

# 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. DEFINITIONS**

### **Affidavit**

A written statement formally confirmed by swearing an oath or affirming before a competent authority, such as a Commissioner for Oaths. Affidavits are often used as evidence in court.

### **Affirmation**

A solemn statement that is not religious and that has the same effect as an oath. An affirmation can be used if a person objects to swearing an oath.

### **Attest**

To affirm the truth of a statement or bear witness to something.

### **Deponent**

A person who gives evidence in writing. The person who makes an affidavit is the deponent.

### **Exhibit**

Evidence in the form of records or other documents that are meant to support a person's affidavit. Exhibits are frequently found annexed or attached to affidavits.

### **Jurat**

Describes when, where and before whom an affidavit was sworn. The jurat appears at the end of the document and must be completed by the Commissioner for Oaths.

### **Oath**

A solemn statement accompanied by swearing to a Supreme Being or something sacred to the person taking the oath.

### **Statutory Declaration**

A formal declaration made in a prescribed form that has legal force similar to an oath or affirmation.

## **II. WHO CAN APPLY TO BECOME A COMMISSIONER FOR OATHS?**

- Anyone over the age of 18.

## **III. HOW DOES SOMEONE BECOME A COMMISSIONER FOR OATHS?**

- (a) Apply on-line at [www.saskatchewan.ca](http://www.saskatchewan.ca)
- (b) Complete an on-line educational component.
- (c) Pay the prescribed fee of \$100, with the exception of employees of police forces whose fee is \$10. An applicant that requires an appointment in connection with his or her duties and is employed by the Saskatchewan Government does not have to pay the fee; however, the application must be authorized by the applicant's employer. All other Government Agencies, Boards, Commissions and Crown Corporations are not exempt.
- (d) Be appointed by a designate of the Minister of Justice and Attorney General.

<p>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.</p>
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- (e) The following are automatically Commissioners for Oaths by virtue of their office or status:
  - a. Provincial Court Judges;
  - b. Lawyers in good standing in Saskatchewan;
  - c. Members of the Legislative Assembly;
  - d. Officers in the Canadian Armed Forces;
  - e. Court officials;
  - f. Police Officers;
  - g. Government officials;
  - h. Any other person prescribed in the regulations.

Contact the Commissioner for Oaths and Notary Public Inquiry Line 306-787-4117 if you have any questions.

**IV. WHAT CAN A COMMISSIONER DO?**

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

**V. 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:

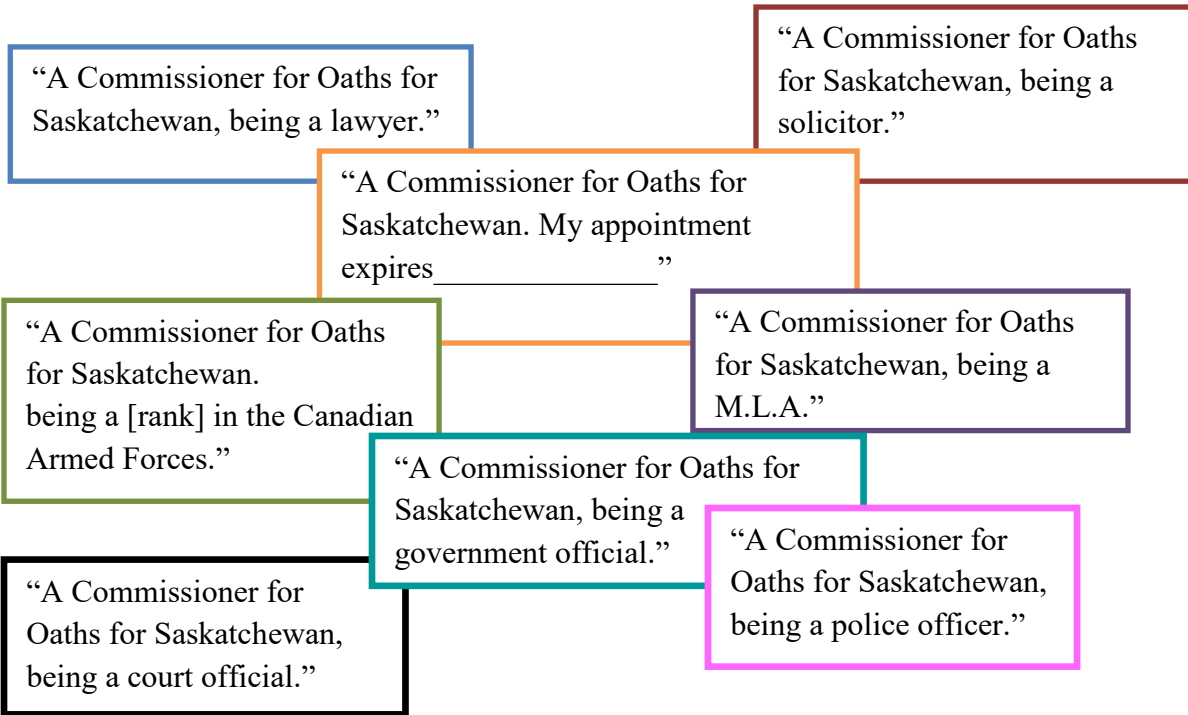
- 1.
2.
  - a.

Sworn before me at the City of Regina, )  
 in the Province of Saskatchewan, )  
 this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. )  
 )  
 (Commissioner’s signature) \_\_\_\_\_ )  
 A Commissioner for Oaths for Saskatchewan. )  
 My commission expires on \_\_\_\_\_ . )

\_\_\_\_\_  
(Signature of A. B.)

**(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:



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) Jurat**

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

<u>Sample Jurat</u>		
Sworn before me at the City of Regina,	)	
in the Province of Saskatchewan,	)	<u>A.B.</u>
this 1 <sup>st</sup> day of January, 2001.	)	(signature of deponent)

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 indicate 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.

Correct method of alteration

“Sworn before me at  
Regina, Saskatchewan this  
1<sup>st</sup> day of January, 2001. *ABC*  
2002.

Incorrect method of alteration

“Sworn before me at  
Regina, Saskatchewan this  
1<sup>st</sup> day of January, ~~2001~~  
2002.

**(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  
1<sup>st</sup> 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, etc...)  
referred to in the affidavit of  
A.B. sworn before me  
this 1<sup>st</sup> day of January, A. D. 2001.”

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(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.



## VI. 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 document 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 signed in presence of Commissioner:

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

The deponent should reply: “I do.”

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?”

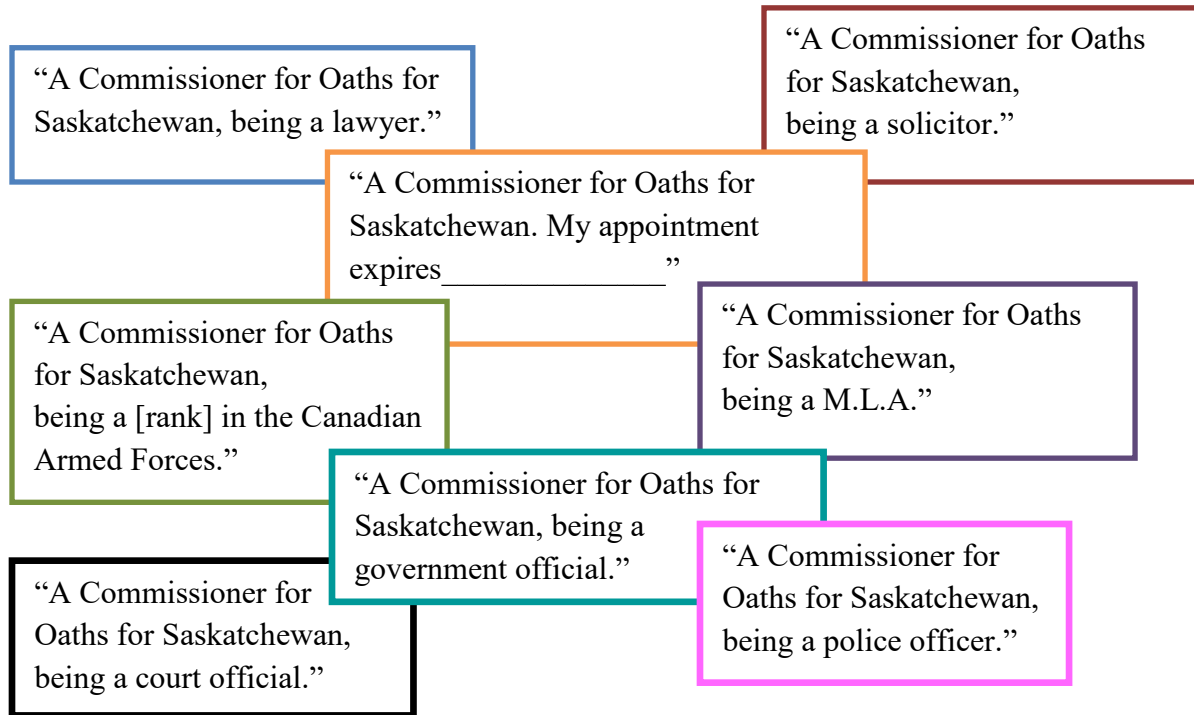
The deponent should indicate that it is the deponent’s name and signature.

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 expiry date or depending on his or her appointment, being a \_\_\_\_\_.



## VII. 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.

Example where document is signed in presence of Commissioner:

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?”

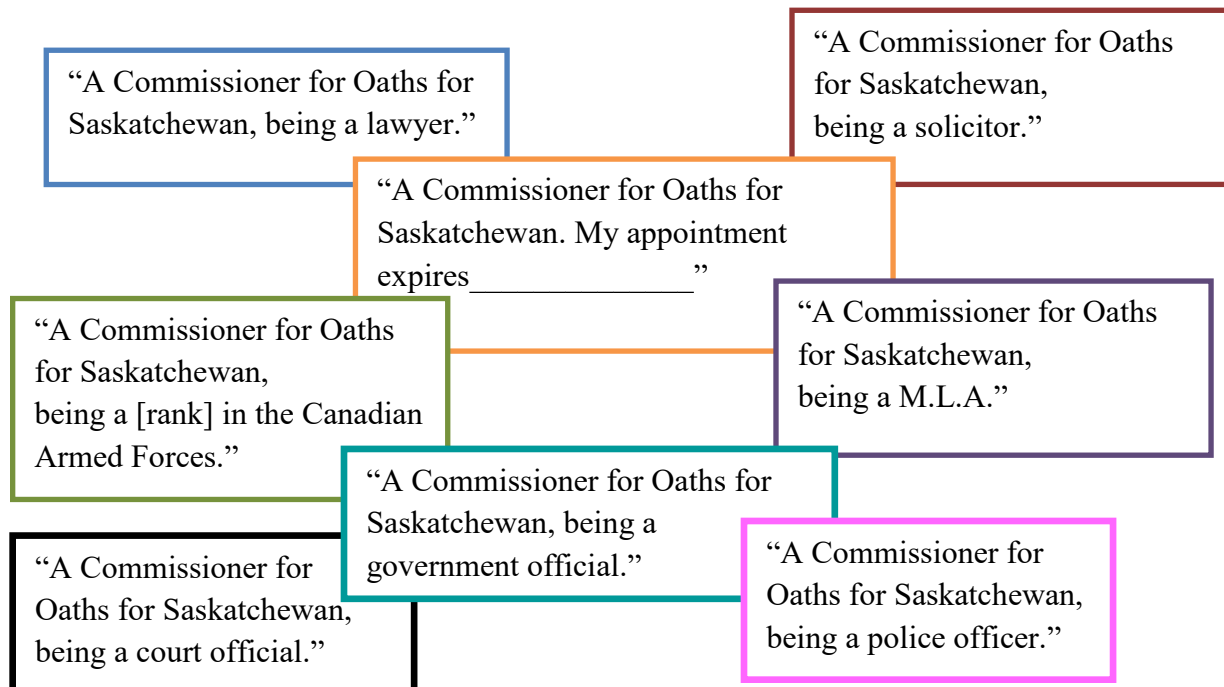
The affirmant should indicate that it is his or her name and signature.

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 expiry date or depending on his or her appointment, being a \_\_\_\_\_.



## VIII. 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-

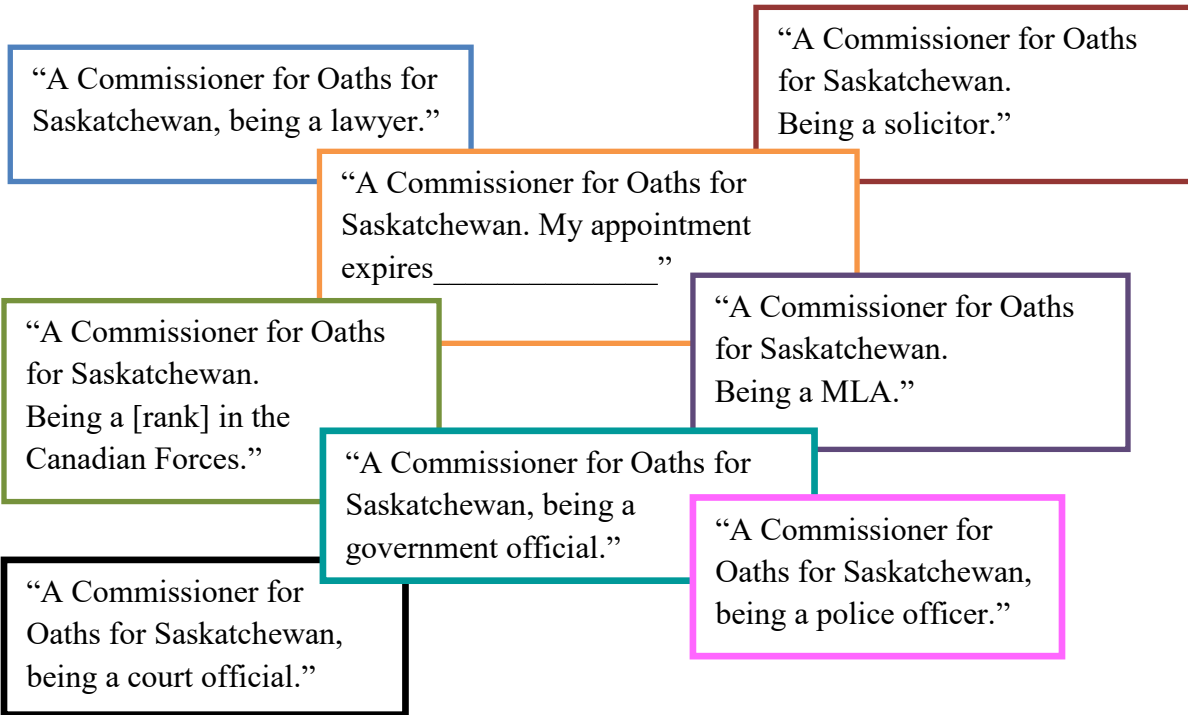
The Commissioner might point to the signature and ask:  
“Is that your name and handwriting?”

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 Declaration 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 the signature and fill in the expiry date or depending on his or her appointment, being a \_\_\_\_\_.



## IX. 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, 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.

## **X. CRIMINAL LIABILITY OF A COMMISSIONER FOR OATHS**

The Criminal Code places a high degree of responsibility on persons who administer oaths, affirmations and declarations. Section 138 of the Criminal Code provides that anyone who signs an affidavit or statutory declaration representing that it was sworn or declared before them when it, in fact, was not is guilty of an offence and is liable to imprisonment for two years.

## **XI. A SPOUSE'S OATH, AFFIRMATION OR DECLARATION**

Commissioners for Oaths should not take their spouse's oath, affirmation or declaration. Sections of the *Canada Evidence Act* protect spouses from giving evidence against one another. If a Commissioner for Oaths takes their spouse's oath, affirmation or declaration, this can lead to problems in the proof of affidavits in court. It can also create problems in the prosecution of Criminal Code offences involving perjury and the swearing of false affidavits.

## **XII. EXPIRY**

Every Commissioner must ensure that they do not act after the expiry date of their appointment.

## **XIII. 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 must ensure that they restrict the use of the appointments to those powers set out in the Act. They 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 Ministry of Justice, Court Services, Commissioner for Oaths and Notary Public by updating their employment information on their MyGOS account on Saskatchewan.ca or by contacting the inquiry line at 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.





**(l) 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 before me at \_\_\_\_\_, )  
in the Province of Saskatchewan, )  
this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, )  
I having first truly, distinctly and audibly read ) (The mark of A. B.)  
to him or her the contents of this affidavit, )  
he or she being blind, and he or she appeared )  
to understand the same. )

**(m)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 and 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., through the )  
interpretation of C.D., the said C.D., )  
having been first sworn that he or she truly, ) (The signature of A. B.)  
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 jurat which could be used to deal with specific fact situations. This jurat could also be used for affirmations by substituting the word “affixed” for “sworn.” If a situation should arise which requires assistance, contact Court Services, Commissioner for Oaths and Notary Public office at (306) 787-4117.