

Western Australia

**Stipendiary Magistrates (Examinations)  
Regulations 1979**

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## Stipendiary Magistrates (Examinations) Regulations 1979

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STIPENDIARY MAGISTRATES ACT 1957

**Stipendiary Magistrates (Examinations)  
Regulations 1979**

HIS Excellency the Governor in Executive Council acting under the *Stipendiary Magistrates Act 1957* and section 11 of the *Interpretation Act 1918* has been pleased to make the regulations set out in the Schedule below to take effect on and from the day that the *Stipendiary Magistrates Act Amendment Act 1979* comes into operation.

**1. Citation**

These regulations may be cited as the *Stipendiary Magistrates (Examinations) Regulations 1979*.

**2. Interpretation**

In these regulations unless the contrary intention appears —

“**Board**” means the Stipendiary Magistrates Examinations Board appointed under regulation 3;

“**member**” means a member of the Board.

*[Regulation 2 amended by Gazette 27 February 1987 p.500.]*

**3. Stipendiary Magistrates Examination Board**

- (1) There shall be a Board to be known as the Stipendiary Magistrates Examinations Board.
- (2) The Board shall consist of three persons appointed by the Governor.

**r. 4**

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- (3) The Governor may appoint a person to be the deputy of a member of the Board and the person so appointed has, in the event of the member for whom he is the deputy being unable to attend to his duties under these regulations, whether on account of illness or otherwise, all the functions, powers and duties of that member.

**4. Constitution and proceedings of the Board**

- (1) To the extent that it is not prescribed the Board shall determine its own procedure.
- (2) At a meeting of the Board two members shall constitute a quorum.
- (3) Any question arising at a meeting of the Board shall be decided by a majority of the members present and voting and in the event of an equality of votes being cast, that question shall be adjourned until the next meeting of the Board at which three members are present.

**5. Board to conduct examinations**

The Board shall conduct the examinations prescribed by regulation 6.

**6. Examinations**

- (1) The examinations prescribed for the purposes of paragraph (c) of subsection (2) of section 4 of the Act shall comprise examinations in the following subjects —
- Legal process;
  - Contract;
  - Criminal Law;
  - Criminology;
  - Torts;
  - Evidence and Legal Interpretation;
  - Real Property;
  - Personal Property;
  - Trusts and Equity;

Constitutional Law;  
Administrative Law;  
Employment Law;  
Family Law; and  
Practice and Procedure.

- (2) An examination may consist of more than one paper and may in the case of a particular candidate be supplemented by an oral examination.
- (3) Notwithstanding anything in subregulations (1) and (2) of this regulation but subject to subregulation (4) of this regulation where the Board is satisfied that a candidate has passed an examination in —
- (a) a subject in the course prescribed under the Statutes of the University of Western Australia for the degree of Bachelor of Jurisprudence or Bachelor of Laws; or
  - (b) a subject in a course conducted by any other body being a course which in the opinion of the Board is of an equivalent standard to the standard required for an examination prescribed under these regulations,

that is similar to a subject prescribed under subregulation (1) of this regulation, the Board may permit a candidate to be accredited with a pass in the subject prescribed under subregulation (1) of this regulation and where it does so the candidate is deemed to have passed the examination in the subject so prescribed.

- (4) A pass in a subject —
- (a) at an examination conducted by the Board; or
  - (b) at an examination conducted by another body referred to in subregulation (3) of this regulation,

is valid only for a period of five years commencing from the date that the examination is taken unless the Board determines that the candidate has maintained adequate knowledge of the subject.

**r. 6A**

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**6A. Two years from commencement of *Stipendiary Magistrates Amendment Act 1986* to complete examinations**

The time prescribed under section 4 (2) (c) (ii) of the Act within which a person to whom that provision applies must pass the other prescribed examinations and fulfil such other requirements as are prescribed is the period of 2 years commencing from the day on which the *Stipendiary Magistrates Amendment Act 1986* comes into operation.

*[Regulation 6A inserted by Gazette 27 February 1987 p.500.]*

**7. Board may provide a syllabus**

The Board may supply to any person desirous of becoming a candidate for the examinations prescribed under these regulations a syllabus of the course for each subject.

**8. Time and place of examination**

An examination referred to in subregulation (1) of regulation 6 shall be held at such time and place as is determined by the Board.

**9. Recognition of prior examination results**

A person who before the coming into operation of the *Stipendiary Magistrates Act Amendment Act 1979*—

- (a) passed a subject prescribed for the examination in law for the appointment of magistrates pursuant to section 25 of the *Public Service Act 1904* may be granted a pass by the Board in an examination for an equivalent subject prescribed under these regulations;
- (b) passed the examination in law for the appointment of magistrates pursuant to section 25 of the *Public Service Act 1904* may be granted a pass by the Board in all the examinations prescribed under subregulation (1) of regulation 6.

*[Regulation 9 inserted by Gazette 7 December 1979 p.3788.]*



**10. Limit of 6 years to pass examinations**

Where a candidate does not pass all the examinations prescribed by subregulation (1) of regulation 6 within six years of passing the first examination prescribed under that subregulation the candidate shall not sit for any further examination and shall not be credited with a pass in any examination except by leave of the Board.

**11. Pass certificate**

- (1) The Board shall issue to a candidate who has passed all the examinations prescribed under subregulation (1) of regulation 6 a certificate to that effect.
- (2) A certificate issued pursuant to subregulation (1) of this regulation shall be signed by not less than two members of the Board.

**12. Attorney General to set fees**

- (1) The Attorney General may from time to time by notice in the *Government Gazette* specify the fees payable —
  - (a) to lecturers and examiners; and
  - (b) by candidates,with respect to any examinations referred to in these regulations.
- (2) A notice under subregulation (1) of this regulation may be varied or cancelled by the Attorney General.

**Notes**

- <sup>1.</sup> This is a compilation of the *Stipendiary Magistrates (Examinations) Regulations 1979* and includes the amendments made by the other written laws referred to in the following table.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Stipendiary Magistrates (Examinations) Regulations 1979</i>	21 Sep 1979 p. 2922-3	21 Sep 1979
	7 Dec 1979 p. 3788	7 Dec 1979
	27 Feb 1987 p. 500	27 Feb 1987

- <sup>2.</sup> The *Courts Legislation Amendment and Repeal Act 2004* Pt. 4 reads as follows:  
“

**Part 4 — *Stipendiary Magistrates Act 1957* repealed**

**15. Transitional provisions**

- (1) In this section —  
“**commencement**” means the commencement of this Part;  
“**repealed Act**” means the *Stipendiary Magistrates Act 1957*.
- (2) If immediately before commencement a person, by virtue of an appointment under a provision of the repealed Act referred to in column 1 of the Table to this subsection, holds an office described in column 2, then on commencement the person is to be taken to have been appointed under the provision of the *Magistrates Court Act 2004* referred to in column 3 to the office described in column 4.

**Table**

<b>Repealed Act</b>	<b>Old office</b>	<b><i>Magistrates Court Act 2004</i></b>	<b>New office</b>
s. 4(1)	Stipendiary magistrate	Schedule 1 clause 3	Magistrate
s. 4(4)	Chief Stipendiary Magistrate	Schedule 1 clause 6(1)	Chief Magistrate
s. 4(4)	Deputy Chief Stipendiary Magistrate	Schedule 1 clause 6(2)	Deputy Chief Magistrate

s. 5C(2)	Stipendiary magistrate on terms and conditions	Schedule 1 clause 9	Acting magistrate on the same terms and conditions
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- (3) If immediately before commencement a person is the subject of a direction made under section 5B(3) of the repealed Act, then on commencement the person is to be taken to have been appointed under the *Magistrates Court Act 2004* Schedule 1 clause 9 as an acting magistrate for a period ending at the time when the person would leave office under the direction.
- (4) A person who under this section is taken to have been appointed under the *Magistrates Court Act 2004* to an office is not required to take the oaths or affirmations of office under that Act in respect of that office.
- (5) For the purposes of the *Magistrates Court Act 2004* Schedule 1 clause 7 the seniority of people who under subsection (2) are to be taken to have been appointed as magistrates of the Magistrates Court is to be determined according to the dates of their appointment as stipendiary magistrates.
- (6) The remuneration, existing or accrued rights, rights under a superannuation scheme, or continuity of service, of a stipendiary magistrate to whom subsections (2) and (3) apply is not affected by those subsections.
- (7) A reference in a written law or book, document or writing to a stipendiary magistrate is, unless the contrary intention appears, to be construed as if it had been amended to be a reference to a magistrate.
- (8) A reference in a written law or book, document or writing to the Chief Stipendiary Magistrate is, unless the contrary intention appears, to be construed as if it had been amended to be a reference to the Chief Magistrate.

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