

LOCAL COURTS ACT 1982—REGULATION

(Local Courts Regulation 1994)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Local Courts Act 1982, has been pleased to make the Regulation set forth hereunder.

J. P. HANNAFORD, M.L.C.,
Minister for Justice.

Citation

1. This Regulation may be cited as the Local Courts Regulation 1994.

Commencement

2. This Regulation commences on 1 September 1994.

Definitions

3. In this Regulation:

“**Designated Magistrate**” means any of the following:

- (a) the State Coroner;
- (b) the Chairman of the Licensing Court;
- (c) the Chief Industrial Magistrate;
- (d) the Senior Children’s Magistrate;

“**the Act**” means the Local Courts Act 1982.

Seniority of Magistrates generally

4. (1) The order of seniority of Magistrates is as follows:
Chief Magistrate
Deputy Chief Magistrate

Designated Magistrate
Magistrate

(2) A Magistrate who has limited tenure, or who is the holder of a prescribed office within the meaning of the Act, is not entitled to seniority over any other Magistrate.

Seniority of Magistrates within the same class

5. (1) A Magistrate is senior to another Magistrate if the appointment of the Magistrate took effect before the appointment of the other Magistrate.

(2) If the appointment of two or more Magistrates took effect on the same day, the various Magistrates have seniority:

- (a) according to their instruments of appointment; or
- (b) if their instruments of appointment do not provide for seniority between them, according to the order in which they took and subscribed the oaths, or made and subscribed the affirmations, referred to in section 16 (1) of the Act.

(3) A Designated Magistrate is senior to another Designated Magistrate:

- (a) if the salary of the Designated Magistrate is greater than that of the other Designated Magistrate; or
- (b) where the salaries are equal, if the appointment of the Designated Magistrate (as a Designated Magistrate) took effect before the appointment of the other Designated Magistrate (as a Designated Magistrate).

(4) A Deputy Chief Magistrate is senior to another Deputy Chief Magistrate if the appointment of the Deputy Chief Magistrate (as a Deputy Chief Magistrate) took effect before the appointment of the other Deputy Chief Magistrate (as a Deputy Chief Magistrate).

(5) This clause does not affect the order of seniority set out in clause 4.

Court dress

6. No Magistrate may robe at any sitting of a Local Court.

Prescribed oaths: sec. 16

7. For the purposes of section 16 (1) (a) of the Act, the following oaths under the Oaths Act 1900 are prescribed:

- (a) the oath of allegiance;
- (b) the judicial oath.

Repeal

8. (1) The Local Courts Regulation 1985 is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the Local Courts Regulation 1985, had effect under that Regulation is taken to have effect under this Regulation.

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EXPLANATORY NOTE

The object of this Regulation is to repeal and remake the Local Courts Regulation 1985 under the Local Courts Act 1982. The new Regulation deals with the following matters:

- (a) providing for seniority between different classes of Magistrate (clause 4) and between different Magistrates within the same class (clause 5);
- (b) prohibiting Magistrates from wearing judicial robes while sitting in court (clause 6);
- (c) prescribing the oaths to be taken by a person on his or her appointment as a Magistrate (clause 7);
- (d) providing for citation, commencement and other formal matters (clauses 1, 2, 3 and 8).

This Regulation is made under the Local Courts Act 1982, including section 28 (the general regulation making power) and section 16.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
