

OATHS, AFFIRMATIONS AND STATUTORY DECLARATIONS

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Oaths, Affirmations and Statutory Declarations Act 1976

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Oaths, Affirmations and Statutory Declarations Act 1976

TABLE OF AMENDMENTS

The Oaths, Affirmations and Statutory Declarations Act 1976 No 18 was certified and commenced on 29 October 1976 (GN No 370/1976; Gaz 58/1976).

Amending Legislation	Certified	Date of Commencement
Statute Law Revision Act 2011 No 18	15 April 2011	15 April 2011
Oaths, Affirmations and Statutory Declarations (Amendment) Act 2020 No 22	23 October 2020	23 October 2020
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

An Act to repeal the *Oaths Ordinance 1912-1967* and the application to the Republic of the *Statutory Declarations Act 1911* of the Parliament of the Commonwealth of Australia and the *Oaths Ordinance 1912* of the Territory of Papua and to make new provisions for the taking of oaths and the making of affirmations and statutory declarations and for matters related thereto.

Enacted by the Parliament of Nauru as follows:

1 Short title and commencement

This Act may be cited as the *Oaths, Affirmations and Statutory Declarations Act 1976* and came into effect on 29 October 1976.

2 Interpretation

In this Act:

‘Commissioner for Oaths’ means a person appointed under Section 106 of the *Supreme Court Act 2018*.

[def am Act 15 of 2018 s 3, opn 15 May 2018]

3 Oath of allegiance

Where it is provided by any written law that an oath of allegiance is to be taken, the form of the oath taken shall be as set out in Schedule 1.

4 Oath of witness in judicial proceedings

- (1) The oath to be taken by a witness in any judicial proceeding may be taken:
 - (a) in open court;
 - (b) as the court may direct; or
 - (c) as prescribed by rules, to be made by the Chief Justice.
- (2) For the purposes of subsection (1), the form of the oath is in Schedule 2.
- (3) Where a witness is required to testify through audio visual link, the witness shall take the form of the oath in Schedule 2.

[s 4 subst Act 22 of 2020 s 4, opn 23 Oct 2020]

5 Oath of interpreter in judicial proceedings

- (1) Subject to subsection (2), an interpreter in any judicial proceeding shall take oath:
 - (a) in open court;
 - (b) as the court may direct; or
 - (c) as prescribed by rules, to be made by the Chief Justice.

[subs (1) subst Act 22 of 2020 s 5, opn 23 Oct 2020]

- (2) Where a person is likely to be required to interpret in several judicial proceedings, he or she may take and subscribe an oath in the form set out in Schedule 3 and it shall thereafter not be necessary for him or her to take any other oath in respect of any judicial proceedings in which he or she is an interpreter in any court.
- (3) The Registrar of Courts shall:

- (a) file and keep all oaths taken under subsection (2);
- (b) maintain a list of the persons by whom oaths have been taken;
- (c) make a copy of that list available to a court, Justice of Appeal, Judge, magistrate or member of the Family Court upon request made; and
- (d) keep in the Registry of courts, a copy of that list, which shall be available for perusal by legal practitioners and members of the public during the hours when the office is open to the public.

[subs (3) amended by s 9(4)(s), (t) and (u) of the Law Revision and Consolidation Act 2019.]

6 Manner of taking oaths

- (1) A person who is required to take an oath shall be permitted to do so in accordance with the ceremonies of his or her own religion or in such proper manner as is requisite to bind his or her conscience.
- (2) Where a person taking an oath does not speak English, he or she shall take the oath in the language which he or she generally uses.

7 Validity of oath

Where an oath has been duly administered and taken, the fact that the person to whom it was administered had at the time of taking it no religious belief shall not for any purpose affect its validity.

8 Affirmation

Where:

- (a) a person objects to being sworn and states as a ground of his or her objection:
 - (i) that he or she has no religious belief;
 - (ii) that the taking of an oath is contrary to his or her religious belief; or
 - (iii) that he or she is not morally bound by taking an oath;
- (b) it is impossible or impracticable for a person to take an oath; or
- (c) a person by reason of any defect of religious knowledge or belief is incapable of comprehending the nature of an oath,

he or she may be permitted to make his or her affirmation instead of taking an oath in all places and for all purposes where an oath is or shall be required by law, that affirmation shall have the same force and effect as if he or she had taken the oath.

9 Form of affirmation

Every affirmation made in pursuance of Section 8 shall commence as follows: “I, A.B. do solemnly, sincerely and truly declare and affirm” and then proceed with the words of the oath prescribed by law omitting any words of imprecation or calling to witness.

10 Words in lieu of jurat in case of affirmation to affidavit

Where in pursuance of Section 8 a person makes his or her affirmation in respect of an affidavit, the following words shall be used in lieu of the jurat:

“Affirmed at this day of , 2 .
Before me.”

[s 10 am Act 8 of 2011 s 12 and Sch 1[113], opn 15 Apr 2011]

11 Statutory declarations

A statutory declaration shall be in the form set out in Schedule 4.

12 Authority to make a statutory declaration

- (1) A person may, if he or she so wishes, make a statutory declaration in relation to any matter.
- (2) A written law may require a statutory declaration to be made in relation to any matter arising under that written law.

13 Persons before whom statutory declarations may be made

- (1) In the Republic, a statutory declaration may be made before any of the following:
 - (a) a Judge;
 - (b) Registrar of Courts;
 - (c) a Resident Magistrate;
 - (d) member of the Family Court;
 - (e) barrister and solicitor;
 - (f) notary public; or
 - (g) commissioner for oaths.

[subs (1) subst Act 22 of 2020 s 6, opn 23 Oct 2020]

- (2) A statutory declaration made outside the Republic shall be deemed to be validly made if it is made before a person before whom an affidavit required for the purpose of the Supreme Court could, at the time when the statutory declaration was made, have been sworn under Section 106 of the *Supreme Court Act 2018*.
- (3) Where by any written law, whether made before or after the commencement of this Act, a declaration is required to be made before a person specified in that written law, the declaration may, unless a contrary intention appears in that written law, be made in the Republic before any of the persons referred to in subsection (1) or may be made outside the Republic before any such person as is referred to in subsection (2).

14 References to statutory declarations

A reference to a statutory declaration in any written law, whether made before or after the commencement of this Act, shall, subject to Section 16(4) be taken to be a reference to a statutory declaration made in accordance with the provisions of this Act.

15 False statements in statutory declarations

A person who wilfully makes a false statement in a statutory declaration is guilty of an offence and is liable to imprisonment for 5 years.

16 Repeal and savings

- (1) The *Oaths Ordinance 1912-1967* is hereby repealed.
- (2) Schedule 2 to the *Laws Repeal and Adopting Ordinance 1922-1967* is amended by deleting therefrom the words and figures “*Statutory Declarations Act 1911*” and after the commencement of this Act the

Statutory Declarations Act 1911 of the Parliament of the Commonwealth of Australia shall not apply, or have force or effect, in the Republic.

- (3) Schedule 3 to the *Laws Repeal and Adopting Ordinance 1922-1967* is amended by deleting therefrom the words and figures “*Oaths Ordinance 1912*” and after the commencement of this Act the *Oaths Ordinance 1912* of the Territory of Papua shall not apply, or have force or effect, in the Republic.
- (4) Notwithstanding subsections (1), (2) and (3), anything validly done before the commencement of this Act under the provisions of the *Oaths Ordinance 1912-1967* or of the *Statutory Declarations Act 1911* of the Parliament of the Commonwealth of Australia or the *Oaths Ordinance 1912* of the Territory of Papua in their application to the Republic shall continue to have such effect after the commencement of this Act as it would have had if that Ordinance had not been repealed or if that Act or Ordinance had continued to apply and have force and effect in the Republic, as the case may be.

SCHEDULE 1

[Section 3]

OATH OF ALLEGIANCE

I, (state name), swear by Almighty God that I will be faithful and bear true allegiance to the Republic of Nauru according to law. So help me God!

SCHEDULE 2

[Section 4]

OATH TO BE TAKEN BY WITNESS

[Sch 2 am Act 22 of 2020 s 7, opn 23 Oct 2020]

FORM 1

OATH TO BE TAKEN BY WITNESS PRESENT IN COURT

[Section 4(2)]

I [*insert name*] swear by Almighty God that the evidence which I shall give in these proceedings shall be the truth, the whole truth and nothing but the truth. So help me God!

FORM 2

OATH TO BE TAKEN BY WITNESS TESTIFYING FROM FOREIGN JURISDICTION

[Section 4(3)]

I [*insert name*] swear by Almighty God that the evidence which I shall give in these proceedings shall be the truth, the whole truth and nothing but the truth.

Also, I swear that:

- (a) I will follow all the procedures or directions given by this honourable court during the course of my testimony;
- (b) no one else is present at the place where I am testifying [*except an authorised person*]* from;
- (c) I am not able to and will not communicate with any person as long as I am required to testify in this honourable court; and
- (d) I do not possess or have in my custody or access any documents or any other materials relating to the proceedings except documents authorised by the court.

So help me God!

NOTE: *the court is to insert the name or names of any person or persons ordered by the court to be present with the witness during the course of the testimony.

SCHEDULE 3

[Section 5(2)]

OATH TO BE TAKEN BY INTERPRETER

[Sch 3 am Act 22 of 2020 s 8, opn 23 Oct 2020]

FORM 1

OATH TO BE TAKEN BY INTERPRETER PRESENT IN COURT

[Section 5(2)]

I *[insert name]* swear by Almighty God that I understand the *[state language]* and the English languages and that in these proceedings, I shall well and truly interpret into the English language all that is said in these proceedings in the *[state language]* language and into the *[state language]* language all that is said in these proceedings in the English language, except for any such things said as I am directed by this *[court/tribunal]*** are not to be interpreted by me.

So help me God!

FORM 2**OATH TO BE TAKEN BY INTERPRETER INTERPRETING FROM FOREIGN JURISDICTION**

[Section 5(2)]

I *[insert name]* swear by Almighty God that I understand the *[state language]* and the English languages and that in these proceedings, I shall well and truly interpret into the English language all that is said in these proceedings in the *[state language]* language and into the *[state language]* language all that is said in these proceedings in the English language, except for any such things said as I am directed by this *[court/tribunal]*** are not to be interpreted by me.

Also, I swear that:

- (a) I will follow all the procedures or directions given by this honourable court;
- (b) no one else is present at the place where I am interpreting *[except an authorised person]*** from;
- (c) I am not able to and will not communicate with any person as long as I am required to interpret in this honourable court;
- (d) I have not communicated with a legal practitioner or a party to this proceedings; and
- (e) I do not possess or have in my custody or access any documents or any other materials relating to the proceedings except documents authorised by the court.

So help me God!

NOTE:

*the court is to insert the name or names of any person or persons ordered by the court to be present with the witness during the course of the testimony.

** delete whichever is not applicable.

SCHEDULE 4

[Section 11]

FORM OF STATUTORY DECLARATION REPUBLIC OF NAURU STATUTORY DECLARATION

[Sch 5 am Act 8 of 2011 s 12 and Sch 1[113], opn 15 Apr 2011]

I, (state name) of (state address), (state occupation), do solemnly and sincerely declare that (set out matter declared, using numbered paragraphs if it is lengthy) and I make this solemn declaration by virtue of the *Oaths, Affirmations and Statutory Declarations Act 1976* conscientiously believing the statements contained therein to be true in every particular.

Signed:

Declared at this day of , 2 .

Before me: (Signature)

(Title)

Note: A person making a false statement in a statutory declaration is guilty of an offence and is liable to imprisonment for 5 years.

