



# Legislative Council

## Justices Of The Peace Bill Hansard - Extract

12/06/2002

### Second Reading

**The Hon. MICHAEL EGAN** (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [5.12 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

#### Leave granted.

The method of appointment and regulation of the office of Justice of the Peace in NSW has remained relatively unchanged since the late nineteenth century.

Presently JPs are appointed for an indefinite term on an 'ad hoc' basis by the NSW Attorney General, often to fulfil the requirement of a particular job or community need.

It is estimated that there are currently between 100,000 and 200,000 JPs in NSW. This number is only an estimate because records of JPs appointed prior to the introduction of the current record keeping system in 1992 are not complete.

A discussion paper released in February 1998 by the Attorney General's Department, concerning the role of Justices of the Peace, proposed legislative reforms. The draft Justices of the Peace Exposure Bill 2001 was developed in the light of the many submissions received, the majority of which supported the proposals outlined in the paper.

On 20 September 2001, the Attorney General tabled a draft exposure bill in Parliament, in conjunction with the Justices Act Reform Package. Under the Reform package, which will commence operation at the end of this year, all court duties formerly performed by court staff as Justices of the Peace will be performed by those officers in their roles as Registrars or Deputy Registrars.

The Bill's key features are:

- life time appointments will be abolished and replaced with five year renewable terms;
- a public Registry will be established to improve access to Justices' services;
- clearly defining the functions of community JPs;
- the Governor may remove a JP from office at any time, including for bankruptcy, mental incompetence, or criminal convictions; and
- the proposal to introduce an administration fee has been removed.

I shall deal with each of these matters in turn.

#### Appointment

The Bill provides that appointments to the office will be limited to 5 years. After 5 years the appointment will lapse. Prior to the appointment lapsing, JPs can apply for a renewal of the appointment by demonstrating that they continue to meet the eligibility requirements.

Existing JPs will have a grace period of three years from the commencement of the legislation to apply for a new commission, before their current commission expires.

Limiting the term of appointment will ensure that records are accurate and that current JPs are eligible to continue performing the functions of the office. The majority of JP respondents during the consultation process had no objection to this proposal.

Dates for making recommendations to the Attorney and appointments by the Attorney will be scheduled at six monthly intervals, except for cases where urgency can be demonstrated. The current system of nomination by Members of Parliament is retained.

#### Criteria for Appointment

The regulations and guidelines will prescribe the criteria for appointment as a JP and will reflect the current criteria with the exception of the age restrictions. The Anti-Discrimination Board advises that the current 21-75 year age range is discriminatory on the basis of age. The eligibility requirement will be changed to a lower limit of 18 years or over and will be renewable whilst the appointee continues to meet the eligibility criteria and is capable of carrying out the inherent requirements of the position.

### **Public Register**

Despite the large number of JPs in NSW (around 3000 new commissions per annum) it is a common complaint that members of the public cannot locate a JP as there is no formal mechanism to put members of the public in direct connection with a JP.

To date the Department has not provided contact details to the public as this would require the informed consent of each JP. Under the Bill it will be a condition of appointment and continuation in the office that JPs consent to the publication of nominated contact details in a public register in accordance with the *Privacy and Personal Information Protection Act 1998*. The contact address may be a business address.

The public register would be available for public inspection at locations nominated by the Department. Section 58(2) of the *Privacy and Personal Information Protection Act 1998* provides for the suppression of information where the safety or well-being of any person would be affected.

Some submissions indicated concern about providing private residential details. The Section 58(2) suppression ability combined with the option of supplying a nominated business address rather than a residential address would provide sufficient protection.

Advice sought from Privacy NSW indicated that it had no objections to the Bill in its current form.

The Register will enable the public to ascertain the whereabouts of a convenient JP, and can be used to identify whether there are sufficient JPs available in particular areas to meet community needs.

### **Defining the functions of JPs**

The repeal of the Justices Act 1902 (proposed to commence on 1 January 2003) means that the functions of JPs need to be defined.

The duties once performed by court staff as "authorised justices" or "Justices of the Peace employed by the Attorney General's Department" will now be performed by "registrars of the Local Court."

The functions of community JPs will be limited to administering oaths, affirmations and declarations principally under the *Oaths Act 1900*. Strict guidelines for correct attestation of documents clearly identifying the JP will be made under the legislation.

### **Discipline of JPs – Removal from Office**

Currently, a JP's appointment can be revoked by the Governor where the JP is convicted of an offence or where the JP engages in conduct which is unbecoming of the office, for example by being made bankrupt.

The Bill will provide that the Governor may remove a JP from office at any time, including for bankruptcy or insolvency, mental incapacity or conviction of certain offences or on other grounds specified in the regulations.

JPs will be obliged to notify the Attorney General of any matter that may cause them to cease to satisfy the eligibility requirements or which may satisfy these grounds for being removed from office.

The requirement for JPs to advise the Attorney General's Department of their continued eligibility and to renew their commission will provide a better system for supervision of the office.

Each matter will continue to be considered on its merits and the JP will be given an opportunity to show cause as to why his or her appointment should not be revoked.

JPs who fail to apply for renewal of their commission at the expiration of the five year term will cease to hold office.

### **Fees and administration**

As the focus of concern in relation to the Exposure Draft Bill was in relation to the introduction of an administration fee for registration, it is proposed that there will be no new administrative fee. A standard certificate notifying the applicant of their registration number will be supplied to all JPs. However it will be open to JPs to also purchase an official decorative certificate, if they so desire.

Given that many JPs have not kept their addresses up to date, any attempt to individually notify JPs of these proposed changes will be extremely difficult. An advertising campaign will be launched to bring the new requirements to the attention of JPs and a dedicated phone line will be established for 12 months to respond to inquiries from JPs.

I commend the Bill to the House.