

Justices (General) Regulation 2000

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New South Wales

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The provisions displayed in this version of the legislation have all commenced.

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New South Wales

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Justices (General) Regulation 2000



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Justices (General) Regulation 2000*.

2 Commencement

This Regulation commences on 1 September 2000.

Note—

This Regulation replaces the *Justices (General) Regulation 1993* which is repealed on 1 September 2000 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

the Act means the *Justices Act 1902*.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 2.

(3) The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

Part 2 Fees

4 Fees

The fees payable to a Clerk of a Local Court in respect of proceedings before any Justice or Justices are as set out in Schedule 1.

5 Remission or postponement of fees

(1) A Clerk of a Local Court or governor of a correctional centre who is satisfied that a person is unable, for any reason, to pay a fee payable under this Regulation may, conditionally or unconditionally, remit or postpone the fee.

- (2) The power of a Clerk of the Local Court under this clause may also be exercised by a person holding office as, or appointed to act temporarily as, a registrar of the Children's Court.
- (3) A Clerk of a Local Court or registrar of the Children's Court:
 - (a) may delegate his or her power under this clause to conditionally or unconditionally remit or postpone a fee to any person holding office as, or appointed to act temporarily as, an Assistant Clerk of the Local Court, an assistant registrar of the Children's Court or a Chamber Magistrate, and
 - (b) may delegate his or her power under this clause to conditionally or unconditionally postpone a fee to any public servant holding office as, or appointed to act temporarily as, a grade 3/4 administrative or clerical officer or above.

6 Postponement of fees in certain other cases

- (1) The taking of any fee by a Clerk of a Local Court or governor of a correctional centre in respect of proceedings before any Justice or Justices involving a legally assisted party is, if the fee is payable by the legally assisted party, to be postponed until judgment has been given in the proceedings.
- (2) The fee is not to be taken at all, or if taken must be remitted, if:
 - (a) judgment in the proceedings is against the legally assisted party, or
 - (b) judgment is in favour of the legally assisted party, but costs are not awarded in his or her favour.
- (3) A Clerk of a Local Court must not refuse to file or issue any document relevant to proceedings merely because, in accordance with this clause, a fee in respect of proceedings before any Justice or Justices has not been taken on behalf of a legally assisted party to those proceedings.
- (4) For the purpose of this clause, a party to proceedings is a **legally assisted party** if he or she is receiving legal assistance through a community legal centre within the meaning of section 48H of the [Legal Profession Act 1987](#).

7 Fee lists to be shown to public on request

The list of fees set out in Schedule 1 and any other schedule or list of fees payable under the Act must be kept at each Local Court and shown to members of the public on request.

Part 3 Public prosecutions

8 Definition of "appropriate officer"

For the purposes of the definition of **appropriate officer** in section 39 (5) of the Act, the

appropriate officer in relation to a person committed for trial to the District Court sitting at a proclaimed place under the *District Court Act 1973* is the registrar of the District Court in its criminal jurisdiction for that proclaimed place.

9 Transmission of trial papers to Director of Public Prosecutions

For the purposes of section 39 (4) of the Act, the appropriate officer must, as soon as practicable after receiving any document, transmit a copy of the document to the Director of Public Prosecutions by the most convenient method, having regard to the necessity to maintain the security of the document.

Part 4 Use of written statements

10 Notice specifying where exhibit may be inspected

For the purposes of section 48B (1) (a) (ii) of the Act, the notice to be served on the defendant may be in or to the effect of paragraph 3 of Form 1.

11 Notice to defendants as to rights regarding statements

For the purposes of section 48D (1) of the Act, Form 1 is the prescribed form of notice to be served on the defendant in any committal proceedings.

12 Information where defendant unrepresented

- (1) For the purposes of section 48D (2) (a) of the Act, the prescribed form of words is as follows (omitting the words marked * that do not apply):

The informant has served you with copies of one or more written statements of witnesses. You have also been given a notice outlining your rights regarding those statements.

*You *have/*have not applied to me for a direction requiring *one/*some/*all/*any of the persons who made those statements to appear in person to give evidence.*

I have to decide whether to commit you for trial or sentence in a higher court or to discharge you. I will make that decision on the basis of all the evidence, whether contained in written statements or given from the witness box in person.

I will now consider any application you may wish to make for an adjournment to obtain legal advice. Do you wish to apply for an adjournment?

- (2) If the proceedings are to continue, the prescribed form of words is to include also the following words:

Do you consent to the written statements of witnesses being tendered as evidence or do you wish to apply for a direction requiring one or more witnesses to be called to give evidence in person?

and, after the defendant has been given an opportunity to respond to those words, the following words:

Do you wish to ask me any questions about this procedure?

13 Manner of identifying inadmissible statements

- (1) In identifying or indicating any part of a statement that has been rejected pursuant to section 48F of the Act, the Justice or Justices must not mark the original statement, but must indicate on a copy the particular part of the statement that has been rejected.
- (2) The copy of the statement containing the rejected material is to be annexed to the depositions.

14 Manner of serving statements or notices

For the purposes of section 48GA (3) of the Act, a written statement or other notice under Subdivision 7A of Division 1 of Part 4 of the Act:

- (a) if served on the defendant or the counsel or attorney of the defendant—must be served personally, or
- (b) if served on the informant or the counsel or attorney of the informant—must be served personally or by post,

or must be served in such other manner as the Justice or Justices may determine in a particular case.

Part 5 Briefs of evidence

15 Definitions

In this Part:

address includes a private, business or official address.

telephone number includes a private, business or official telephone number.

16 Addresses and phone numbers not to be disclosed

- (1) A copy of a brief of evidence served on a defendant under section 66B of the Act must not include any written statement that discloses the address or telephone number of the person who made the statement or of any other living person, unless:
 - (a) the address or telephone number is a materially relevant part of the evidence, or
 - (b) a Justice or Justices make an order permitting the disclosure in the statement.
- (2) An application for such an order may be made by the defendant or the prosecuting

authority.

- (3) The Justice or Justices must not make such an order unless satisfied that the disclosure is not likely to present a reasonably ascertainable risk to the welfare or protection of any person or that the interests of justice (including the defendant's right to prepare properly for the hearing of the evidence for the prosecution) outweigh any such risk.
- (4) This clause does not prevent the disclosure of an address in a written statement if the statement does not identify it as a particular person's address, or it could not reasonably be inferred from the statement that it is a particular person's address.
- (5) An address or telephone number that must not be disclosed may, without reference to the person who made the written statement, be deleted from the statement, or rendered illegible, before the statement is served on the defendant.

17 Written statements

- (1) A written statement that is included in a copy of a brief of evidence may be in the form of questions and answers.
- (2) If a copy of the brief of evidence includes any written statement that is, wholly or in part, in a language other than English, there must be annexed to it a document purporting to contain a translation of the statement, or so much of it as is not in the English language, into the English language.

Part 6 Miscellaneous

18 Definition of "authorised justice"

For the purposes of paragraph (c) of the definition of **authorised justice** in section 3 (1) of the Act, the following offices are prescribed offices:

- (a) the offices of the Liquor Administration Board,
- (b) the offices of the Licensing Court of New South Wales,
- (c) the offices of the Industrial Registrar.

19 Certification of certain transcripts

The person by whom a transcript is prepared of depositions recorded by one of the means (other than writing) referred to in section 36 (4) or 70 (4) of the Act must certify that the transcript so prepared is a correct transcript of the depositions so recorded.

20 Written pleas

For the purposes of section 75 (2) of the Act, Form 2 is the prescribed form of notice of a defendant's plea in proceedings for an offence punishable on summary conviction.

21 Short descriptions of various offences under certain legislation

- (1) For the purposes of section 145B of the *Justices Act 1902*, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 3 is:
 - (a) the expression specified in Column 2 of that Schedule, or
 - (b) if a choice of words is indicated in that expression, the words remaining after the omission of the words irrelevant to the offence.
- (2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 3, the prescribed expression for the offence is taken to relate to the offence created by the provision, as the provision was in force when the offence is alleged to have been committed.
- (3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used, and any such document continues to have effect as if that expression had not been amended or repealed.
- (4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.

22 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Justices (General) Regulation 1993*, had effect under that Regulation is taken to have effect under this Regulation.

Schedule 1 Court fees

(Clause 4)

	\$	
1	Proceedings commenced by way of information, complaint (other than a complaint for an order under Part 15A (Apprehended violence) of the <i>Crimes Act 1900</i>), charge or court attendance notice, including the issue and service of summons if required	58.00
2	Complaint for an order under Part 15A (Apprehended violence) of the <i>Crimes Act 1900</i> or application for variation or revocation of such an order	Nil
3	Application of a kind not otherwise provided for in this Schedule (includes issue and service of notice of hearing if required)	58.00
4	For each additional respondent in relation to a matter to which item 3 relates	37.00
5	Issue of subpoena: for each witness to be served	31.00

6	Service of subpoena: for each witness to be served	40.00
7	Certificate of conviction, order or dismissal	37.00
8	Notice of appeal to District Court: one appellant	69.00
9	Further notices of appeal (by the same appellant) in respect of convictions or orders made or sentences imposed, together with the conviction, order or sentence to which a notice of appeal under item 8 relates	37.00
10	Copy of any deposition, transcript or diskette (unless otherwise provided for under any other Act):	
	(a) for each page (or equivalent), where the matter being transcribed is under 3 months old	6.90
	(minimum fee for 1 to 8 pages or equivalent	60.00)
	(b) for each page (or equivalent), where the matter being transcribed is 3 months old or older	7.90
	(minimum fee for 1 to 8 pages or equivalent	70.00)
11	Copy of any document (other than a deposition, transcript or diskette), for each page	2.00
	(minimum fee	10.00)
12	Duplicate tape recording of sound-recorded evidence, for each cassette	32.00

Schedule 2 Forms

Form 1

(Clauses 10 and 11)

Notice to defendants as to rights regarding statements

(Justices Act 1902, section 48D (1))

This document sets out some important rights, you should read it carefully. If there is anything you do not understand, you should obtain advice from a lawyer

To:

Charge(s):

Date of hearing:

Court:

.....
*(Informant)

-v-

.....
(Defendant)

*State name of informant and rank (if applicable)

1 Attached to this form you will find statements made by the following persons:

.....

.....
.....
.....

(If space insufficient, attach separate list)

2 Attached to this form are copies of documents which are referred to in those statements and which are proposed exhibits. If these documents are held to be admissible, they may be admitted as exhibits at the hearing of your case.

3 The following items, which may also be admitted as exhibits in evidence at the hearing of your case, may be inspected by you or your lawyer at:

.....

(location of exhibit)

on:

(specify date and time)

If this arrangement is unsuitable to you, the informant will specify an alternative arrangement if you telephone the informant at:

.....

(location of informant)

Tel:

This Form has been given to you because you are facing criminal charges at a committal hearing. The purpose of the committal hearing is to allow a Magistrate to decide whether or not you should be committed for trial or sentence in a higher court or whether you should be discharged. The Magistrate will make that decision after considering all the evidence at the committal hearing.

The written statements and other documents attached to this form contain material that the prosecution will try to put in evidence against you at the committal hearing.

You may apply to the Magistrate for a direction that one or more of the witnesses who have made written statements should attend court to give oral evidence at the committal hearing.

(a) **If you do not apply** for such a direction regarding a particular witness, that witness's evidence will be given at the hearing by the tendering of the written statement of that witness which is attached to this form. The witness will not be present.

(b) **If you do apply** to the Magistrate for such a direction, the Magistrate must consider your application. If the Magistrate directs a witness to attend to give oral evidence, you will be able to question that witness about what he or she says.

If the witness is the alleged victim of an offence involving violence, the Magistrate may only give the direction if he or she believes that there are special reasons why, in the interests of justice, the witness should attend. The term "offence involving violence" is defined in section 48E (9) of the *Justices Act 1902*.

In the case of any other witness, the Magistrate may only give the direction if he or she believes that there are substantial reasons why, in the interests of justice, the witness should attend.

If the Magistrate refuses to give the direction, the Magistrate must give reasons for the refusal.

If you do decide to apply for a direction for a witness or witnesses to attend, you must first deliver a notice to that effect to the prosecution. You may deliver the notice either in person or by post. The Magistrate will tell you the date by which the notice must be delivered. After the notice has been delivered, the Magistrate will decide whether your application should be granted.

Form 2

Written notice of plea

(Justices Act 1902, section 75)

Important

(please read this before filling in the form)

Filling in this form

You should get legal advice about this form *before* you fill it in. Legal advice is important because you need to know if you can use the form and, if so, what effect it has.

When you have completed this form, you must sign it in front of a Justice of the Peace (JP) or a legal practitioner. Your local Court House has a JP you can use.

Send or take this form to the Court

Send or take this form to the Clerk of the Court where your case will be heard. The address of the Court is shown in the summons or attendance notice.

When the Court must get this form

You must make sure that the Court receives this form at least 5 days before the date of the court hearing shown in the summons or attendance notice.

Part 1 Details about your court case

Please either attach to this form a copy of the summons or attendance notice (OR) fill in the details below using the information on the summons or attendance notice:

Name of defendant (your name):

Offence:

Place of court hearing (name and address of court):
.....

Date of court hearing:

Part 2 Pleading not guilty

Please read and complete this Part if you want to plead not guilty to the offence listed in the summons or attendance notice:

My name is:

My address is:

I agree that I am the person named as the defendant in the summons or attendance notice that was served on me for this offence:

I want to plead not guilty to that offence.

I ask the Court to list this matter for hearing on a later date.

I will bring this number: of witnesses to the court hearing on that later date.

I cannot be at court on these dates during the next 3 months:

If the Court needs to speak to me, I may be contacted by telephone on this number:

.....

(Only one of the next 2 statements applies to you. Please cross out the one that does not apply:)

The name of the solicitor or barrister representing me at the court hearing is:

.....

I will not have a legal representative at the court hearing.

Part 3 Pleading guilty

Please read and complete this Part if you want to plead guilty to the offence listed in the summons or attendance notice:

My name is:

My address is:

I agree that I am the person named as the defendant in the summons or attendance notice that was served on me for this offence:

I want to plead guilty to that offence.

I do not want to go to Court to plead guilty. Instead, I ask the Court to decide the matter without me.

If the Court needs to speak to me, I may be contacted by telephone on this number:

.....

I ask the Court to take the following matters into account when deciding my punishment:

(You should explain how and why the offence happened and give some information about yourself, your financial situation, personal circumstances and general character.)

.....
.....
.....
.....
.....

(If you run out of space, please finish your answer on a separate piece of paper, sign it and attach it to this form.)

Part 4 Signing this form

Defendant's signature (you sign here): Date:

Signed in front of (JP or legal practitioner signs here):

.....

Name of witness:

Title (JP, solicitor etc):

Schedule 3 Short descriptions of various offences

(Clause 21)

Column 1

Column 2

Offence

Prescribed expression

Offences under the **Inclosed Lands Protection Act 1901**

Section 4 (1)—enter into inclosed lands of any other person, without consent of owner, occupier or person apparently in charge

enter inclosed lands

Section 4 (1)—remain on inclosed lands of any other person, after being requested to leave by owner, occupier or person apparently in charge

remain on inclosed lands

Section 4A—remain on inclosed lands and behave in offensive manner on inclosed lands of another person, after being requested to leave by owner, occupier or person apparently in charge

offensive conduct on inclosed lands

Offences under the **Innkeepers Act 1968**

Section 9—on demand of payment by innkeeper or servant, fail or refuse to pay for meal or accommodation supplied at inn

fail/refuse to pay for meal/
accommodation

Section 9—on demand of payment by innkeeper or servant, by actions avoid such demand or render such demand impossible and fail to pay for meal or accommodation supplied at inn

avoid demand to pay/make demand
to pay impossible for meal/
accommodation

Offences under the [Police \(Special Provisions\) Act 1901](#)

Section 108—assault or resist any special constable in execution of duty

assault/resist special constable