).

Clause 11 provides that the Minister is to cause a register of justices of the peace to be kept and maintained and for the issue of evidentiary certificates. The register is to be made available to the public.

Clause 12 provides for procedure for offences under the proposed Act.

Clause 13 requires the Minister to make guidelines issued by the Minister under the proposed Act publicly available.

Clause 14 enables the Governor to make regulations for the purposes of the proposed Act.

Clause 15 gives effect to Schedule 1 containing savings and transitional provisions.

Clause 16 repeals provisions of the *Imperial Acts Application Act 1969* that relate to the appointment of justices of the peace.

Clause 17 provides for a review of the operation of the proposed Act to be undertaken after 5 years from the date of assent to the proposed Act.

Schedule 1 Savings and transitional provisions

Schedule 1 contains savings and transitional provisions, including a power to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act. Also, proposed clause 2 of the Schedule provides that a person who was appointed, or held office, as a justice of the peace immediately before the commencement of the proposed Act, is taken to have been appointed, or to hold such office, under the proposed Act until the third anniversary of the commencement of proposed section 4. However a person referred to in the clause may be re-appointed, or may resign or be removed from office, in accordance with the proposed Act, as a justice of the peace.