

No. 999 of 9998.

Oaths, Affirmations and Statutory Declarations Act 1962.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. of 9998.

Oaths, Affirmations and Statutory Declarations Act 1962.

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SCHEDULE 1

INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Oaths, Affirmations and Statutory Declarations Act 1962,

Being an Act relating to oaths, affirmations, statutory declarations and affidavits, and for related purposes.

PART I. – OATHS.

1. GENERAL PROVISION.

Nothing in this Part invalidates an oath taken in a sufficient and lawful form.

2. WITNESS'S OATH.

Witnesses may be sworn—

- (a) in civil proceedings in Form 1; and
- (b) in criminal trials in Form 2.

3. VOIR DIRE.

A person may be sworn on the *voir dire* in Form 3.

4. INTERPRETER'S OATH.

(1) Interpreters may be sworn—

- (a) in civil proceedings in Form 4; and
- (b) in civil proceedings and criminal trials to interpret on the *voir dire*—in Form 5; and
- (c) for the purpose of conducting the arraignment of a person accused—in Form 6; and
- (d) for the purposes of a criminal trial—in Form 7, except that—

- (i) where the witness and the accused are persons of different languages and the interpreter is unable to interpret to the accused, the reference in that form to the accused shall be omitted and an additional interpreter sworn to interpret to the accused the English interpretation of the first interpreter; and
- (ii) where a witness and the accused are persons of different languages and an interpreter can be found conversant with the language of the accused and the witness and able to interpret between them, and a second interpreter can be found conversant with English and with a language with which the first interpreter is conversant and able to interpret from that last-mentioned language into English, the first interpreter may be sworn through the second interpreter in Form 8; and
- (iii) whatever the number of interpreters necessary before the statements of the accused and the witness can be interpreted into one and the same language and into English, the same forms of oath shall be administered, with the necessary modifications, to each interpreter in succession.

(2) Subsection (1)(d)(ii) and (iii) apply in civil cases as far as practicable.

PART II. – AFFIRMATIONS.

5. DECLARATION OR AFFIRMATION INSTEAD OF OATH.

(1)^{1 2}This section applies to a person who—

- (a) in a civil or criminal proceeding is called as a witness in a court or before a Commissioner for Oaths or other person authorized to administer an oath; or
- (b) has to make a statement in an information, complaint or proceeding in a court or before a Commissioner for Oaths or other person authorized to administer an oath; or
- (c) is required or desires to make an affidavit or deposition,

and who—

- (d) objects to taking an oath; or
- (e) is reasonably objected to as incompetent to take an oath; or
- (f) appears to the court, Commissioner for Oaths or other authorized person, incompetent to take an oath; or
- (g) desires or is required to take an oath in a form and manner required by his religion to make it binding on his conscience, but which it is found to be impracticable to administer to him in that form and manner at the time when, and the place where, the oath is desired or required to be taken.

(2) A person to whom this section applies may, instead of an oath referred to in Subsection (1)—

- (a) if he is called as a witness—make a solemn declaration or affirmation in Form 9; or
- (b) in any other case—make a solemn declaration or affirmation in Form 10.

6. TAKING EVIDENCE OF PERSON INCOMPETENT TO TAKE OATH, ETC.

(1)^{3 4}Where a person called in a civil or criminal proceeding as a witness in a court or before a Commissioner for Oaths or other person authorized to administer an oath, appears to the court, Commissioner for Oaths or person authorized, to be incapable—

- (a) of comprehending the nature of an oath; or

¹ Section 5(1) amended by No. 10 of 1978, s1.

² Section 5(1) amended by No. 10 of 1978, s1.

³ Section 6(1) amended by No. 10 of 1978, s2.

⁴ Section 6(1) amended by No. 10 of 1978, s2.

- (b) of understanding the meaning of the solemn declaration or affirmation referred to in Section 5,

the court, Commissioner for Oaths or person shall, if satisfied that the person called as a witness understands that he will be liable to punishment if his evidence is false, declare in what manner his evidence shall be taken.

(2) When evidence is taken as provided for by Subsection (1) the same consequences follow as if an oath had been administered in the ordinary manner.

(3) Nothing in this section affects the operation of any law or rule of law or practice relating to the corroboration of evidence.

7. INTERPRETERS.

⁵Section 6 extends and applies, with the necessary modifications, to interpreters called to interpret in a civil or criminal proceeding in a court or before a Commissioner for Oaths or other person authorized to administer an oath.

8. MODE OF BINDING INTERPRETERS IN CERTAIN CASES.

⁶(1) If, in a civil or criminal proceeding in a court or before a Commissioner for Oaths or other person authorized to administer an oath—

- (a) it is necessary to call an interpreter (whether for the purpose of the arraignment of a person accused or for the interpretation of the evidence of witnesses); and
- (b) it appears to the court, Commissioner for Oaths or other authorized person that the person called as interpreter—
 - (i) understands the language of the accused or other person between whom and the court, Commissioner for Oaths or other authorized person, he is called to interpret, sufficiently to be able to make true explanation of the evidence and other proceedings; and
 - (ii) cannot for any cause be then and there sworn in the form and manner prescribed for the purpose or desired by him,

the court, Commissioner for Oaths or person authorized shall—

- (c) declare in what manner the interpreter shall be sworn or otherwise bound to make true explanation; and
- (d) ascertain that true explanation of the evidence and all other proceedings is made to the accused person.

(2) If the court, Commissioner for Oaths or person authorized to administer an oath is satisfied that true explanation is made in accordance with Subsection (1), the trial and any verdict given at the trial is as valid as if the interpreter had been sworn in the ordinary manner.

⁵ Section 7 amended by No. 10 of 1978, s3.

⁶ Section 8 Amended by No. 10 of 1978, s4.

PART III. – STATUTORY DECLARATIONS.

9. AUTHORITY TO MAKE AND USE STATUTORY DECLARATIONS.

(1) If he so desires a person may make a statutory declaration in relation to a matter.

(2) Subject to Subsection (3), a statutory declaration may, unless the contrary intention appears, be used for any purpose or in connection with any matter arising under a law or in connection with the administration of a Department of the Public Service.

(3) Subsection (2) does not authorize a statutory declaration to be used as evidence in judicial proceedings, but this section does not prevent a statutory declaration from being so used.

10. REFERENCES TO STATUTORY DECLARATIONS.

Unless the contrary intention appears, a reference in any law to a statutory declaration includes a reference to a statutory declaration made by virtue of this Part.

11. FORM OF STATUTORY DECLARATION.

⁷(1) A statutory declaration may be in Form 11 and may be made before—

- (a) a District Officer, a magistrate or a clerk of court; or
- (b) a Commissioner for Oaths; or
- (c) a Notary Public.

12. COMMISSIONERS FOR OATHS.

⁸(1) The Minister—

- (a) may by notice in the National Gazette appoint a person to be a Commissioner for Oaths; and
- (b) shall specify the person's current title or a position held prior to the person's appointment.

(2) Subject to Section 17A, a Commissioner for Oaths shall be appointed for a period of six years and is eligible for reappointment.

⁷ Section 11 replaced by No. 10 of 1978, s5.

⁸ Section 12 amended by No. 25 of 1976, Schedule 24 and No. 10 of 1978, s6; replaced by No 15 of 2000.

12A. COMMISSIONER FOR OATHS APPOINTED UNDER *LAWYERS ACT 1986*.

⁹Notwithstanding Section 108 of the *Lawyers Act 1986*, a lawyer shall not perform the duties of a Commissioner for Oaths unless he is the holder of a current practising certificate issued under the *Lawyers Act 1986*.

12B. APPLICATION.

¹⁰(1) Subject to Subsection (2), a person other than a:

- (a) Judge; or
- (b) Magistrate; or
- (c) Lawyer holding a current practising certificate issued under the *Lawyers Act 1986*; or
- (d) Clergyman,

may apply to the Minister for consideration for appointment as a Commissioner for Oaths.

(2) A person under the age of 30 years is not eligible to apply for consideration for appointment under Subsection (1) as Commissioner of Oaths.

(3) An application under Subsection (1):

- (a) shall be lodged with the Minister; and
- (b) shall be in Form 12; and
- (c) shall be accompanied by a fee of K200.00; and
- (d) shall contain the reasons for making the application and particulars of such title or a position as is held in any capacity by the applicant and such other particulars on the applicant's suitability as may be prescribed or as the Minister may require.

12C. GRANT OF APPLICATION.

¹¹(1) On receipt of an application under Section 12B(1), where the Minister considers that the applicant:

- (a) is a fit and proper person of good reputation and character; and
- (b) is mature; and
- (c) has good standing in the community,

the Minister may grant the application and appoint the applicant as Commissioner for Oaths under Section 12(1).

⁹ Section 12A added by No 15 of 2000 s 2.

¹⁰ Section 12B added by No 15 of 2000 s 3.

¹¹ Section 12C added by No 15 of 2000 s 4.

(2) An applicant is a fit and proper person where he holds a certificate signed by the Attorney-General certifying that the applicant is a fit and proper person.

(3) The certificate of a fit and proper person shall be in Form 13.

13. DECLARATIONS UNDER OTHER ACTS, ETC.

Unless the contrary intention appears, where by a law a declaration is required to be made by a person before some other person, the declaration may be made—

- (a) before the person specified in that law; or
- (b) before a person before whom a statutory declaration may be made under this Act.

PART IV. – AFFIDAVITS.

14. COMMISSIONER FOR OATHS MAY TAKE AFFIDAVITS.

¹²A Commissioner for Oaths may take and receive affidavits in all matters pending in a court.

15¹³. [REPEALED.]

¹² Section 14 amended by No. 10 of 1978, s7.

¹³ Section 15 repealed by No. 10 of 1978, s9.

PART V. – ATTESTATION OF INSTRUMENTS.

16. JUSTICES OF A STATE, ETC., MAY TAKE AFFIDAVITS, ETC.

¹⁴Where by a law an affidavit or statutory declaration—

- (a) is required or permitted to be sworn or made before; or
- (b) a document is required or permitted to be authenticated or witnessed by,

a Commissioner for Oaths, then—

- (c) the affidavit or statutory declaration may be sworn or made before; or
- (d)¹⁵ the document may be authenticated or witnessed by,

a person authorized to authenticate or witness the affidavit or statutory declaration in another country.

¹⁴ Section 16 amended by No. 10 of 1978, s9.

¹⁵ Section 16(d) added by No. 10 of 1978, s10.

PART VI. – COMMISSIONERS FOR OATHS.**17. POWERS OF COMMISSIONERS FOR OATHS.**

(1) A Commissioner for Oaths may administer any oath or affirmation whether or not required by law to be taken or made.

(2) A Commissioner for Oaths has, in relation to the taking of affidavits, administering of oaths and affirmations, the witnessing of documents and any other similar functions, all the powers, duties and functions that were held by or applicable to the office of Justice of the Peace immediately before 4 May 1978.

17A. CESSATION OF APPOINTMENT.

¹⁶(1) If a Commissioner for Oaths:

- (a) dies; or
- (b) becomes permanently incapable of performing the duties as Commissioner for Oaths; or
- (c) is convicted of an offence punishable under law by a term of imprisonment or by death and as a result of the conviction is sentenced to imprisonment or death,

his appointment as Commissioner for Oaths under this Act or the *Lawyers Act 1986* ceases.

(2) A person ceases to be a Commissioner for Oaths:

- (a) if he ceases to hold the title or the position as the Minister specifies under Section 12(1)(b); or
- (b) being a lawyer he ceases to hold or is suspended from holding a current practising certificate issued to him under the *Lawyers Act 1986*.

¹⁶ Section 17A inserted by No 15 of 2000 s 5.

PART VII.¹⁷ – TRANSITIONAL.

18. PERSONS DEEMED TO BE COMMISSIONER FOR OATHS.

¹⁸A person who, before 4 May 1978 was—

- (a) appointed to be a Justice of the Peace or a Commissioner for Declarations; or
- (b) authorized to be a Commissioner for Affidavits,

shall, from that date, be deemed to be a Commissioner for Oaths appointed under this Act.

¹⁷ Part VII added by No. 10 of 1978, s11.

¹⁸ Section 18 added by No. 10 of 1978, s11.

PART VIII.¹⁹ – OFFENCES.

19. OFFENCES.

²⁰(1) A Commissioner for Oaths who authenticates, witnesses or signs an oath, affirmation, statutory declaration or affidavit that is to his knowledge false in a material particular, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or a term of imprisonment not exceeding two years or both.

(2) A person who falsely represents himself to be a Commissioner for Oaths, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or a term of imprisonment not exceeding two years or both.

(3) A person who makes a false representation in applying for appointment as Commissioner for Oaths, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or a term of imprisonment not exceeding two years or both.

¹⁹ Part VIII added by No. 15 of 2000, s. 6.

²⁰ Section 19 added by No. 15 of 2000, s. 6.

SCHEDULE 1

PAPUA NEW GUINEA.

Oaths, Affirmations and Statutory Declarations Act 1962.

Form 1 – Witness’ Oath–Civil Causes.

Sec. 2(a). Form 1.

The evidence that you give to the court touching the matters in question between the parties will be the truth, the whole truth and nothing but the truth.

So help you God!

PAPUA NEW GUINEA.

Oaths, Affirmations and Statutory Declarations Act 1962.

Form 2 – Witness’ Oath–Criminal Trials.

Sec. 2(b). Form 2.

The evidence that you give to the court between the State and the accused (*or* defendant) will be the truth, the whole truth and nothing but the truth.

So help you God!

PAPUA NEW GUINEA.

Oaths, Affirmations and Statutory Declarations Act 1962.

Form 3 – Oath on the Voir Dire.

Sec. 3. Form 3.

The evidence that you give will be the truth, the whole truth and nothing but the truth.

So help you God!

PAPUA NEW GUINEA.

Oaths, Affirmations and Statutory Declarations Act 1962.

Form 4 – Interpreter’s Oath–Civil Causes.

Sec. 4(1)(a). Form 4.

You swear that you understand (*describe the language*) which is understood by the witness (*or plaintiff or defendant*), and are able to interpret between him and the court and all persons who understand the English language.

So help you God!

You will well and truly interpret and give true explanations between the witness (*or plaintiff or defendant*) and the court and all persons who understand the English language to the best of your knowledge, skill and ability, and the evidence that you give will be the truth, the whole truth and nothing but the truth.

So help you God!

PAPUA NEW GUINEA.

Oaths, Affirmations and Statutory Declarations Act 1962.

Form 5 – Interpreter’s Oath–On the Voir Dire.

Sec. 4(1)(b). Form 5.

You swear that you understand (*describe the language*) which is understood by the witness (*or plaintiff or defendant or accused*), and are able to interpret between him and the court and all persons who understand the English language.

So help you God!

You will well and truly interpret and give true explanations between the witness (*or plaintiff or defendant or accused*) and the court and all persons who understand the English language to the best of your knowledge, skill and ability, and the evidence that you give will be the truth, the whole truth and nothing but the truth.

So help you God!

PAPUA NEW GUINEA.

Oaths, Affirmations and Statutory Declarations Act 1962.

Form 6 – Interpreter’s Oath–On the Arraignment.

Sec. 4(1)(c). Form 6.

You swear that you understand (*describe the language*) which is understood by the accused and are able to interpret between him and the court.

So help you God!

You will well and truly interpret and give true explanations between the accused and the court to the best of your knowledge, skill and ability, and the evidence that you give will be the truth, the whole truth and nothing but the truth.

So help you God!

PAPUA NEW GUINEA.

Oaths, Affirmations and Statutory Declarations Act 1962.

Form 7 – Interpreter’s Oath–Criminal Trials.

Sec. 4(1)(d). Form 7.

You swear that you understand (*describe the language*) which is understood by the accused (*or* defendant), and are able to interpret between him and the court and between him and all persons who understand the English language.

So help you God!

You will well and truly interpret and give true explanations between the accused and the court and between him and all persons who understand the English language to the best of your knowledge, skill and ability, and the evidence that you give to the court between the State and the accused will be the truth, the whole truth and nothing but the truth.

So help you God!

You swear that you understand (*describe the language*) which is understood by the witness, and are able to interpret between him and the court and the accused (*or* defendant) and all persons who understand the English language.

So help you God!

You will well and truly interpret and give true explanations between the witness the court and the accused and all persons who understand the English language, and the evidence that you give the court between the state and the accused (*or* defendant) will be the truth, the whole truth and nothing but the truth.

So help you God!

PAPUA NEW GUINEA.

Oaths, Affirmations and Statutory Declarations Act 1962.

Form 8 – Intervening Interpreter’s Oath.

Sec. 4(1)(d)(ii), 4(2).

Form 8.

You swear that you understand (*describe the languages*) which are understood by the witness and the accused, and are able to interpret between them.

So help you God!

You will well and truly interpret and give true explanations between the witness and the accused, and between the accused and the witness, and between them and each of them and the court and all interpreters, witnesses and persons whatsoever, to the best of your knowledge, skill and ability, and the evidence that you give to the court between the State and the accused will be the truth, the whole truth and nothing but the truth.

So help you God!

PAPUA NEW GUINEA.

Oaths, Affirmations and Statutory Declarations Act 1962.

Form 9 – Declaration.

Sec. 5(2)(a). Form 9.

I solemnly declare that the evidence now about to be given (*or* the statement now about to be made) by me is the truth, the whole truth and nothing but the truth.

PAPUA NEW GUINEA.

Oaths, Affirmations and Statutory Declarations Act 1962.

Form 10 – Affirmation.

Sec. 5(2)(b). Form 10.

I, . . . , do solemnly sincerely and truly declare and affirm, etc.

PAPUA NEW GUINEA.

Oaths, Affirmations and Statutory Declarations Act 1962.

Form 11 – Statutory Declaration.

Sec. 11(1). Form 11.

I, *(insert name, address and occupation of person making the declaration)*, do solemnly and sincerely declare *(insert the matter specified. Where the matter is long it should be set out in numbered paragraphs)*.

And I make this solemn declaration by virtue of the *Oaths, Affirmations and Statutory Declarations Act*, conscientiously believing the statements contained in it to be true in every particular.

(Signature of person making the declaration).

Declared at . . . , . . . 20...

Before me,

(Signature of person before whom the declaration is made).

(Insert title of person before whom the declaration is made).

PAPUA NEW GUINEA.

Oaths, Affirmations and Statutory Declarations Act 1962.

Form 12 – ²¹Application for appointment as a Commissioner for Oaths.

Sec.12A(3)(b)(d) Form 12

I, _____ of _____
apply for appointment as a Commissioner for Oaths.

Reasons for making the Application.

I make application for the following reasons

(state reasons)

—

Particulars.

The following particulars apply:–

Title: _____ (*if* _____ *any*)

Position held: _____ (*if* _____ *any*)

And such other particulars as may be prescribed or as the Minister may determine.

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.....

Applicant.

²¹ Form 12 added by No 15 of 2000 s 7.

PAPUA NEW GUINEA.

Oaths, Affirmations and Statutory Declarations Act 1962.

Form 13 – ²²Certificate of a fit and proper person.

Section 12C(3)

Form 13

I, Attorney-General, hereby, certify
that (applicant for appointment as Commissioner for
Oaths) is a fit and a proper person/not a fit and proper person (delete
whichever is inapplicable).

RECOMMENDATIONS (if any)

—

.....

Attorney-General.

I, Attorney-General, hereby, certify
that (applicant for appointment as Commissioner for
Oaths) is a fit and a proper person/not a fit and proper person (delete
whichever is inapplicable).

RECOMMENDATIONS (if any)

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.....

Attorney-General.

²² Form 13 added by No 15 of 2000 s 7.