



New South Wales

Oaths Regulation 2024

under the

Oaths Act 1900

Her Excellency the Governor, with the advice of the Executive Council, has made the following regulation under the *Oaths Act 1900*.

MICHAEL DALEY, MP
Attorney General

Explanatory note

The object of this regulation is to remake, without substantial changes, the provisions of the *Oaths Regulation 2017*, which is repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

This regulation sets out the procedure for identifying persons making statutory declarations or affidavits.

This regulation relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely the following—

- (a) matters of a machinery nature,
- (b) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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Part 1 Preliminary

1 Name of regulation

This regulation is the *Oaths Regulation 2024*.

2 Commencement

This regulation commences on 1 September 2024.

Note— This regulation replaces the *Oaths Regulation 2017*, which is repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

3 Definitions

The dictionary in Schedule 2 defines words used in this regulation.

Note— The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this regulation.

Part 2 Identification of persons making statutory declarations and affidavits—the Act, s 34

4 Exemption from requirement to see person's face

For the Act, section 34(3)(c), an authorised witness is exempted from the requirement under the Act, section 34(1)(a) to see the face of a person making a statutory declaration or affidavit if—

- (a) the person is wearing a face covering, and
- (b) the authorised witness is satisfied the person has a special justification for not removing the face covering.

Note— A special justification includes having a legitimate medical reason for not removing the face covering.

5 Period of time authorised witness must know person

For the Act, section 34(1)(b), an authorised witness knows a person if the authorised witness has known the person for a period of at least 12 months.

6 Confirmation of identity of person not known to authorised witness

- (1) For the Act, section 34(1)(b), an authorised witness satisfies the requirement to confirm the identity of a person making a statutory declaration or affidavit if, before the declaration or affidavit is made, the authorised witness sights an original or certified copy of an identification document relating to the person.
- (2) For subsection (1), an authorised witness must not rely on an identification document if the document—
 - (a) has expired, other than an Australian passport that has been expired for less than 2 years, or
 - (b) has been cancelled, or
 - (c) is referred to in the definition of *identification document*, paragraph (c), (d), (e), (g) or (j) and is in a language other than English, unless the document is accompanied by a document purporting to contain an English translation of the identification document, or
 - (d) is referred to in the definition of *identification document*, paragraph (l)(iii) and is more than 1 year old, or

Note— Under subsection (2)(a), an authorised witness must not rely on a credit card or passbook that has expired.

 - (e) is referred to in the definition of *identification document*, paragraph (m) or (n) and is more than 2 years old.
- (3) For subsection (1), a copy of a document may be certified as a true copy of the original by—
 - (a) an authorised witness, or
 - (b) a person authorised to take and receive statutory declarations under the Act, section 21(1).

7 Matters to be certified on statutory declaration or affidavit

- (1) For the Act, section 34(1)(c), an authorised witness certifies the Act, section 34 has been complied with by certifying the following matters in a certificate on the declaration or affidavit—
 - (a) that the authorised witness—
 - (i) saw the face of the person making the declaration or affidavit, or

- (ii) did not see the face of the person because of a face covering, but is satisfied the person had a special justification for not removing the covering,
 - (b) that the authorised witness—
 - (i) knows the person, or
 - (ii) has, in compliance with section 5, confirmed the person’s identity based on an identification document presented to the authorised witness,
 - (c) if the authorised witness has relied on an identification document to confirm the identity of the person—that the document on which the authorised witness relied is the document specified by the authorised witness in the certificate.
- (2) A certificate may, but need not, be in the form set out in Schedule 1.

8 Savings

An act, matter or thing that, immediately before the repeal of the *Oaths Regulation 2017*, had effect under that regulation continues to have effect under this regulation.

Schedule 1 Form for certificate under the Act, section 34(1)(c)

section 7(2)

Certificate under the Oaths Act 1900, section 34(1)(c)

**Please cross out any text that does not apply*

I [*insert name of authorised witness*], a [*insert qualification to be authorised witness*], certify the following matters concerning the making of this *statutory declaration/affidavit by the person who made it—

- 1 *I saw the face of the person *or* *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering.
- 2 *I have known the person for at least 12 months *or* *I have confirmed the person's identity using an identification document and the document I relied on was [*describe identification document relied on*].

[*insert signature of authorised witness*]

Date—

Schedule 2 Dictionary

section 3

forensic patient has the same meaning as in the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*.

identification document means the following—

- (a) a birth certificate or birth extract issued by a State or Territory,
- (b) a citizenship certificate issued by the Commonwealth,
- (c) a citizenship certificate issued by a foreign government,
- (d) a birth certificate issued by a foreign government or the United Nations,
- (e) a licence or permit for driving a vehicle—
 - (i) issued under a law of a State or Territory or equivalent authority of a foreign country, and
 - (ii) containing a photograph of the person in whose name the licence or permit is issued,
- (f) a passport issued by the Commonwealth,
- (g) a passport or similar document for international travel—
 - (i) issued by a foreign government or the United Nations, and
 - (ii) containing a photograph and the signature of the person in whose name the document is issued,
- (h) a Photo Card issued under the *Photo Card Act 2005*,
- (i) a card for proving a person's age—
 - (i) issued under a law of the Commonwealth or a State or Territory, and
 - (ii) containing a photograph of the person in whose name the card is issued,
- (j) a national identity card for identification purposes—
 - (i) issued by a foreign government or the United Nations, and
 - (ii) containing a photograph and the signature of the person in whose name the document is issued,
- (k) the following issued by the Commonwealth or a State or Territory—
 - (i) a Medicare Card,
 - (ii) a pensioner concession card,
 - (iii) a Department of Veterans' Affairs entitlement card,
 - (iv) an entitlement card of a similar kind,
- (l) the following issued by a bank, building society or credit union—
 - (i) a credit card,
 - (ii) a passbook,
 - (iii) a statement of account,
- (m) an electoral enrolment card or other evidence of enrolment as an elector,
- (n) a student identification card, or a certificate or statement of enrolment, from an educational institution,
- (o) for an inmate within the meaning of the *Crimes (Administration of Sentences) Act 1999*—an inmate identification card, or other document containing information identifying the inmate, prepared or used by the correctional centre in which the inmate is held,
- (p) for a forensic patient—a residential identification card, or other document containing information identifying the patient, prepared or used by the mental health facility, correctional centre or other place in which the patient is detained,

- (q) for a patient within the meaning of the *Mental Health Act 2007*, other than a forensic patient—a residential identification card or other document containing information identifying the patient, prepared or used by the mental health facility to which the patient is admitted,
 - (r) a police identification card issued to a police officer by the Commissioner of Police.
- special justification** has the same meaning as in the *Law Enforcement (Powers and Responsibilities) Act 2002*, section 19B.
- the Act** means the *Oaths Act 1900*.
- United Nations** includes an agency of the United Nations.