

MAGISTRATE'S COURT ORDINANCE

JUSTICE OF THE PEACE REGULATIONS 2023

(Legal Notice 18 of 2023)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation and commencement
2. Interpretation
3. Application for appointment of Justice of the Peace
4. Appointment of Justice of the Peace
5. Responsibilities of Justice of the Peace
6. Certification of documents
7. Witness of documents
8. Seeking assistance
9. Keeping Ledger
10. Disciplinary procedure
11. Decision of complaint
12. Review of complaint
13. Code of Conduct

SCHEDULE 1 – Forms

Form 1-Application for appointment of Justice of the Peace

Form 2 – Warrant of Appointment

Form 3 - Jurat

SCHEDULE 2– Code of Conduct

MAGISTRATE'S COURT ORDINANCE

JUSTICE OF THE PEACE REGULATIONS 2023

(Legal Notice 18 of 2023)

MADE by the Governor, in consultation with the Chief Justice, under section 19P of the Magistrate's Court Ordinance.

Citation and commencement

1. These Regulations may be cited as the Justice of the Peace Regulations 2023 and shall come into operation on 15 March 2023.

Interpretation

2. In these Regulations "Ordinance" means the Magistrate's Court Ordinance.

Application of appointment of Justice of the Peace

3. (1) An application to be appointed as a Justice of the Peace made in accordance with section 19A may be made in Form 1 set out in Schedule 1.

(2) An application shall be accompanied by—

- (a) proof of identity;
- (b) a sworn affidavit stating whether the person has been convicted of any offence that may form a disqualification for appointment as specified in the Ordinance;
- (c) proof of business address or residential address;
- (d) at least two references to show the applicant's good character, reputation and standing in the community, from the island in which he resides, one of whom must be from a current or retired employee of the Turks and Caicos Islands Government;
- (e) any official document regarding the applicant's qualifications and English language proficiency, as may be requested by the Registrar; and
- (f) any other information as may be requested by the Registrar.

(3) The Registrar shall forward the application to the Chief Justice who on satisfaction that the applicant qualifies to be appointed as a Justice of the Peace, may recommend an appointment to the Governor.

Appointment of Justice of the Peace

4. An appointment of a Justice of the Peace made under the Ordinance shall be made by warrant as set out in Form 2 of Schedule 1.

Responsibilities of Justice of the Peace

5. A Justice of the Peace must be familiar with the provisions of PART IIA of the Magistrate's Court Ordinance and other provisions relevant to his functions.

(2) A Justice of the Peace shall not offer legal advice in his capacity as a Justice of the Peace.

(3) A Justice of the Peace shall—

- (a) record his name and address together with his full signature on any document he witnesses;
- (b) be physically present in the Islands to exercise his functions; and
- (c) only witness a declaration or affidavit when both he and the declarant or deponent are in the Islands and shall certify the identity of the declarant or deponent.

Certification of documents

6. (1) A Justice of the Peace shall certify the identity of a person where it is required, by satisfying himself of the identity of the person by—

- (a) personal knowledge; or
- (b) an approved government issued identification document or a certified copy of such document.

(2) To satisfy himself of the identity of a person through personal knowledge, a Justice of the Peace shall require a person wearing a face covering to remove as much of the face covering as will allow him to see the person's face, except where there exists a legitimate medical reason, but not for religious or other personal beliefs.

(3) A Justice of the Peace shall satisfy himself regarding any document, as to—

- (a) the authenticity of any source document, such as a birth, marriage, death or academic certificate, or transaction;
- (b) the nature of the document, in a language he understands and in which he is proficient;
- (c) the content of the document as to its truth and accuracy.

(4) Where a Justice of the Peace certifies a copy of an original document, he shall satisfy himself that it is a true and accurate copy of the original.

(5) Where the document to be certified is not in English, the person using the service of the Justice of the Peace shall produce an accurate translation of that document.

Witness of documents

7. (1) A Justice of the Peace shall not—

- (a) witness a document unless he has seen the person sign the document;
- (b) witness a document that emanates from a country other than the Turks and Caicos Islands;
- (c) witness a document for use in a country other than the Turks and Caicos Islands; and
- (d) provide service to a person who cannot communicate in English or a language the Justice of the Peace understands, unless the Justice of the Peace can appreciate the nature of the service requested, or he uses an interpreter.

(2) A Justice of the Peace shall not—

- (a) administer an oath or affirmation to a person; or
- (b) take the declaration or affidavit of a person; or
- (c) witness the signing or execution of an instrument,

if he reasonably doubts that the person is legally or mentally competent to make the oath, affirmation, declaration or affidavit or to execute the document.

(3) A Justice of the Peace shall follow the provisions of an Ordinance which provides that an instrument or declaration must be attested by a Justice of the Peace by taking the declaration, or witnessing or attesting to the instrument, in accordance with any directions provided under that Ordinance.

Seeking assistance

8. (1) A Justice of the Peace shall take any additional steps which are reasonable in the circumstances, such as, seeking advice in any matter in which he is unsure of his functions.

(2) Where the person for whom the Justice of the Peace offers services does not speak English or a language the Justice of the Peace understands, the Justice of the Peace may use the services of a court-appointed interpreter either in person or by electronic means, who will sign the jurat set out in Form 3 of Schedule 1.

Keeping of Ledger

9. (1) A Justice of the Peace shall keep a written record of every service he provides, which record shall be called a Ledger.

(2) The Ledger shall specify the following information and be signed by the Justice of the Peace—

- (a) the type of service offered; and
- (b) the date and time the service is offered.

(3) A Justice of the Peace may record in the Ledger any occasion on which there is a refusal to provide his services and the reasons for refusing.

Disciplinary procedure

10. (1) A person who is aggrieved by the conduct of a Justice of the Peace in relation to services offered by a Justice, may make a complaint to the Chief Magistrate.

(2) A complaint must be filed with the Registrar—

- (a) shall set out the conduct complained of;
- (b) must show that the Justice of the Peace has fallen short of, or has acted in contravention of regulations 5, 6, 7 or the Code of Conduct set out in Schedule 2.

(3) The Registrar shall within five days of the receipt of the complaint, notify the Justice of the Peace and request a response within seven days of notification of the complaint

(4) Upon receipt of the Justice of the Peace's response or following the expiration of ten working days after notification of the complaint, the Registrar shall refer the complaint to the Chief Magistrate.

(5) The Chief Magistrate shall within ten working days of the receipt of the complaint, set up a three-person committee comprising himself, a Resident Magistrate and the Registrar to enquire into the complaint.

(6) An enquiry into a complaint must be done in accordance with the rules of natural justice.

Decision of complaint

11. Where the committee has completed the enquiry to a complaint and is satisfied that the Justice of the Peace is at fault, the Chief Magistrate may—

- (a) issue a warning or require the Justice of the Peace to perform or cease to perform an act;
- (b) after one warning, and the Justice of the Peace continues to be at fault, recommend the suspension of the Justice of the Peace to the Chief Justice; or
- (c) after two warnings, and the Justice of the Peace continues to be at fault, recommend the revocation of the appointment of the Justice of the Peace to the Chief Justice.

Review of complaint

12. (1) A Justice of the Peace who is subjected to discipline by the Chief Magistrate may apply to the Chief Justice for a review within twenty-one days of the Chief Magistrate’s decision.

(2) The Chief Justice may, upon receipt of a recommendation for suspension or revocation by the Chief Magistrate or after hearing and determining the review sought under subregulation (1), recommend the suspension or revocation of the appointment of the Justice of the Peace, to the Governor.

Code of Conduct

13. A Code of Conduct for the Justices of the Peace is set out in Schedule 2.

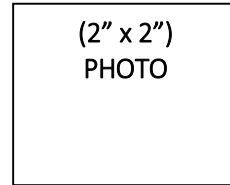
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SCHEDULE 1

FORMS

FORM 1

(Regulation 3(1))

APPLICATION FOR APPOINTMENT OF JUSTICE OF THE PEACE



Ordinary application By virtue of office

Name of the applicant:

Gender: Male Female

Date of Birth (D.O.B):

Place of Birth(P.O.B):

Nationality:

Address of Business:

.....

Residential Address.....

.....

Contact Information:

Tel: Mobile:

Work:

Fax:..... Email:

Employment Status: Employed Unemployed

If employed, state your profession or occupation:

.....

Professional or other Qualifications:

.....

.....

Work Experience:

Has your application to become a Justice of the Peace ever been denied

YES NO

If your answer to question 10 is yes, please give reason for this below:

.....

.....

.....

.....

Reason for requesting to become a Justice of the Peace:

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.....

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.....

I, _____ of _____ apply, in accordance with the Magistrate’s Court Ordinance, to be appointed as Justice of the Peace. I certify that the information set out in this application concerning myself is true and that I have not been convicted of any offence disqualified under the Magistrate’s Court Ordinance for appointment.

Dated thisday of , 20

Signed:

(Applicant

FORM 2

(Regulation 4)

WARRANT OF APPOINTMENT AS A JUSTICE OF THE PEACE

By this warrant under my hand I, _____, Governor of the Turks and Caicos Islands, in exercise of the powers conferred on me by section [.....] of the Magistrate’s Court Ordinance, appoint as a Justice of the Peace for the Turks and Caicos Islands, [insert if by virtue of office], for a period, with effect from

GIVEN under my hand and the public seal this day of20.....

GOVERNOR

FORM 3

(Regulation 8(2))

JURAT

Iofmake oath and state that I have truthfully and accurately interpreted the words of to the Justice of the Peace in English and the words of the Justice of the Peace to -....., in the.....language which he seemed to understand.

Dated this day of 20.....

At.....or by electronic means (MS Teams, Zoom, etc)

Signature:

Interpreter

Before me:

Justice of the Peace

SCHEDULE 2

(Regulation 13)

CODE OF CONDUCT

1. A Justice of the Peace shall—
 - (a) abide by his oath of office as the Justice of the Peace;
 - (b) conduct his business with professionalism, due diligence and shall be impartial and objective in the discharge of his duties.
2. A Justice of the Peace may be involved in community activities provided such involvement is not incompatible with the office of Justice of the peace.
3. A Justice of the Peace shall not—
 - (a) charge a fee for his services, or directly or indirectly, solicit or accept any reward from any person in connection with the office of Justice of the Peace;
 - (b) use his position to advance his personal business, commercial or other interests, but he may use the title after his name on a letterhead, or business card;
 - (c) unreasonably refuse to offer his services, and must provide such services in a timely manner, with courtesy and respect to all persons;
 - (d) not use the office of Justice of the Peace to further political activities; and
 - (e) perform any functions for a matter in which there may be an actual or perceived conflict of interest.

MADE this 1st day of March 2023.

NIGEL DAKIN
GOVERNOR

EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations are made to make provisions for the work and service of the Justice of the Peace.