Guidelines for the use of Commissioners for Oaths

*This information package is prepared to assist Commissioners for Oaths. It is not intended to be legal advice.

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I. WHO CAN APPLY TO BECOME A COMMISSIONER FOR OATHS?

- Anyone over the age of 18.

II. HOW DOES SOMEONE BECOME A COMMISSIONER FOR OATHS?

(a) Complete an Application. Applications can be found:

2. From the Ministry of Justice, Court Services – 10th Floor, 1874 Scarth Street, Regina.
3. Through the Commissioner for Oaths and Notary Public Inquiry Line 306-787-4117.

(b) Be appointed by the Minister of Justice and Attorney General.

a. The Minister of Justice and Attorney General, pursuant to the The Commissioners for Oaths Act, 2012, may appoint Commissioners for Oaths.

NOTE: An appointment as a Commissioner for Oaths expires five years from the last day of the month in which the appointment is effective. If you apply for renewal of your appointment before the expiry of your term, the term is extended until the application is either approved or denied.

(c) The following are automatically Commissioners for Oaths by virtue of their title or offices:

a. Duly enrolled Lawyer;
b. Member of the Legislative Assembly;
c. Registrar and Deputy Registrar of the Court of Appeal;
d. Registrar of the Court of Queen’s Bench;
e. Registrar of the Provincial Court;
f. Local Registrar or Deputy Local Register of the Court of Queen’s Bench;
g. Sheriff or Deputy Sheriff;
h. Inspector of Court Offices;
i. Senior military officers:
   - A lieutenant or higher in the naval forces;
   - A captain or higher in the military forces;
   - A captain or higher in the air forces;

j. Member of the Royal Canadian Mounted Police;

k. Member as defined in *The Police Act, 1991*;

l. Certain government employees listed in the regulations.

III. WHAT CAN A COMMISSIONER DO?

- Administer oaths;
- Administer and receive affirmations; and
- Receive declarations.

IV. WHAT IS AN AFFIDAVIT?

(a) Sample Affidavit

**AFFIDAVIT OF A.B.**

I, A.B. of the City of Regina, in the Province of Saskatchewan, ___(occupation)___, make oath and say that:

1. 
2. 
3. 

Sworn before me at the City of Regina, )
in the Province of Saskatchewan, )
this _____ day of ______, 20____. )
 ) (Signature of A.B.)

____________________________
(Commissioner’s signature)
A Commissioner for Oaths for Saskatchewan.
My commission expires on ____________.
(b) **Commissioner’s Signature**

A Commissioner for Oaths must write or stamp below his or her signature, on every affidavit, declaration or other document made before the person, one of the following phrases, depending on his or her appointment:

- “A Commissioner for Oaths for Saskatchewan, being a lawyer.”
- “A Commissioner for Oaths for Saskatchewan, being a solicitor.”
- “A Commissioner for Oaths for Saskatchewan, being a lawyer.”
- “A Commissioner for Oaths for Saskatchewan, being a M.L.A.”
- “A Commissioner for Oaths for Saskatchewan, being a [rank] in the Canadian Armed Forces.”
- “A Commissioner for Oaths for Saskatchewan, being a government official.”
- “A Commissioner for Oaths for Saskatchewan, being a police officer.”

**NOTE:** Insert expiration date by reference to date and year of expiry shown on the appointment documents. There is no expiration date for Commissioners whose status is automatic, such as lawyers, MLAs, officers in the Canadian Forces, police and government officials designated in the regulations.
(c) Jurats

The jurat is the part of the affidavit that describes the circumstances under which the affidavit or document was made.

<table>
<thead>
<tr>
<th>Sample Jurat</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sworn before me at the City of Regina, )</td>
</tr>
<tr>
<td>in the Province of Saskatchewan, )</td>
</tr>
<tr>
<td>this 1 day of January, 2001. )</td>
</tr>
</tbody>
</table>

The jurat should include:

- The date of swearing, affirming or declaring;
- The place where the document was sworn, affirmed or declared. It is important to list the place where the document was taken to prove that the Commissioner was acting within his or her territorial jurisdiction.
- Whether the person making the document swore an oath, affirmed or declared the contents of the affidavit.
  - In the case of an oath, the jurat should include the words:
    - “Sworn before me”.
  - In the case of an affirmation, the jurat should include the words:
    - “Affirmed before me”.
  - In the case of a declaration, the jurat should include the words:
    - “Declared before me”.

(d) Alterations and Errors

If you need to alter or make a change in the jurat or the body of the affidavit, the alteration should be identified by use of initials of the Commissioner.

<table>
<thead>
<tr>
<th>Correct method of alteration</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Sworn before me at Regina, Saskatchewan this 1st day of January, 2001 ABC 2004</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Incorrect method of alteration</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Sworn before me at Regina, Saskatchewan this 1st day of January, 2001ABC 2004</td>
</tr>
</tbody>
</table>
(e) Reswearing

It may be that an affidavit requires reswearing (although this is rare). An affidavit can be resworn at any time prior to use but a second jurat is required. This second jurat must use the word “resworn” and read as follows:

“Resworn before me at
Regina, Saskatchewan, this
1st day of January, 2003.”

(f) Exhibits

Often, an affidavit will contain documents or copies of documents that are attached as exhibits. An affidavit is a narrative completed by the person making the affidavit and often the narrative is assisted by copies of letters, records or other documents.

For example, an affidavit may say:

“Attached to this my affidavit as Exhibit “A” is a true copy of __[name of document]__.”

Where there are exhibits attached to the affidavit, the Commissioner should confirm that the document attached to the affidavit is the exhibit. The Commissioner should ask: “Is this the document referred to in your affidavit?”

Each exhibit must bear the authentication of the Commissioner. The exhibit reference should be as follows:

“This is Exhibit ‘__’ (A, B, C, etc...) referred to in the affidavit of A.B. sworn before me
this 1st day of January, A.D., 2001.”

__________________________

(Commissioner’s signature)

(g) Schedules

Schedules or appendices to an affidavit should precede the jurat. Where they are placed after the jurat, the Commissioner must initial each schedule and the person who makes the affidavit (the deponent) should sign the schedule or appendix.
V. HOW TO ADMINISTER AN OATH

An oath is a solemn appeal to a Supreme Being attesting to the truth of some statement. A person who gives an oath must believe in a Supreme Being who will punish the person if the person swears falsely.

The recommended manner of providing an oath is as follows:

a) The deponent must be present.
b) The Commissioner must ask the deponent to sign the document.
   a. If the signature has already been signed, the Commissioner shall ask the person to acknowledge the signature (e.g. “Is this your signature?” or “Did you sign this document?”).
c) If the document has not been signed, the Commissioner will ask the deponent to sign it.
d) The Commissioner must ask the deponent to swear an oath stating that the contents of the affidavit are true.

Example where document is already signed:

The Commissioner may request the deponent to swear and state as follows:

“This is my name and signature (point to the signature) and I swear that the contents of this, my affidavit, are true. So help me God.”

-OR-

The Commissioner might point to the signature and ask: “Is that your name and handwriting?”

The deponent should indicate that it is the deponent’s name and signature.

The Commissioner then asks: “Do you swear the contents of this, your affidavit, are true, so help you God?”

The deponent should reply: “I do.”

e) Once the deponent has sworn that the contents of the affidavit are true, the Commissioner should immediately complete the jurat by setting out the date and place where the oath was administered.
f) The Commissioner should immediately sign the jurat.
g) The Commissioner should write or stamp below the signature and fill in the date (as per above).

VI. HOW TO ADMINISTER AN AFFIRMATION

An affirmation can be substituted for an oath. It can be used if a person objects to being sworn on the basis of religious belief, conscience or because the oath would have no binding effect. An affirmation is a solemn and formal declaration that a certain statement is true. An affirmation is as binding and effective as an oath.

The recommended manner for receiving an affirmation is as follows:

a) The person signing the affirmation (affirmant) must be present.

b) The Commissioner must ask the affirmant to sign the document.

   a. If the document has already been signed, the Commissioner shall ask the affirmant to acknowledge the signature (e.g. “Is this your signature?” or “Did you sign this document?”).

   c) The Commissioner shall ask that the affirmant affirm the truth of the affidavit.
The Commissioner may ask: “Do you affirm the contents of this, your affidavit are true?”

The affirmant should reply: “I do.”

Example where document is already signed:

The Commissioner may request that the affirmant point to the signature and state:

“This is my name and signature and I affirm that the contents of this my affidavit are true.”

-OR-

The Commissioner might point to the signature and ask: “Is that your name and handwriting?”

The affirmant should indicate that it is his or her name and signature.

The Commissioner then asks: “Do you affirm that the contents of this, your affidavit are true?”

The affirmant should reply: “I do.”

Once the affirmant has affirmed that the contents of the affidavit are true, the Commissioner should immediately complete the jurat by setting out the date and place where the affirmation was administered.

d) The Commissioner should immediately sign the jurat.
e) The Commissioner should write or stamp below the signature and fill in the date (as per above).

- “A Commissioner for Oaths for Saskatchewan, being a lawyer.”
- “A Commissioner for Oaths for Saskatchewan, being a solicitor.”
- “A Commissioner for Oaths for Saskatchewan, being a M.L.A.”
- “A Commissioner for Oaths for Saskatchewan, being a [rank] in the Canadian Armed Forces.”
- “A Commissioner for Oaths for Saskatchewan, being a government official.”
- “A Commissioner for Oaths for Saskatchewan, being a police officer.”
VII. HOW TO ADMINISTER A DECLARATION

A declaration is a written account proving the execution of any writing, deed or instrument, or the truth of any fact. A declaration has the same effect as an oath under the Canada Evidence Act or The Evidence Act of Saskatchewan.

The recommended manner for receiving a declaration is as follows:

a) The person signing the declaration (the declarant) must be present.

b) The Commissioner must ask the declarant to sign the document.

   a. If the document has already been signed, the Commissioner shall ask the declarant to acknowledge the signature (e.g. “Is this your signature?” or “Did you sign this document?”).

c) The Commissioner shall ask the declarant to acknowledge the truth of the affidavit.

Example where document is signed in presence of Commissioner:

The Commissioner may ask:
“Do you make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath or affirmation by virtue of the Canada Evidence Act (or The Evidence Act of Saskatchewan)?”

The declarant should reply:
“I do.”

Example where document is already signed:

The Commissioner may request that the declarant point to the signature and state:

“This is my name and handwriting. I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath or affirmation by virtue of the Canada Evidence Act (or The Evidence Act of Saskatchewan).”

-OR-

The Commissioner might point to the signature and ask:
“Is that your name and handwriting?”

The declarant should indicate that it is his or her name and signature.

The Commissioner then asks: “Do you make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath or affirmation by virtue of the Canada Evidence Act (or The Evidence Act of Saskatchewan)?”

The declarant should reply: “I do.”
d) Once the declarant has declared that the contents of the affidavit are true, the Commissioner should immediately complete the jurat by setting out the date and place where the declaration was administered.
e) The Commissioner should immediately sign his or her signature.
f) The Commissioner should write or stamp below his or her signature and fill in the date (as per above).

“A Commissioner for Oaths for Saskatchewan, being a lawyer.”
“A Commissioner for Oaths for Saskatchewan. Being a solicitor.”
“A Commissioner for Oaths for Saskatchewan. My appointment expires ____________”
“A Commissioner for Oaths for Saskatchewan. Being a MLA.”
“A Commissioner for Oaths for Saskatchewan. Being a [rank] in the Canadian Forces.”
“A Commissioner for Oaths for Saskatchewan, being a government official.”
“A Commissioner for Oaths for Saskatchewan, being a police officer.”

VIII. FOLLOWING A CONSISTENT PROCEDURE

It is important that a Commissioner follows a consistent procedure when administering an oath, affirmation or declaration.

A Commissioner may be called upon to give evidence in court or before a tribunal about how he or she took an oath, affirmation or declaration. Many Commissioners will take any number of oaths, affirmations or declarations each year and it may be impossible to recall the exact circumstances of a particular oath taking, affirmation or declaration.

Trials occur months, or sometimes years, after a particular event. Therefore, a Commissioner should follow a consistent procedure. By following a consistent procedure, a Commissioner may say that, while he or she cannot recall what was done in a particular case, that he or she did follow his or her usual practice. Where a Commissioner follows a consistent procedure, the Commissioner can testify to his or her regular practice.
IX. LEGAL RESPONSIBILITY OF COMMISSIONERS FOR OATHS

Commissioners are directed to Section 138 of the Criminal Code of Canada. It reads as follows:

“Every one who

(a) signs a writing that purports to be an affidavit or statutory declaration and to have been sworn or declared before him when the writing was not so sworn or declared or when he knows that he has no authority to administer the oath or declaration,

(b) uses or offers for use any writing purporting to be an affidavit or statutory declaration that he knows was not sworn or declared, as the case may be, by the affiant or declarant or before a person authorized in that behalf, or

(c) signs as affiant or declarant a writing that purports to be an affidavit or statutory declaration and to have been sworn or declared by him, as the case may be, when the writing was not so sworn or declared,

is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.”

X. FREQUENTLY ASKED QUESTIONS

(a) Can I take a declaration, oath or affirmation over the telephone?

No. The affirmation, declaration or oath must be taken in the presence of the Commissioner. It cannot be taken over the telephone.

(b) What is the difference between a Commissioner for Oaths and a Notary Public?

A Notary Public and a Commissioner share certain powers. Both can administer oaths and take affidavits, affirmations and declarations.

A Notary Public can also issue deeds and contracts in Saskatchewan and attest to commercial instruments brought to him or her. A notary is also able to complete the acknowledgement required under The Homesteads Act, 1989.
(c) Can a Commissioner for Oaths certify or verify true copies of documents?

No, a Commissioner for Oaths cannot make a photocopy of an original document and state that it is a true copy of the original. This is a duty of a Notary Public.

(d) Can a Commissioner for Oaths take a homesteads acknowledgement?

No. A Commissioner for Saskatchewan cannot take such acknowledgements.

Certifications of Acknowledgement may be taken by a Notary Public, Justice of the Peace, Judge or Solicitor.

(e) Can a Commissioner for Saskatchewan take affidavits under The Homesteads Act, 1989?

Yes. A Commissioner for Saskatchewan can take affidavits under The Homesteads Act, 1989. Commissioners for Oaths can take affidavits under Forms D and F.

(f) If I received my Commissioner status while employed by the government, what happens if I leave the government?

Normally, a government employee will acquire his or her Commissioner status as a part of employment. If the employee is designated in the regulations as a Commissioner by virtue of his or her office or status, the appointment ends as soon as the employee no longer holds that office or has that status. For all other government employees who apply in the usual way for an appointment, if the Commissioner leaves government service prior to his or her Commissioner expiry date, the Commissioner should report the change in employment status to the Saskatchewan, Court Services, Commissioner for Oaths and Notary Public inquiry line 306-787-4117. Please note that an appointment as a Commissioner expires five years from the last day of the month in which the appointment is effective.

(g) Do I require identification from a person signing a document if I do not know that person?

There is no requirement that a deponent, affirant or declarant produce identification. The Commissioner should, however, point to the signature and have the person declare that it is his or her handwriting and that it is his or her document.
(h) Are members of the Legislative Assembly automatically Commissioners for Oaths?

Yes. Section 10 of *The Commissioners for Oaths Act, 2012*, states that a member of the Legislative Assembly may exercise the powers of a Commissioner.

(i) What should I do if a person who is unable to sign his or her name comes before me?

A Commissioner should read the affidavit or document to the deponent. The form of the jurat should be as follows:

Sworn before me )
               )
at ____________, in the Province of Saskatchewan, ) ____________
this ______ day of ________, 20___, the said ) (The mark of A.B.)
affidavit having been first read over in my )
presence to the deponent who seems perfectly )
to understand the same and signed the mark )
thereby in my presence.

The Commissioner should then have the person swear that it is his or her mark and that the contents of the affidavit are true.

(j) What should I do if a person who is visually impaired comes before me?

A Commissioner should read the affidavit or document to the deponent. The form of the jurat should be as follows:

Sworn by the deponent before me )
               )
at ____________, in the Province of Saskatchewan, ) ____________
this ______ day of ________, 20___, I having first ) (The mark of A.B.)
truly, distinctly and audibly read to him or her the )
contents of this affidavit and he or she being blind )
and he or she appeared to understand the same. )
(k) What should I do if a person who deposes through an interpreter comes before me?

The Commissioner should ask the interpreter the following:

“You swear that you well understand the language that you have truly, distinctly and audibly interpreted the contents of this affidavit to the deponent A.B. and that you will truly and faithfully interpret to him or her the oath about to be administered to him or her, so help you God?”

A Commissioner should use the following jurat:

Sworn before me at ________________, )
in the Province of Saskatchewan, this )________________________
_____ day of ________, 20__, by the deponent, A.B., ) (The signature of A.B.)
through the interpretation of C.D., the said C.D., )
having been first sworn that he or she truly, )
distinctly and audibly interpreted the contents of )
this affidavit to the deponent A.B. and that he or she )
would truly and faithfully interpret to the said A.B. )
the oath about to be administered to him or her. )

The Commissioner should then ask the deponent through the interpreter whether it is the deponent’s signature and that he or she swears that the contents of the affidavit are true.

NOTE: There are various forms of jurats which could be used to deal with specific fact situations. These jurats could also be used for affirmations by substituting the word “affixed” for “sworn.” If a situation should arise which requires assistance, contact the Court Services, Commissioner for Oaths and Notary Public office at (306) 787-4117.