
Guidelines for Commissioners for Oaths

Powers, Duties and Responsibilities



Notice

Please note that this booklet has **no legislative sanction**. Excerpts from The Manitoba Evidence Act have been embodied only for convenience of reference and that the original Act should be consulted for all purposes of interpreting and applying the law.

Guidelines
for
Commissioners for Oaths
in and for
The Province of Manitoba

FOREWORD

This booklet outlines the laws governing Commissioners for Oaths and the procedures they should follow. It explains the features, powers, duties and responsibilities of Commissioners for Oaths.

DEFINITIONS

- Oath** - a formal declaration or attestation in support of a pledge or promise.
- Declaration** - an open or formal announcement.
- Declarant** - a person who makes a declaration.
- Deponent** - a person who gives evidence, usually in writing.
- Affidavit** - a sworn, written declaration made before competent authority.
- Statutory Declaration** - a solemn declaration in lieu of an affidavit, by a person conscientiously unable to take an oath.
- Affirmation** - a solemn declaration by a person who declines taking an oath.
- Jurat** - the statement at the bottom of an affidavit, requiring the name(s) of the person(s) swearing to the affidavit, and where, when and before whom it was sworn.

PRECIS

Appointment, Powers, Duties and Responsibilities of Commissioners for Oaths

Commissioners for Oaths are appointed and empowered by the Minister. Each Commissioner for Oaths is considered to be an officer of the Court of Queen's Bench.

Every commissioner may take an affidavit or statutory declaration which concerns a legal document or proceeding in the Province of Manitoba. He/she may also take any affidavit or statutory declaration authorized by any law or statute.

Administration of Oaths

1.) Method.

Every oath, affirmation or statutory declaration shall be taken by the deponent or declarant in the presence of the commissioner, who shall satisfy himself/herself of the genuineness of the signature of the deponent or declarant.

The standard text of an affidavit is:

I(you), A.B., swear that the contents of this affidavit made and subscribed by me(you) are true. So help me(you) God.

Before the oath is taken, a deponent or declarant should, in the presence of a commissioner, hold a copy of the New or Old Testament and repeat the above mentioned text.

The commissioner may, however, repeat the above in the following form:

“Do you, A.B., swear that the contents of this affidavit made and subscribed by you are true. So help you God.”

If an atheist or other deponent, or declarant says that it is contrary to his/her religion to swear in this way, he/she can affirm the affidavit by saying:

I(you), A.B., do solemnly and sincerely affirm that the contents of this affidavit, made and subscribed by me(you) are true.

2.) Jurat.

The jurat must include the name(s) of the person(s) swearing to the affidavit, the time when, and the place where the affidavit is sworn, including the name of the city, town, province, and country. The jurat should be written at the end of the affidavit but not on a separate page.

Example:

Sworn (affirmed or declared) before me at the City of Winnipeg in the Province of Manitoba, this
(e.g. 1st day of July, 2006)

“A.B.”
(Deponent’s or
Declarant’s Signature)

“John Doe” (Signature of Commissioner)

A Commissioner for Oaths in and for the Province of Manitoba. My Commission expires
(e.g. September 1, 2008)

3.) Illiterate or Blind Deponent or Declarant

In this case the contents of the affidavit or statutory declaration should first be read orally by the commissioner. The form of jurat should be as follows:

Example:

“Sworn (affirmed or declared) before me, at the City (Town) of
(e.g. Winnipeg)
in the Province of Manitoba,
this
(e.g. December 1, 2006)

having first been read over and explained by me to the deponent (or declarant), who, being incapable of reading the contents of the affidavit or declaration, appeared to understand the same and (choose one):

- a) signed his/her signature in my presence; or
- b) made his/her mark in my presence; or
- c) verbally indicated his/her understanding of the affidavit or declaration.

“John Doe” (Signature of Commissioner)

A Commissioner for Oaths in and for the Province of Manitoba. My Commission expires.....
(e.g. September 1, 2008)

4.) Two or more Deponents or Declarants.

In this case the word “severally” should be placed at the beginning of the jurat as follows:

“Severally sworn (affirmed or declared) before me, etc.”

5.) Physically Incapacitated Deponent or Declarant.

The form of jurat in this case should be as follows:

“Sworn (affirmed or declared) before me, etc., by the deponent (or declarant), who being incapable of writing his/her name (choose one):

- a) made his/her mark in my presence; or
- b) verbally indicated his/her understanding of the affidavit or declaration.

A Commissioner for Oaths, etc.

6.) Foreign Language.

If the deponent or declarant speaks only a foreign language, and an interpreter is used, the form of the translated jurat should be as follows:

“Sworn (affirmed or declared) before me, at the City (Town) of.....
in the Province of Manitoba,
this.....
(e.g. December 1, 2006)
through the interpretation of.....
(e.g. John Doe)
of the City (Town) of
in the Province of.....
said (name of interpreter) having been first sworn truly and faithfully to interpret the contents of this affidavit (affirmation or declaration) to the deponent (or declarant), and truly and faithfully, to interpret the oath about to be administered to him/her (or declaration about to be taken by him/her.)”

A Commissioner for Oaths, etc.

Before the interpreter proceeds to interpret he/she should be sworn (or should affirm) as follows:

“Do you, A.B., swear (solemnly and sincerely affirm) that you will truly and faithfully and to the best of your ability interpret and translate the contents of this affidavit (declaration) to the deponent (declarant) and the oath about to be administered to him/her (declaration about to be taken by him/her) out of the English language into the language of the deponent (declarant), and also in like manner interpret and translate the oath (declaration) taken by him/her out of the language of the deponent (declarant) into the English language (So help you God.)”

7.) Alterations in Affidavits.

A new affidavit has to be sworn if there is a change in the text of an affidavit. In the case where this is not possible the jurat of the original affidavit should indicate clearly that it has been resworn. The date and place must be changed.

Before reswearing an oath, affirmation or declaration a commissioner must initial every change to an affidavit by a deponent or declarant. He/she should also place his/her initials opposite any changes in the jurat or in the body of the document.

8.) Statutory Declarations.

Any person authorized to take affidavits may receive the solemn declaration of any person voluntarily making it before him/her in the following form:

I, A.B., do solemnly declare that (state the fact or facts declared to), and 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.

Declared before me at the City (Town)
of.....
in the Province of Manitoba, this.....day of.....20.....
(e.g. 1st day of July 2006)

9.) Commission and Renewal.

Every commission issued to a commissioner under this Act is valid for two years from the date of its issue. The commission may be renewed six months before or within one year after its expiration upon payment to the government of a fee prescribed by the Lieutenant Governor in Council.

10.) Expiry Date and Penalties.

Every affidavit, declaration or certificate, taken or given by a commissioner whose commission is one that expires under this Act shall include the date on which his/her commission expires. A commissioner who fails to comply with this provision is guilty of an offence and is liable, on summary conviction, to a fine not exceeding \$10.00 and costs.

Notes