



CFA Society South Africa

COMMISSIONER OF OATHS GUIDELINES AND FREQUENTLY ASKED QUESTIONS

Dear Members

CFA Society South Africa is delighted to announce that CFA Charterholders who are also members of CFA Society South Africa are now commissioners of oaths and may begin to perform the duties associated with this designation effective immediately.

Webber Wentzel has provided the following guidelines for CFA Charterholders to use regarding the rights and responsibilities of serving as commissioners of oaths. These guidelines are subject to change and are for information purposes only. Charterholders should always reference current government regulation directly in order to ensure compliance with the latest government-issued guidance.

COMMISSIONER OF OATHS GUIDELINES FOR CFA CHARTERHOLDER MEMBERS

Charterholder Members of the CFA Society of South Africa ("**charterholders**") were designated as *ex officio* commissioners of oaths by the Minister of Justice and Correctional Services in Government Gazette No. 41811 on 3 August 2018, in terms of the Justices of the Peace and Commissioners of Oaths Act 16 of 1963 ("**the Act**"). Charterholders are entitled to act as commissioners of oaths by virtue of being, and for as long as they are charterholders, but they will also bear some responsibilities.

As a commissioner of oaths, you may:

1. administer oaths or affirmations or take a solemn or attested declaration; and
2. certify copies of original documents as true copies.

Common examples

Commissioners of oaths are required in the carrying out of various day-to-day operations. Affidavits, most often used in legal proceedings or in police reports, must be sworn or affirmed before a commissioner of oaths. In certain circumstances, a will or other testamentary document must be signed in the presence of and by a commissioner of oaths. More generally,

copies of documents certified as true copies of the original documents are often required for legal and administrative reasons in the day-to-day management of businesses.

How to administer an oath / affirmation or take a solemn or attested declaration

Oaths or affirmations are taken in respect of written documents and bind the person making the statement ("**the deponent**") to the contents in the document.

We recommend you take the following steps in order to properly commission an oath or affirmation:

1. Verify the identity of the person making the statement by requesting some form of official identification documentation.
2. Ensure that the original documents and annexures and any copies thereof are true copies of each other.
3. The deponent and the commissioner of oaths must both initial each and every page of the affidavit (and the annexures, if any), as well as next to any alterations on any page.
4. The commissioner of oaths must lead the deponent in the oath or affirmation, as applicable, as follows:

Ask the deponent if they have read and understand the contents of the affidavit, whether they have any objection to taking the prescribed oath, and whether they consider the prescribed oath to be binding on their conscience.

If they answer in the affirmative or have no objection to all three questions, lead the deponent in saying the following words: "I swear the contents of the affidavit are true, so help me God."

If the deponent has an objection to taking the prescribed oath or do not consider it binding on their conscience, lead the deponent in saying the following words: "I truly affirm the contents of this affidavit are true."

If the deponent has not read the affidavit, or does not understand the contents thereof, direct them to their legal representative or other qualified person to read and explain the contents thereof before proceeding any further.

5. The deponent must sign the affidavit at the end.

6. The commissioner of oaths must then append their certification and stamp at the end of the affidavit, as applicable, ensuring that a version of the following appears after the deponent's signature:

I certify that the deponent has acknowledged that he/she knows and understands the contents of this affidavit, that he/she has no objection to taking the prescribed oath, and considers it to be binding on his/her conscience, which was signed and sworn before me at _____ on the ___ day of ____.

OR

I certify that the deponent has acknowledged that he/she knows and understands the contents of this affidavit/declaration/affirmation, which was signed before me at _____ on the ___ day of ____.

AND

[INSERT FULL NAME AND SURNAME]

**COMMISSIONER OF OATHS
CHARTERHOLDER MEMBER OF THE
CFA SOCIETY OF SOUTH AFRICA**

[INSERT FULL BUSINESS ADDRESS]

How to certify copies of documents

Certified copies of documents ensure the authenticity of the copy of the original document and that there are no alterations to the copy. These are usually required by law or by institutions.

You must date the document you are certifying as a true copy. Many institutions only accept certified copies that are not more than 3 months old.

To certify copies as true copies of the original, you should:

Compare the original and copies and satisfy yourself they are exactly the same and/or have not been altered



Stamp the copies on the side the information is on with the following two stamps:

Certified as a true copy of the original and, from my comparisons, has not been altered in any way.
Date:

[INSERT FULL NAME AND SURNAME]
EX OFFICIO COMMISSIONER OF OATHS
CHARTERHOLDER MEMBER OF THE
CFA SOCIETY OF SOUTH AFRICA
[INSERT FULL BUSINESS ADDRESS]

Commissioners of oaths are not expressly authorised to make certified copies in terms of the Act. As such, this is a legal grey area, but is practice to accept copies certified by commissioners of oaths as true copies.

Take the privilege seriously, adhere to the law and the rules, and act professionally.

Note: CFA Society South Africa has negotiated a **special rate** if you would like to purchase a personalized **Certification Stamp**, compliant with CIPC.

You may order from www.rubberstamps.co.za and quote the unique code **RSD-DNJAWDUZE** to obtain your **20% discount**. You are not required to use this service provider, however, and are welcome to purchase your stamp from any store that sells them.

Frequently Asked Questions

Q: Do I need to register or renew my status as a commissioner of oaths with the Department of Justice?

A: CFA Charterholders who are members of the CFA Society of South Africa are *ex officio* commissioners of oaths. This means that charterholders will remain commissioners of oaths for as long as they are charterholders and members of the CFA Society of South Africa. It is important to maintain one's status as a charterholder and to renew your membership and pay your dues annually in order to remain commissioners of oaths. No additional registration or application is required.

Q: I am a member of the CFA Society of South Africa but I am not a CFA Charterholder. Am I eligible to serve as a commissioner of oaths?

A: No, simply being a member of the CFA Society of South Africa is not sufficient to be eligible to serve as commissioners of oaths. Similarly, those who have registered for or completed only some of the CFA exams, or who have passed CFA Level III (Charter Pending), are **not** eligible. Only active CFA Charterholders who are also members of the CFA Society of South Africa qualify as commissioners of oaths.

Q: May I charge a fee as a commissioner of oaths?

A: No, you may not charge a fee for administering an oath or affidavit, or certifying copies as true copies.

Q: May I commission my own affidavit or certify my own documents as true copies?

A: No, a commissioner of oaths cannot act as a commissioner of oaths regarding matters which they have an interest in.

Q: May I commission an affidavit or certify documents as true copies for family or close friends?

A: Yes, save for in any circumstances in which there may be a conflict of interest.

Q: May I commission an affidavit or certify documents as true copies for my employer or clients of my employer?

A: Yes, the law specifically allows for employees that are not attorneys and whose only interest in a matter is due to their employment and in the course of their duty.

Q: Can I have documents commissioned by commissioners of oaths that share same office as me or work in the same building?

A: Careful precaution should be taken to not have any interest in a matter, but otherwise there is no prohibition.

Q: Can I certify documents without the original documents or another certified copy of the document?

A: No, the original documents are always needed and must be compared with the copies to be certified.

Q: Am I also a notary or can I notarise documents?

A: No, this requires a different qualification, which is only available to attorneys.

Q: What happens if I do not adhere to the rules?

A: If an affidavit is incorrectly attested, a court may require that it be re-attested. Documents that are not correctly certified may be rejected by a court or another institution. Moreover, any person who knowingly makes a false statement in an affidavit or declaration before a commissioner of oaths shall be guilty of an offence and may be convicted the same as if they had committed perjury.

Q: Where can I get the stamps?

A: Most stationary stores sell generic commissioner of oaths and/or 'certified copy' stamps and ink. Custom stamps can easily be ordered online or from professional stationary stores.