

**Authorised Version No. 001**  
**Magistrates' Court General Regulations 2011**

**S.R. No. 55/2011**

Authorised Version as at  
10 July 2011

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**PART 1—PRELIMINARY**

**1 Objective**

The objective of these Regulations is to prescribe—

- (a) oaths of office; and
- (b) matters relating to bail justices and acting bail justices; and
- (c) other matters required or necessary to be prescribed to give effect to the **Magistrates' Court Act 1989**.

**2 Authorising provision**

These Regulations are made under section 140 of the **Magistrates' Court Act 1989**.

**3 Commencement**

These Regulations come into operation on 10 July 2011.

**4 Revocations**

The Regulations listed in Schedule 1 are **revoked**.

**5 Definition**

In these Regulations, *the Act* means the **Magistrates' Court Act 1989**.

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**PART 2—APPOINTMENTS**

**Division 1—Oaths of Office and code of conduct**

**6 Oaths of Office**

- (1) For the purposes of sections 7(5), 120H and 121(3) of the Act, the oath of office for a magistrate, an acting magistrate, a bail justice and an acting bail justice is set out in Part 1 of Schedule 2.
- (2) For the purposes of section 115(4) of the Act, the oath of office for a justice of the peace is set out in Part 2 of Schedule 2.
- (3) An oath of office for a bail justice, an acting bail justice and a justice of the peace must be administered by a magistrate who must forward to the Attorney-General a certificate of administration.

**7 Code of conduct for bail justices and acting bail justices**

For the purposes of the definition of *code of conduct* in section 120 of the Act, the code of conduct set out in Schedule 3 is prescribed.

**Division 2—Bail Justices**

**8 Appointment training for bail justices**

For the purposes of section 120A(2)(e) of the Act, the prescribed course of training for appointment as a bail justice is the training approved by the Secretary to enable bail justices to be competent to—

- (a) fulfil their functions under Victorian law;  
and
- (b) fulfil their obligations under the code of conduct.

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## **9 Application for appointment as bail justice**

For the purposes of section 120B(2)(a) of the Act, the prescribed particulars are—

- (a) the full name of the applicant; and
- (b) the current residential address, postal address, telephone number and email address of the applicant; and
- (c) the permanent residential address of the applicant, if different from his or her current residential address; and
- (d) confirmation that the applicant is an Australian citizen; and
- (e) the date of birth of the applicant; and
- (f) whether the applicant is currently a justice of the peace in Victoria or any other State or Territory of Australia; and
- (g) whether the applicant has previously applied to be a bail justice and the outcome of that application; and
- (h) confirmation that the applicant is fluent in the English language; and
- (i) any language other than English spoken by the applicant, including the level of fluency; and
- (j) the applicant's emergency contact, including name, telephone number, and relationship to the applicant; and
- (k) the current occupation and position of the applicant, including the name, address and telephone number of his or her current employer, and the period of employment with that employer; and

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- (l) details of any criminal offence the applicant has been charged with or found guilty of in Australia or overseas; and
  - (m) details of any civil proceeding brought against the applicant in Australia or overseas; and
  - (n) whether the applicant is a bankrupt or the property of the applicant is subject to control under the law relating to bankruptcy; and
  - (o) details of any suspension or disqualification of the applicant from holding any licence, registration, certificate or membership of any profession, business, trade or industry; and
  - (p) details of any disqualification of the applicant from the management of a company under the Corporations Act; and
  - (q) the applicant's reasons for seeking appointment as a bail justice; and
  - (r) the applicant's community involvement over the past 10 years, including roles held and the dates roles were held; and
  - (s) the availability of the applicant to be rostered for duty as a bail justice; and
  - (t) 3 referees for the applicant, including the referees' names, addresses, telephone numbers, period of acquaintance with the applicant, and relationship to the applicant; and
  - (u) whether or not the applicant consents to—
    - (i) the Department checking the applicant against the registers administered by the Australian Securities and Investments Commission, and the National Personal Insolvency Index

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administered by the Insolvency and  
Trustee Service Australia; and

- (ii) Victoria Police releasing the results of  
the applicant's police record check  
directly to the Department.

#### **10 Re-appointment training for bail justices**

For the purposes of section 120C(2)(a) of the Act,  
the prescribed course of training for  
re-appointment as a bail justice is the training  
approved by the Secretary to update bail justices'  
knowledge and competency to enable them to—

- (a) fulfil their functions under Victorian law;  
and
- (b) fulfil their obligations under the code of  
conduct.

#### **11 Application for re-appointment as bail justice**

For the purposes of section 120D(2)(a) of the Act,  
the prescribed particulars are—

- (a) the full name of the applicant; and
- (b) the current residential address, postal  
address, telephone number and email address  
of the applicant; and
- (c) the permanent residential address of the  
applicant, if different from his or her current  
residential address; and
- (d) the bail justice number of the applicant; and
- (e) details of any criminal offence the applicant  
has been charged with or found guilty of in  
Australia or overseas in the 5 years  
immediately preceding the application; and

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- (f) details of any civil proceeding brought against the applicant in Australia or overseas in the 5 years immediately preceding the application; and
  - (g) whether the applicant is a bankrupt or the property of the applicant is subject to control under the law relating to bankruptcy; and
  - (h) details of any suspension or disqualification of the applicant from holding any licence, registration, certificate or membership of any profession, business, trade or industry in the 5 years immediately preceding the application; and
  - (i) details of any disqualification of the applicant from the management of a company under the Corporations Act in the 5 years immediately preceding the application; and
  - (j) whether or not the applicant consents to—
    - (i) the Department checking the applicant against the registers administered by the Australian Securities and Investments Commission, and the National Personal Insolvency Index administered by the Insolvency and Trustee Service Australia; and
    - (ii) Victoria Police releasing the results of the applicant's police record check directly to the Department.

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**12 Application for appointment or re-appointment as an acting bail justice**

For the purposes of section 120F(2)(a) of the Act, the prescribed particulars are—

- (a) the full name of the applicant; and
- (b) the current residential address, postal address, telephone number and email address of the applicant; and
- (c) the permanent residential address of the applicant, if different from his or her current residential address; and
- (d) the bail justice number of the applicant; and
- (e) details of any criminal offence that the applicant has been charged with or found guilty of in Australia or overseas in the 5 years immediately preceding the application, or, in an application for re-appointment, in the year immediately preceding the application; and
- (f) details of any civil proceeding brought against the applicant in Australia or overseas in the 5 years immediately preceding the application, or, in an application for re-appointment, in the year immediately preceding the application; and
- (g) whether the applicant is a bankrupt or the property of the applicant is subject to control under the law relating to bankruptcy; and
- (h) details of any suspension or disqualification of the applicant from holding any licence, registration, certificate or membership of any profession, business, trade or industry in the 5 years immediately preceding the application, or, in an application for

re-appointment, in the year immediately preceding the application; and

- (i) details of any disqualification of the applicant from the management of a company under the Corporations Act in the 5 years immediately preceding the application, or, in an application for re-appointment, in the year immediately preceding the application; and
- (j) whether or not the applicant consents to—
  - (i) the Department checking the applicant against the registers administered by the Australian Securities and Investments Commission, and the National Personal Insolvency Index administered by the Insolvency and Trustee Service Australia; and
  - (ii) Victoria Police releasing the results of the applicant's police record check directly to the Department.

### **13 Prescribed office holders to be bail justices**

For the purposes of section 121 of the Act, a prescribed classification is a classification of—

- (a) Grade 3, Grade 4, Grade 5 or Grade 6 in the public service in which the employee is required to perform the duties of any one or more of the following—
  - (i) Prothonotary or deputy Prothonotary of the Supreme Court;
  - (ii) registrar or deputy registrar of the County Court;
  - (iii) principal registrar of the Court;
  - (iv) registrar or deputy registrar of the Court;

- (v) registrar or deputy registrar of the Children's Court at Melbourne;
- (b) Grade 2, Grade 3, Grade 4, Grade 5 or Grade 6 in the public service in which the employee is required to perform the duties of associate to a judge of the Supreme Court or the County Court.

#### **14 Training for people holding prescribed offices**

For the purposes of section 121(3)(aa) of the Act, the prescribed course of training is the training provided by the Magistrates' Court to enable prescribed office-holders to fulfil their bail justice functions in accordance with Victorian law.

#### **15 Notification obligations on bail justices and acting bail justices**

- (1) A bail justice or acting bail justice must notify the Secretary in writing as soon as practicable after—
  - (a) the bail justice or acting bail justice is charged with a criminal offence in Australia or overseas;
  - (b) the bail justice or acting bail justice has a civil proceeding commenced against him or her in Australia or overseas;
  - (c) the finalisation and outcome of that criminal proceeding or civil proceeding;
  - (d) the bail justice or acting bail justice is declared bankrupt or his or her property becomes subject to control under the law relating to bankruptcy;
  - (e) the bail justice or acting bail justice is suspended or disqualified from holding any licence, registration, certificate or membership of any profession, business, trade or industry;

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- (f) the bail justice or acting bail justice is disqualified from managing a company under the Corporations Act;
  - (g) the bail justice or acting bail justice changes his or her employment.
- (2) A bail justice or an acting bail justice must notify the Secretary in writing within 14 days after—
- (a) any change to the personal details of the bail justice or acting bail justice, including residential address, postal address, telephone number and email address;
  - (b) the bail justice or acting bail justice becomes unable to perform the role of bail justice for a period of more than one month.
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**PART 3—MISCELLANEOUS**

**16 Particulars of warrants to be entered in the register**

For the purposes of section 57(2) of the Act, the following particulars are prescribed—

- (a) type of warrant issued;
- (b) date of issue of warrant;
- (c) in the case of a warrant to seize property or a warrant to imprison issued for non-payment of a fine—
  - (i) the sum in respect of which the warrant is issued; and
  - (ii) the person to whom the warrant is directed for execution.

**17 Issue of some warrants to seize property**

For the purposes of section 73(3AA)(f) of the Act the prescribed particulars are—

- (a) the direction of the warrant to the sheriff;  
and
- (b) the prescribed fee payable on the issue of the warrant.

**18 Venues of the Court—section 82(2)**

For the purposes of section 82(2) of the Act, the venues of the Court referred to in Schedule 4 are prescribed.

**19 Service of civil process by a member of the police force**

A member of the police force is not required to serve process in a civil proceeding in an area referred to in Schedule 5.

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**Sch. 1**

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**SCHEDULES**

**SCHEDULE 1**

Regulation 4

**REVOCATION**

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<i>S.R. No.</i>	<i>Title</i>
69/2000	Magistrates' Court General Regulations 2000
101/2009	Magistrates' Court General Amendment Regulations 2009
170/2009	Magistrates' Court General Amendment Regulations 2009
122/2010	Magistrates' Court General Amendment Regulations 2010

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**SCHEDULE 2**

Regulation 6(1)

**OATHS OF OFFICE**

**PART 1**

**OATH OF OFFICE OF MAGISTRATE, BAIL JUSTICE OR ACTING  
BAIL JUSTICE**

I, [*full name*], swear by Almighty God that as a \*magistrate for Victoria/\*bail justice I shall at all times and in all things do equal justice to all persons and discharge the duties of my office according to law and to the best of my knowledge and ability without fear favour or affection.

\*Delete if inapplicable.

An acting bail justice is to take the same oath as a bail justice.

Regulation 6(2)

**PART 2**

**OATH OF OFFICE OF JUSTICE OF THE PEACE**

I, [*full name*], swear by Almighty God that as a Justice of the Peace for Victoria I shall at all times discharge the duties of my office according to the law and to the best of my knowledge and ability.

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**SCHEDULE 3**

Regulation 7

**CODE OF CONDUCT FOR BAIL JUSTICES AND ACTING  
BAIL JUSTICES**

**Conduct**

1. A bail justice or an acting bail justice must maintain and uphold the oath of office and discharge the functions of a bail justice in accordance with the law to the best of his or her ability.
2. A bail justice or an acting bail justice must act, and be seen to act, independently, impartially and without prejudice or discrimination when performing his or her bail justice functions.

**Example**

A bail justice must not discuss an application with officers of Victoria Police or the Department of Human Services before hearing a bail application under the **Bail Act 1977** or an interim accommodation order application under the **Children, Youth and Families Act 2005**. This does not preclude a bail justice from discussing any potential safety or security concerns with those officers prior to conducting a hearing.

3. A bail justice or an acting bail justice must act, and be seen to act, with due care, diligence, honesty, integrity and respect at all times when performing his or her bail justice functions.
4. A bail justice or an acting bail justice must not—
  - (a) behave in a way that brings the office of bail justice into disrepute;
  - (b) improperly influence or attempt to influence a person when performing his or her bail justice functions;
  - (c) use his or her position as bail justice to gain benefit or advantage, or to be seen to gain benefit or advantage, for himself or herself, another person, an organisation or an agency;
  - (d) advertise his or her position as a bail justice for the purpose of advancing his or her business interests or commercial interests.
5. A bail justice or an acting bail justice must not charge a fee, or accept gifts, favours or patronage in return for performing his or her bail justice functions.
6. A bail justice or an acting bail justice must not use the letters "BJ" after his or her name.

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7. A bail justice or an acting bail justice must make himself or herself reasonably available to be rostered for duty as a bail justice.
  8. A bail justice or an acting bail justice must not unreasonably refuse to perform his or her duty as a bail justice when rostered to do so.
  9. A bail justice or an acting bail justice must not—
    - (a) purport to exercise powers other than those conferred on him or her as a bail justice;
    - (b) provide legal advice in his or her capacity as a bail justice.

**Conflict of interest**

10. If a bail justice or an acting bail justice has personal, family, financial or business interests, or is a member of a recreational, professional, or personal interest organisation, or a political party, and it conflicts with a matter before him or her, the bail justice or acting bail justice must—
  - (a) disclose the conflict of interest; and
  - (b) decline to perform his or her bail justice functions.

**Competency and knowledge**

11. A bail justice or an acting bail justice must endeavour to maintain a competent knowledge of all laws applicable to the functions of a bail justice.
12. A bail justice or an acting bail justice must comply with the guidelines, if any, in effect under section 124AB of the Act.

**Privacy**

13. A bail justice or an acting bail justice must not make use of or disclose information or documents obtained in the course of carrying out his or her functions as a bail justice, other than for the purpose of performing those functions or as otherwise authorised or required by law.
14. A bail justice or an acting bail justice must not make public comment about any bail hearing he or she conducts, other than providing the decision made in a hearing and the reasons for that decision, confining those reasons to the factors in section 4 of the **Bail Act 1977**.

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**SCHEDULE 4**

Regulation 18

**PRESCRIBED VENUES OF THE COURT FOR THE  
PURPOSES OF SECTION 82(2) OF THE MAGISTRATES'  
COURT ACT 1989**

Ararat	Heidelberg	Ouyen
Bacchus Marsh	Hopetoun	Portland
Bairnsdale	Horsham	Preston
Ballarat	Kerang	Ringwood
Benalla	Korumburra	Robinvale
Bendigo	Kyneton	Sale
Broadmeadows	Latrobe Valley	Seymour
Castlemaine	Mansfield	Shepparton
Cobram	Maryborough	Stawell
Colac	Melbourne	St Arnaud
Corryong	Mildura	Sunshine
Dandenong	Moe	Swan Hill
Drug Court (Dandenong)	Moonee Ponds	Wangaratta
Dromana	Moorabbin Justice Centre (Highett)	Warrnambool
Echuca	Myrtleford	Werribee
Edenhope	Neighbourhood Justice Centre (Collingwood)	Wodonga
Frankston	Nhill	Wonthaggi
Geelong	Omeo	
Hamilton	Orbost	

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**SCHEDULE 5**

Regulation 19

**AREAS IN WHICH A MEMBER OF THE POLICE FORCE IS  
NOT REQUIRED TO SERVE PROCESS IN A CIVIL  
PROCEEDING**

Alpine Shire Council	Hobsons Bay City Council
Ararat Rural City Council	Horsham Rural City Council
Ballarat City Council	(except for the area known as the former Shire of Arapiles)
Banyule City Council	Hume City Council
Bass Coast Shire Council	Indigo Shire Council
Baw Baw Shire Council	Kingston City Council
Bayside City Council	Knox City Council
Benalla Rural City Council	La Trobe Shire Council
Boroondara City Council	Loddon Shire Council
Borough of Queenscliff	Macedon Ranges Shire Council
Brimbank City Council	Manningham City Council
Buloke Shire Council (except for the area known as the former Shire of Wycheproof)	Mansfield Shire Council
Campaspe Shire Council	Maribyrnong City Council
Cardinia Shire Council	Maroondah City Council
Casey City Council	Melbourne City Council
Central Goldfields Shire Council	Melton Shire Council
Colac Otway Shire Council	Mildura Rural City Council
Corangamite Shire Council	(except for the area known as the former Shire of Walpeup)
Darebin City Council	Mitchell Shire Council
East Gippsland Shire Council	Moira Shire Council
(except for the area known as the former Shire of Omeo)	Monash City Council
Frankston City Council	Moonee Valley City Council
Gannawarra Shire Council	Moorabool Shire Council
Glen Eira City Council	Moreland City Council
Glenelg Shire Council (except for the area known as the former Shire of Heywood)	Mornington Peninsula Shire Council
Golden Plains Shire Council	Mount Alexander Shire Council
Greater Bendigo City Council	Moyne Shire Council
Greater Dandenong City Council	Murrindindi Shire Council
Greater Geelong City Council	Nillumbik Shire Council
Greater Shepparton City Council	Northern Grampians Shire Council
Hepburn Shire Council	Port Phillip City Council
Hindmarsh Shire Council	Pyrenees Shire Council
	South Gippsland Shire Council
	Southern Grampians Shire Council

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**Sch. 5**

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Stonnington City Council	Wellington Shire Council
Strathbogie Shire Council	West Wimmera Shire Council
Surf Coast Shire Council	Whitehorse City Council
Swan Hill Rural City Council	Whittlesea City Council
(except for the area known as	Wodonga City Council
the former Shire of Swan Hill)	Wyndham City Council
Towong Shire Council (except	Yarra City Council
for the area known as the	Yarra Ranges Shire Council
former Shire of Upper Murray)	Yarriambiack Shire Council
Wangaratta Rural City Council	(except for the area known as
Warrnambool City Council	the former Shire of Karkaroc)

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## ENDNOTES

### 1. General Information

The Magistrates' Court General Regulations 2011, S.R. No. 55/2011 were made on 5 July 2011 by the Governor in Council under section 140 of the **Magistrates' Court Act 1989**, No. 51/1989 and came into operation on 10 July 2011: regulation 3.

The Magistrates' Court General Regulations 2011 will sunset 10 years after the day of making on 5 July 2021 (see section 5 of the **Subordinate Legislation Act 1994**).

**Endnotes**

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**2. Table of Amendments**

There are no amendments made to the Magistrates' Court General Regulations 2011 by statutory rules, subordinate instruments and Acts.

**3. Explanatory Details**

No entries at date of publication.