

South Australia

Oaths Regulations 2021

under the *Oaths Act 1936*

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Legislative history

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Oaths Regulations 2021*.

2—Commencement

These regulations come into operation on the day on which the *Oaths (Miscellaneous) Amendment Act 2021* comes into operation.

3—Interpretation

In these regulations—
Act means the *Oaths Act 1936*.

Part 2—Statutory declarations

4—Requirements for the taking of statutory declarations (section 25)

- (1) For the purposes of section 25(1)(a) of the Act, the following requirements are prescribed:
 - (a) the requirement that the statutory declaration state the following:
 - (i) the name of the person making the declaration (the *declarant*);

- (ii) that the declaration is made under the *Oaths Act 1936*;
 - (iii) the date on which the declaration is made;
 - (iv) the name of the person witnessing the declaration (the **authorised witness**) and the basis on which the authorised witness is authorised to do so pursuant to section 25(2) of the Act;
- (b) the requirement that, before the contents of the declaration, the statutory declaration include the statement:

I, [insert name of declarant] do solemnly and sincerely declare.

- (2) A statutory declaration is not invalid merely because there has been a failure to comply with the requirement in subregulation (1)(a)(iv) to state the basis on which the authorised witness is authorised to witness the statutory declaration pursuant to section 25(2) of the Act.

5—Classes of persons before whom statutory declarations may be made

For the purposes of Schedule 1 clause 1(f) of the Act, the following are prescribed as classes of persons before whom a statutory declaration may be made for the purposes of section 25(2) of the Act:

- (a) an agent of the Australian Postal Corporation in charge of an office supplying postal services to the public;
- (b) an Australian Consular Officer or an Australian Diplomatic Officer within the meaning of the *Consular Fees Act 1955* of the Commonwealth;
- (c) a bailiff;
- (d) a bank officer who has 5 or more years of continuous service;
- (e) a building society officer who has 5 or more years of continuous service;
- (f) a chief executive officer of a Commonwealth court;
- (g) a clerk of a court;
- (h) a credit union officer who has 5 or more years of continuous service;
- (i) an employee of the Australian Trade and Investment Commission who is—
 - (i) in a country or place outside Australia; and
 - (ii) authorised under paragraph 3(d) of the *Consular Fees Act 1955* of the Commonwealth; and
 - (iii) exercising their function in that place;
- (j) an employee of the Commonwealth who is—
 - (i) in a country or place outside Australia; and
 - (ii) authorised under paragraph 3(c) of the *Consular Fees Act 1955* of the Commonwealth; and
 - (iii) exercising their function in that place;
- (k) a fellow of the National Tax and Accountants' Association;
- (l) a registered health practitioner;

- (m) a finance company officer who has 5 or more years of continuous service;
- (n) a marriage celebrant registered under Part IV Division 1 Subdivision C of the *Marriage Act 1961* of the Commonwealth;
- (o) a member of the Governance Institute of Australia;
- (p) a member of Engineers Australia, other than at the student grade;
- (q) a member of the Association of Taxation and Management Accountants;
- (r) a member of the Australasian Institute of Mining and Metallurgy;
- (s) a member of the Australian Defence Force who is—
 - (i) an officer; or
 - (ii) a non-commissioned officer within the meaning of the *Defense Force Discipline Act 1982* of the Commonwealth who has 5 or more years of continuous service; or
 - (iii) a warrant officer within the meaning of the *Defense Force Discipline Act 1982* of the Commonwealth;
- (t) a member of the Institute of Chartered Accountants in Australia, CPA Australia (Certified Public Accountants) or the Institute of Public Accountants;
- (u) a Member of—
 - (i) the Parliament of the Commonwealth; or
 - (ii) the Parliament of a State; or
 - (iii) a Territory legislature; or
 - (iv) a local government authority of a State or Territory;
- (v) a minister of religion registered under Part IV Division 1 Subdivision A of the *Marriage Act 1961* of the Commonwealth;
- (w) a patent attorney or a trade marks attorneys;
- (x) a permanent employee of the Australian Postal Corporation who has 5 or more years of continuous service who is employed in an office supplying postal services to the public;
- (y) a permanent employee of—
 - (i) the Commonwealth or a Commonwealth authority; or
 - (ii) a State or Territory or a State or Territory authority; or
 - (iii) a local government authority,with 5 or more years of continuous service who is not specified in another item in this list;
- (z) a Senior Executive Service employee of—
 - (i) the Commonwealth or a Commonwealth authority; or
 - (ii) a State or Territory or a State or Territory authority;
- (za) a sheriff;

- (zb) a sheriff's officer;
- (zc) a teacher employed on a full-time basis at a school or tertiary education institution;
- (zd) a veterinary surgeon.

Part 3—Affidavits

6—Requirements for the taking of affidavits (section 27A)

For the purposes of section 27A(1)(a)(I) of the Act, an affidavit must comply with the following requirements:

- (a) that the affidavit state the name of the person making the affidavit (the *deponent*);
- (b) that the affidavit state the place at, and date on, which the affidavit is made;
- (c) that the affidavit state the name of the person authorised to witness the affidavit pursuant to section 27A(3) of the Act (the *authorised person*);
- (d) that the affidavit state that the contents of the affidavit are sworn or affirmed (as the case may be);
- (e) if the affidavit includes an annexure or exhibit, the identification of the annexure or exhibit is clear and corresponds to the reference given to the annexure or exhibit in the affidavit;
- (f) that the affidavit contains a clause that provides for the signature of the authorised person and the date on which the affidavit was sworn or affirmed before the authorised person.

7—Classes of person authorised to take affidavits

Pursuant to Schedule 1 clause 2(e) of the Act, any person empowered, authorised or permitted by or under any Act or rules of a court or tribunal to take affidavits is prescribed as a class of persons authorised to take an affidavit for the purposes of section 27A(3) of the Act.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal regulations

Year	No	Reference	Commencement
2021	175	<i>Gazette 25.11.2021 p4164</i>	1.12.2021: r 2