

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

[ASSENTED TO 9 MARCH 1963]

[DATE OF COMMENCEMENT: 1 DECEMBER 1964]

(English text signed by the State President)

as amended by

General Law Amendment Act 80 of 1964

Justices of the Peace and Commissioners of Oaths Amendment Act 8 of 1965

Justices of the Peace and Commissioners of Oaths Amendment Act 21 of 1967

Justices of the Peace and Commissioners of Oaths Amendment Act 55 of 1970

Parliamentary Service Act 33 of 1974

Justices of the Peace and Commissioners of Oaths Amendment Act 110 of 1984

Justices of the Peace and Commissioners of Oaths Amendment Act 36 of 1986

Transfer of Powers and Duties of the State President Act 97 of 1986

Justice Laws Rationalisation Act 18 of 1996

General Law Amendment Act 49 of 1996

Judicial Matters Amendment Act 26 of 1999

Regulations under this Act

DESIGNATION OF COMMISSIONERS OF OATHS IN TERMS OF SECTION 6 (GN 903 in GG 19033 of 10 July 1998)

POWERS REGARDING OATHS OUTSIDE THE REPUBLIC UNDER SECTION 8(1)(a) (GN R1872 in GG 7215 of 12 September 1980)

REGULATIONS GOVERNING THE ADMINISTERING OF AN OATH OR AFFIRMATION (GN R1258 in GG 3619 of 21 July 1972)

ACT

POWERS REGARDING OATHS OUTSIDE THE REPUBLIC UNDER SECTION 8(1)(a)

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.

JUSTICES OF THE PEACE (ss 1-4)

1

[S. 1 repealed by s. 1 of Act 21 of 1967, inserted by s. 1 of Act 55 of 1970 and repealed by s. 1 of Act 49 of 1996.]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.

[Sub-s. (1) substituted by s. 1 of Act 26 of 1999.]

(2) A member of a body referred to in section 2 of the Electoral Act, 1993 (Act 202 of 1993), shall not hold the office of justice of the peace.

[Sub-s. (2) amended by s. 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 justice of the peace and referred to in section 3.

[Sub-s. (3) amended by s. 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.

[S. 2 amended by s. 1 of Act 8 of 1965 and by s. 2 of Act 21 of 1967 and substituted by s. 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.

[S. 3 substituted by s. 3 of Act 21 of 1967.]

4 Ex officio justices of the peace

(1) 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.

[S. 4 substituted by s. 43 of Act 80 of 1964.]

COMMISSIONER OF OATHS (ss 5-8)

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.

[Sub-s. (1) substituted by s. 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 subsection (1) administers an oath or affirmation to take 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 subsection (1) and to be authenticated in accordance with the provisions of subsection (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 subsection (1) and authenticated in accordance with the provisions of subsection (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 subsection (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 (ss 9-12)

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-

- (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.

[Sub-s. (1) amended by s. 46 of Act 97 of 1986.]

(2) A differing scale of fees may in terms of paragraph (a) of subsection (1) be prescribed in respect of different areas, and different regulations may in terms of paragraph (c) of the said subsection 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 subsections (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.

[Sub-s. (1) substituted by s. 4 (a) of Act 21 of 1967.]

(2) Any appointment made under or declared to remain in existence by any law repealed by subsection (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 in 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)

[Sub-s. (3) deleted by s. 4 (b) of Act 21 of 1967.]

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

11A

[S. 11A inserted by s. 2 of Act 55 of 1970 and repealed by s. 1 of Act 49 of 1996.]

12 Short title

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

[First Schedule amended by s. 44 of Act 80 of 1964, substituted by s. 5 of Act 21 of 1967 and amended by s. 3 of Act 55 of 1970, by s. 12 of Act 33 of 1974, by s. 1 of Act 110 of 1984, by s. 2 of Act 36 of 1986, by s. 4 of Act 18 of 1996 and by s. 8 of Act 104 of 1996.]

Any office mentioned in Column 2 of Schedule 1 to the Public Service Act, 1994 (Proclamation 103 of 1994), any office of Deputy Director-General, Chief Director, Director, Deputy Director or Assistant Director of a department referred to in Column 1 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, 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 Commissioned Officer of the Permanent Force 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 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.

Second Schedule
LAWS REPEALED

NO AND YEAR OF LAW	SHORT TITLE	EXTENT OF REPEAL
Act 16 of 1914	Justices of the Peace and Oaths Act, 1914	The whole
Act 8 of 1931	Justices of the Peace and Oaths (Amendment) Act, 1931	The whole
Act 46 of 1935	General Law Amendment Act, 1935	Section <i>eighty-two</i>
Act 14 of 1939	Justices of the Peace and Oaths (Amendment) Act, 1939	The whole
Act 54 of 1949	General Law Amendment Act, 1949	Sections <i>two</i> and <i>three</i>
Act 32 of 1952	General Law Amendment Act, 1952	Section <i>five</i>
Act 21 of 1953	Justices of the Peace and Oaths Amendment Act, 1953	The whole
Act 68 of 1957	General Law Amendment Act, 1957	Sections <i>twenty-two</i> to <i>twenty-five</i> , inclusive