

Justice of the Peace (JP) article by Mr Abdul Quader

Comments

Thank you for your contribution on the history and functions of JPs in Australia, ACT in particular.

A *Justice of the Peace* plays (voluntarily) an essential part in the legal system and in the community in NSW. JPs in NSW are appointed for a period of five years by the Governor of NSW, based on the recommendation by a local member of the parliament (MP) and the Executive Council of the Government. Reappointment after each five year is relatively simpler once appointed. JP appointment and functions are governed by the NSW *Justices of the Peace Act 2002*. JPs are no longer appointed for life in NSW. There is a JP register to assist local communities to access JP services (www.JP/lawlink.nsw.gov.au/public/WelcomePublic.do), www.agd.nsw.gov.au

The two main functions of a JP in NSW are to witness the signing of documents such as affidavits and statutory declarations, and to certify copies of documents. Some of these documents may be required in court proceedings. Other documents may be needed for people to assess benefits or to meet their legal responsibilities. Apart from the Act of Parliament, JP appointments are also subject to the *Code of Conduct for Justices of the Peace in NSW*, and JPs are provided with a handbook. JPs are not allowed to charge any fees for their services.

Key requirements are that a JP **must never** witness a document unless the JP is satisfied as to the identity of the person and the JP has seen the person sign the document in the JP's presence. Further, *Ruling 003*, effective from 30 April 2012, requires a JP (1) to see the face of the person making statutory declaration or affidavit; (2) confirm the person's identity or that JP knows the person for at least 12 months; and (3) certifies on the document that these requirements have been met, before witnessing the documents. JPs are also required to record JP registration number and full name on every document witnessed by the JP.

It is in fact a criminal offence for a JP to witness a NSW statutory declaration or affidavit if these requirements have not been satisfied. It is also a breach of the Code of Conduct for JPs in NSW.

Therefore, it is not appropriate for people to expect a JP to witness their signatures in a statutory declaration with the person not being present, and the above mentioned requirements not being met. Also all documents required certification as being true copy of the original by a JP must be presented with the original documents and/or certificates.

Helal Morshedi

A JP in and for the state of NSW since April 1992

Holsworthy, 11 May 2012