

# Taking Oaths, Affirmations and Statutory Declarations

\*\*\*This information package is intended for someone who has been appointed as a Commissioner for Oaths within Manitoba. It is not legal advice.

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## **Commissioner for Oaths**

### **Who can take oaths, affirmations and statutory declarations in Manitoba?**

A person who is appointed under [The Manitoba Evidence Act](#) as a Commissioner for Oaths has the authority by law to take oaths, affirmations and statutory declarations within or outside of Manitoba for documents staying in Manitoba. Generally, a Commissioner for Oaths performs these duties as part of their employment.

A Commissioner for Oaths cannot certify true copies or perform any duties a lawyer would normally complete.

### **What is an Oath?**

Generally, an oath is a solemn promise to do something or that something is true. Making an oath signifies a person is bound in conscience to act faithfully and truthfully and usually includes an appeal to God to witness the person's words.

### **What is an Affirmation?**

An affirmation is a solemn declaration that the contents of an affidavit (written statement of facts) is true.

### **What is a Statutory Declaration?**

Similar to an affidavit, a statutory declaration is a written statement of facts that is verified by the person making an oath or affirming it to be true.

### **Why are oaths, affirmations and statutory declarations important?**

Affidavits and statutory declarations are used as evidence in making legal decisions. They are the equivalent of giving testimony in Court.

### **Can an oath, affirmation or statutory declaration be witnessed remotely?**

Yes. The steps are similar to taking an oath, affirmation or statutory declaration in person however there are particular criteria that must be followed if done remotely. Please carefully read the instructions below.

### **Can a Commissioner for Oaths charge a service fee?**

No.

### **Should a Commissioner for Oaths keep a record of all oaths, affirmations or statutory declarations?**

It is best practise to keep a record as a Commissioner for Oaths can be called to court to testify.

### **Can a Commissioner for Oaths refuse to take an oath, affirmation or statutory declaration?**

Yes. If it is determined that any step cannot be completed to the Commissioner's satisfaction, you can refuse to complete it or complete it at another time. In addition, if any conflicts of interest (i.e. circumstances that may call into question the validity of you taking the oath, affirmation or statutory declaration) are identified it is in your best interest to refuse.

## **Taking an oath, affirmation or statutory declaration**

The processes for taking an oath, affirmation or statutory declaration are set out in *The Manitoba Evidence Act* ([C.C.S.M. c. E150 \(gov.mb.ca\)](#)) and the Remote Commissioning Regulation ([Remote Commissioning Regulation, M.R. 78/2021 \(gov.mb.ca\)](#)).

### **Confirm identity**

You must meet with the person making the oath, affirmation or statutory declaration in person or by videoconference. This person is called the deponent or declarant. You and the person must be able to see and hear each other.

It is your responsibility to ensure the person's signature on the oath, affirmation or statutory declaration is genuine by confirming their identity. If you have previously confirmed identity, it is not necessary a second time.

Confirming identity can be done in one of the following ways:

- a current government-issued photo identification
- two of the following:
  - information from a reliable source that contains the person's name and address
  - information from a reliable source that contains the person's name and date of birth
  - information that contains the person's name and confirms they have a deposit account, credit card or other loan account with a financial institution

**NOTE:** A reliable source must be independent of you, the person making the oath, affirmation or statutory declaration or any other person directly involved. Examples of a reliable source are federal, provincial, territorial and municipal levels of government, crown corporations, financial institutions or utility providers. You must also see the original hardcopy or electronic document; a reliable source cannot be a copy.

### **Understanding the content**

You must be satisfied the person understands the nature, content and significance of the oath, affirmation or statutory declaration and they are signing of their own free will. Any of these documents could be submitted into a court of law and therefore must be valid and accurate. If, for any reason, you believe the person does not understand or is not acting of their own free will you should not proceed.

### **Original copies**

Original copies must be used whether the oath, affirmation or statutory declaration is taken in person or by video conference. Before the videoconference, the person must send the entire original document to you, whether by hardcopy or electronically. It is important you see each page of the document. Ideally, the documents should be complete without any changes or corrections however, changes identified in person can be handled by placing a check mark at the beginning and end of the change with your and the person's initials.

**NOTE:** If there are changes identified during the videoconference, the person may make the change in the same manner as in person. You should also document the change at the same time. For example, make the same change on your copy or take a screen shot.

## **Taking the oath, affirmation or declaration and signing**

You must hear the oath, affirmation or statutory declaration and observe them while they are signing. You will ask them to repeat the oath, affirmation or declaration as set out below.

### In the case of an oath

Before the oath is taken, in the presence of a commissioner, the person making the oath must hold a copy of the New or Old Testament and state::

I \_\_\_\_\_ swear that the contents of this affidavit made and subscribed by me are true. So help me God.

**NOTE:** The person making the oath must have a copy of the New or Old Testament during the videoconference. Otherwise, they will need to affirm.

### In the case of an affirmation

If the person does not wish to swear an oath and prefers to affirm instead, the following affirmation is the equivalent.

I \_\_\_\_\_ do solemnly and sincerely affirm that the contents of this affidavit made and subscribed by me are true.

### In the case of a statutory declaration

A person will declare a statement or document true.

I, \_\_\_\_\_ 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 \_\_\_\_\_, at \_\_\_\_ this day of \_\_\_\_\_, (year).

## **Verify the original**

Whether meeting in person or by videoconference, you and the person signing must be present at the same time. You must hear the oath, affirmation or statutory declaration. You must see them sign and see the signature immediately after signing. If the person has pre-signed the document, they must sign again with you present.

After witnessing a signature by videoconference, take a screen shot of the signature to compare when you receive the original.

Once you receive the original oath, affidavit or statutory declaration complete the following:

- Confirm the original and copy sent prior to the videoconference are identical,
- Confirm the signed document is the same you saw the person sign and,
- Confirm the signature matches what you observed.

**NOTE:** Discrepancies between the original, the previously received copy and any changes/signatures you witnessed should not be accepted. You can consider rescheduling the videoconference with new completed documents.

### Completing the Jurat

Once the person’s signature has been verified, you must complete the jurat. A jurat certifies in writing that the oath, affirmation or statutory declaration was properly made before you. It must appear on the document you are witnessing and must include:

- where and what date the oath, affirmation or statutory declaration was witnessed,
- your name, signature, authority to witness and expiry date,
- if witnessed by videoconference.

In person	Videoconference
Sworn (affirmed or declared) before me at the _____ of _____ in the Province of Manitoba, this __ day of __, 20__.	Sworn (affirmed or declared) before me by videoconference on the ___ day of __, 20__, at which time I saw and heard the deponent (declarant) swear (affirm or declare) this document and sign it.
(Signature) _____ Printed name	The deponent (declarant) proved their identity by means of _____.
A Commissioner for Oaths for the Province of Manitoba. Expiry Date: _____.	On this ____ day of __, 20__, having received this originally executed document, I signed it.
	(Signature) _____ Printed name
	A Commissioner for Oaths for the Province of Manitoba. Expiry Date: _____.

### Other Forms of Jurats

There may be circumstances that require a specialized approach to taking an oath, affirmation or statutory declaration. You should follow the steps noted above in all circumstances, plus the added steps required for the circumstances (e.g. reading the document to a person who cannot read) and use one of the following jurats to reflect the situation.

#### **Incapable of reading affidavit or declaration**

Read the contents of the affidavit or statutory declaration aloud. Then ask the person if they understood what was read to them. The form of the jurat should be:

Sworn (affirmed or declared) before me at the \_\_\_\_\_ of \_\_\_\_\_, in the Province of Manitoba, this \_\_\_\_ day of \_\_, 20\_\_, 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 it.

(Signature) \_\_\_\_\_

Printed name

A Commissioner for Oaths for the Province of Manitoba. Expiry date: \_\_\_\_\_.

### **Incapable of writing name**

The form of jurat in this case should be:

Sworn (affirmed or declared) before me at the \_\_\_\_\_ of \_\_\_\_\_, in the Province of Manitoba, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, 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.

(Signature) \_\_\_\_\_

Printed name

A Commissioner for Oaths for the Province of Manitoba. Expiry date: \_\_\_\_\_.

### **Interpreter used**

Where a person requires an interpreter to understand the oath, affirmation or statutory declaration and any other related documents, the interpreter must first take an oath:

I \_\_\_\_\_ solemnly swear (sincerely affirm) that I understand \_\_\_\_\_ and will truly and faithfully interpret the contents of this affidavit (statutory declaration) and the oath (affirmation or statutory declaration) about to be administered to \_\_\_\_\_. (So help me God.)

Once the interpretation is complete, you can take the oath, affirmation or statutory declaration from the person making it:

Sworn (affirmed or declared) before me at the \_\_\_\_\_ of \_\_\_\_\_, in the Province of Manitoba, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the said \_\_\_\_\_ 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 (or declaration about to be taken by him).

(Signature) \_\_\_\_\_

Printed name

A Commissioner for Oaths for the Province of Manitoba. Expiry date: \_\_\_\_\_.

### **Two or more deponents or declarants**

Where two or more people are taking the oath, affirmation or statutory declaration, adding "severally" indicates each person has taken the oath individually:

Severally sworn (affirmed or declared) before me at the \_\_\_\_\_ of \_\_\_\_\_, in the Province of Manitoba, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Signature) \_\_\_\_\_  
Printed name

A Commissioner for Oaths for the Province of Manitoba. Expiry date: \_\_\_\_\_.

### **Attachments**

Where the person has included attachments to support their oath, affirmation or statutory declaration, the following should be on the attachment:

This is exhibit \_\_\_\_\_ referred to in the affidavit (or statutory declaration) of \_\_\_\_\_ (deponent or declarant) sworn (affirmed or declared) before me at the \_\_\_\_\_ of \_\_\_\_\_, in the Province of Manitoba, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

A Commissioner for Oaths for the Province of Manitoba. Expiry date: \_\_\_\_\_.