

(28 April 1999 – to date)

[This is the **current version** and applied as from **28 April 1999**, i.e. the date of commencement of the Judicial Matters Amendment Act 26 of 1999 - to date]

JUSTICES OF THE PEACE AND COMMISSIONERS OF OATHS ACT 16 OF 1963

(Government Gazette 456, dated 15 March 1963. Commencement date: 1 December 1964

[Proc. No. R 316. Gazette No.958])

As amended by:

(General Law Amendment Act 80 of 1964 – Government Gazette No.829, dated 24 June 1964.

Commencement date: 24 June 1964)

(Justices of the Peace and Commissioners of Oaths Amendment Act 8 of 1965 – Government Gazette

No.1054, dated 10 March 1965. Commencement date: 10 March 1965)

(Justices of the Peace and Commissioners of Oaths Amendment Act 21 of 1967 – Government Gazette

No.1677, dated 8 March 1967. Commencement date: 8 March 1967)

(Justices of the Peace and Commissioners of Oaths Amendment Act 55 of 1970 – Government Gazette

No.2828, dated 23 September 1970. Commencement date: 21 July 1972. [Proc. No.R.168.

Gazette No.3619])

(Parliamentary Service Act 33 of 1974 – Government Gazette No.4374, dated 28 August 1974.

Commencement date: 1 August 1974)

(Justices of the Peace and Commissioners of Oaths Amendment Act 110 of 1984 – Government Gazette

No.9360, dated 15 August 1984. Commencement date: 15 August 1984)

(Justices of the Peace and Commissioners of Oaths Amendment Act 36 of 1986 – Government Gazette

No.10198, dated 23 April 1986. Commencement date: 23 April 1986)

(Transfer of Powers and Duties of the State President Act 97 of 1986 – Government Gazette No.10438,

dated 12 September 1986. Commencement date: 3 October 1986 [Proc. No.R.185.

Gazette No.10475])

(General Law Amendment Act 49 of 1996 – Government Gazette No.17477, dated 4 October 1996.

Commencement date: 4 October 1996)

(Judicial Matters Amendment Act 104 of 1996 – Government Gazette No.17613, dated 27 November 1996.

Commencement date: 14 February 1997 [Proc. No.R.18. Gazette No.17794])

(Justice Laws Rationalisation Act 18 of 1996 – Government Gazette No.17129, dated 19 April 1996.

Commencement date: 1 April 1997 [Proc. No.R.23. Gazette No.17849]. Editor's note: Section 2 of this Act makes Act 16 of 1963 applicable in the remainder of the national territory.)

(Judicial Matters Amendment Act 26 of 1999 – Government Gazette No.19975, dated 28 April 1999.

Commencement date: 28 April 1999)

ACT

To consolidate and amend the laws relating to the appointment, powers and duties of justices of the peace and commissioners of oaths, and to provide for matters incidental thereto.

(English text signed by the State President.)

(Assented to 9th March, 1963.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:-

ARRANGEMENT OF SECTIONS

1.
2. Appointment of justices of the peace
3. Powers and duties of justices of the peace
4. *Ex officio* justices of the peace
5. Appointment of commissioners of oaths
6. *Ex officio* commissioners of oaths
7. Powers of commissioners of oaths
8. Powers as to oaths outside the Republic
9. Penalties for false statements in affidavits and certain other declarations
10. Regulations
11. Repeal of laws
- 11A
12. Short title

First Schedule

Second Schedule - Laws repealed

JUSTICES OF THE PEACE

Prepared by:

1.

(Section 1 repealed by section 1 of Act 21 of 1967)

(Section 1 inserted by section 1 of Act 55 of 1970)

(Section 1 repealed by section 1 of Act 49 of 1996)

2. Appointment of justices of the peace

- (1) The Minister of Justice (hereinafter referred to as the Minister) or any officer of the Department of Justice with the rank of director, or an equivalent or higher rank, delegated thereto in writing by the Minister may, subject to the provisions of subsection (2), appoint for any magisterial district so many justices of the peace as the Minister or the delegated officer may deem fit.

(Section 2(1) substituted by section 1 of Act 26 of 1999)

- (2) A member of a body referred to in section 2 of the Electoral Act 1993 No. 202 of 1993), shall not hold the office of justice of the peace.

(Section 2(2) amended by section 4 of Act 18 of 1996)

- (3) Any person who has been nominated as a candidate for the National Assembly, the Senate or a provincial legislature contemplated in the Electoral Act, 1993, shall not, while he is thus nominated, exercise or carry out any of the powers or duties attaching to the office of the justice of the peace and referred to in section 3.

(Section 2(3) amended by section 4 of Act 18 of 1996)

- (4) Any justice of the peace appointed in terms of subsection (1) shall hold office during the Minister's pleasure or until he is precluded by subsection (2) from holding office as a justice of the peace.

(Section 2 amended by section 1 of Act 8 of 1965)

(Section 2 amended by section 2 of Act 21 of 1967)

(Section 2 substituted by section 1 of Act 36 of 1986)

3. Powers and duties of justices of the peace.

Any justice of the peace appointed under section 2 shall –

- (a) within the magisterial district for which he is appointed or is in terms of the provisions of the Justices of the Peace and Commissioners of Oaths Amendment Act, 1967, deemed to have been appointed, possess all such powers and perform all such duties as, by any law in force in such district, are conferred or imposed upon justices of the peace;
- (b) carry out such instructions for the preservation of the peace and good order in such magisterial district as he may receive from the magistrate of that magisterial district;

(c) render all assistance possible in suppressing disorder or disturbance in such magisterial district;

and shall further have such other powers and perform such other duties as the Minister may lawfully confer or impose upon him.

(Section 3 substituted by section 3 of Act 21 of 1967)

4. Ex officio justices of the peace

The holder of any office specified in the First Schedule shall be a justice of the peace for the Republic and shall possess all such powers and perform all such duties as are conferred or imposed on justices of the peace by any law.

(Section 4 substituted by section 43 of Act 80 of 1964)

COMMISSIONERS OF OATHS

5. Appointment of commissioners of oaths.

- (1) The Minister or any officer of the Department of Justice with the rank of director, or an equivalent or higher rank, delegated thereto in writing by the Minister may appoint any person as a commissioner of oaths for any area fixed by the Minister or the delegated officer.

(Section 5(1) substituted by section 2 of Act 26 of 1999)

- (2) Any commissioner of oaths so appointed shall hold office during the Minister's pleasure.

6. Ex officio commissioners of oaths.

The Minister may, by notice in the *Gazette*, designate the holder of any office as a commissioner of oaths for any area specified in such notice, and may in like manner withdraw or amend any such notice.

7. Powers of commissioners of oaths.

Any commissioner of oaths may, within the area for which he is a commissioner of oaths, administer an oath or affirmation to or take a solemn or attested declaration from any person: Provided that he shall not administer an oath or affirmation or take a solemn or attested declaration in respect of any matter in relation to which he is in terms of any regulation made under section *ten* prohibited from administering an oath or affirmation or taking a solemn or attested declaration, or if he has reason to believe that the person in question is unwilling to make an oath or affirmation or such a declaration.

8. Powers as to oaths outside the Republic.

- (1)

- (a) The Minister may, by notice in the *Gazette*, declare that the holder of any office in any country outside the Republic shall in the country in which or at the place at which he holds such office, have the powers conferred by section *seven* upon a commissioner of oaths, and may in like manner withdraw or amend any such notice.
 - (b) Any person appointed as a commissioner of the Supreme Court of South Africa shall for the purpose of the exercise of his powers or the performance of his duties as such commissioner have, at any place outside the Republic, the powers conferred by section *seven* upon a commissioner of oaths.
- (2) If any person referred to in sub-section (1) administers an oath or affirmation to or takes a solemn or attested declaration from any person, he shall authenticate the affidavit or declaration in question by affixing thereto the seal or impressing thereon the stamp used by him in connection with his office or, if he possesses no such seal or stamp, certifying thereon under his signature to that effect.
 - (3) Any affidavit, affirmation or solemn or attested declaration purporting to have been made before a person referred to in sub-section (1) and to be authenticated in accordance with the provisions of sub-section (2), may, on its mere production, be admitted in evidence in any court or received in any public office.
 - (4) Any affidavit, affirmation or solemn or attested declaration made before a person referred to in sub-section (1) and authenticated in accordance with the provisions of sub-section (2), shall be as effectual as if made in the Republic before a commissioner of oaths.
 - (5) Any court in the Republic shall have jurisdiction to try any person on a charge of having contravened section *nine* in relation to any affidavit or declaration made outside the Republic before a person referred to in sub-section (1), and for all purposes incidental to or consequential upon the trial of the offence, the offence shall be deemed to have been committed within the area of jurisdiction of the court so trying any person.

GENERAL

9. Penalties for false statements in affidavits and certain other declarations

Any person who, in an affidavit, affirmation or solemn or attested declaration made before a person competent to administer an oath or affirmation or take the declaration in question, has made a false statement knowing it to be false, shall be guilty of an offence and liable upon conviction to the penalties prescribed by law for the offence of perjury.

10. Regulations

- (1) The Minister may make regulations –

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- (a) prescribing the matters in respect of which fees shall be payable to justices of the peace appointed in terms of section two, and the scale of such fees;
- (b) prescribing the form and manner in which an oath or affirmation shall be administered and a solemn or attested declaration shall be taken, when not prescribed by any other law;
- (c) prescribing the circumstances under which commissioners of oaths shall be prohibited from administering an oath or affirmation or taking a solemn or attested declaration;

and generally for the better carrying out of the objects and purposes of this Act.

(Section 10(1) amended by section 46 of Act 97 of 1986)

- (2) A differing scale of fees may in terms of paragraph (a) of sub-section (1) be prescribed in respect of different areas, and different regulations may in terms of paragraph (c) of the said sub-section be made in relation to different commissioners of oaths or in relation to commissioners of oaths of different classes.

11. Repeal of laws.

- (1) Subject to the provisions of sub-sections (2) and (4) the laws specified in the Second Schedule are hereby repealed to the extent set out in the third column of that Schedule.

(Section 11(1) substituted by section 4(a) of Act 21 of 1967)

- (2) Any appointment made under or declared to remain in existence by any law repealed by sub-section (1), and any appointment equated by such law to an appointment made thereunder, and anything done in connection with or by virtue of any such appointment shall remain of full force and effect, and any condition or provision which immediately before the commencement of this Act applied in relation to any person by virtue of any such law, shall continue so to apply as if that law had not been repealed.

- (3)

(Section 11(3) deleted by section 4(b) of Act 21 of 1967)

- (4) Anything done under any provision of a law repealed by sub-section (1), shall be deemed to have been done under the corresponding provision of this Act, if any.

11A.

(Section 11A inserted by section 2 of Act 55 of 1970)

(Section 11A repealed by section 1 and the Schedule of Act 49 of 1996)

12. Short title.

Prepared by:

This Act shall be called the Justices of the Peace and Commissioners of Oaths Act, 1963, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

First Schedule.

OFFICES THE HOLDERS OF WHICH ARE *ex officio* JUSTICES OF THE PEACE.

Any office mentioned in Column II of Schedule 1 to the Public Service Act, 1994 (Proclamation No. 103 of 1994), any office of Deputy Director-General, Chief Director, Director, Deputy Director or Assistant Director of a department referred to in Column I of that Schedule and any office in a department so referred to which corresponds with any of the said offices.

Chief State Law Adviser, Deputy Chief State Law Adviser and Senior State Law Adviser and State Law Adviser in the permanent service of the State.

Secretary, Deputy Secretary, Under Secretary or Assistant Secretary to Parliament and the heads of the following sections, namely -

- Legislation and Proceedings;
- Committees;
- Hansard;
- Administration;
- Library.

Chief of the South African National Defence Force and a commissioned officer of the permanent force component of the South African National Defence Force and, while he or she renders any service, undergoes any training or performs any duty in pursuance of the Defence Act, 1957 (Act No. 44 of 1957), a commissioned officer of the part-time reserve component of the South African National Defence Force.

Attorney-General, Deputy Attorney-General, Senior State Advocate and State Advocate.

Commissioned Officer of the South African Police Service.

Commissioned Officer of the Department of Correctional Services.

Registrar of any division of the Supreme Court of South Africa.

Magistrate, Additional Magistrate and Assistant Magistrate.

(Schedule 1 amended by section 44 of Act 80 of 1964)

(Schedule 1 substituted by section 5 of Act 21 of 1967)

(Schedule 1 amended by section 3 of Act 55 of 1970)

(Schedule 1 amended by section 12 of Act 33 of 1974)

(Schedule 1 amended by section 1 of Act 110 of 1984)

(Schedule 1 amended by section 2 of Act 36 of 1986)

(Schedule 1 amended by section 8 of Act 104 of 1996)

(Schedule 1 amended by section 4 of Act 18 of 1996)

Second schedule

LAWS REPEALED.

No. and Year of Law	Short Title.	Extent of Repeal
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Prepared by:

Act No. 16 of 1914.	Justices of the Peace and Oaths Act, 1914.	The whole.
Act No. 8. of 1931.	Justices of the Peace and Oaths (Amendment) Act, 1931.	The whole.
Act no 46 of 1935	General Law Amendment Act, 1935.	Section <i>eighty-two</i> .
Act No. 14 of 1939.	Justices of the Peace and Oaths (Amendment) Act, 1939.	The whole.
Act No. 54 of 1949.	General Law Amendment Act, 1949.	Sections <i>two</i> and <i>three</i> .
Act No. 32 of 1952.	General Law Amendment Act, 1952.	Section <i>five</i> .
Act No 21 of 1953.	Justices of the Peace and Oaths Amendment Act, 1953.	The whole.
Act No. 68 of 1957.	General Law Amendment Act, 1957.	Sections <i>twenty-two</i> to <i>twenty-five</i> , inclusive.