

## COMMISSIONERS OF OATHS GUIDELINE

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### 1. **INTRODUCTION**

Members (RGAs) of the Southern African Institute of Government Auditors (SAIGA) have been granted the right to act as ex officio Commissioners of Oaths. This guideline sets out the provisions, requirements, powers and duties of Commissioners of Oaths.

### 2. **DESIGNATION: EX OFFICIO COMMISSIONERS OF OATHS**

- 2.1 Section 6 of the Justices of the Peace and Commissioners of Oaths Act 16 of 1963 (the Act) states that the Minister may, by notice in the Gazette, designate the holder of any office as a commissioner of oaths for any area specified in such notice, and may in like manner withdraw or amend such notice.
- 2.2 On 29 November 2013 the Minister of Justice and Constitutional Development inserted clause 66C in GN 903 of 10 July 1998: *Designation of Commissioners of Oaths in terms of section 6 of the Justices of the Peace and Commissioners of Oaths Act, 1963*. Clause 66C gave Registered Government Auditors of the Southern African Institute of Government Auditors the right to use the designation ex officio commissioners of oaths.

### 3. **POWERS OF COMMISSIONERS OF OATHS**

Section 7 of the Act ascribes the powers of commissioners of oaths. It states that:

*Any commissioner of oaths may, within the area for which he is a commissioner of oaths, administer an oath or affirmation to or take a solemn or attested declaration from any person: Provided that he shall not administer an oath or affirmation or take a solemn or attested declaration in respect of any matter in relation to which he is in terms of any regulation made under section ten prohibited from administering an oath or affirmation or taking a solemn or attested declaration, or if he has reason to believe that the person in question is unwilling to make an oath or affirmation or such a declaration.*

### 4. **REGULATIONS ISSUED BY THE MINISTER**

- 4.1 In terms of section 10(1)(b) of the Act the Minister may make regulations prescribing the form and manner in which an oath or affirmation shall be administered and a solemn or attested declaration shall be taken, when not prescribed by another law.
- 4.2 On 21 July 1972 the Minister issued the *Regulations Governing the Administration of an Oath or Affirmation*.

4.3 The relevant regulations states as follows:

4.3.1 Regulation 1:

- (1) An oath is administered by causing the deponent to utter the following words:  
"I swear that the contents of this declaration are true, so help me God".
- (2) An affirmation is administered by causing the deponent to utter the following words: "I truly affirm that the contents of this declaration are true".

4.3.2 Regulation 2:

- (1) Before a commissioner of oaths administers to any person the oath or affirmation prescribed by regulation 1 he shall ask the deponent:
  - (a) whether he knows and understands the contents of the declaration;
  - (b) whether he has any objection to taking the prescribed oath; and
  - (c) whether he considers the prescribed oath to be binding on his conscience.
- (2) If the deponent acknowledges that he knows and understands the contents of the declaration and informs the commissioner of oaths that he does not have any objection to taking the oath and that he considers it to be binding on his conscience the commissioner of oaths shall administer the oath prescribed by regulation 1 (1).
- (3) If the deponent acknowledges that he knows and understands the contents of the declaration but objects to taking the oath or informs the commissioner of oaths that he does not consider the oath to be binding on his conscience the commissioner of oaths shall administer the affirmation prescribed by regulation 1 (2).

4.3.3 Regulation 3:

- (1) The deponent shall sign the declaration in the presence of the commissioner of oaths.
- (2) If the deponent cannot write he shall in the presence of the commissioner of oaths affix his mark at the foot of the declaration: Provided that if the commissioner of oaths has any doubt as to the deponent's inability to write he shall require such inability to be certified at the foot of the declaration by some other trustworthy person.

4.3.4 Regulation 4:

- (1) Below the deponent's signature or mark the commissioner of oaths shall certify

that the deponent has acknowledged that he knows and understands the contents of the declaration and he shall state the manner, place and date of taking the declaration.

- (2) The commissioner of oaths shall:
  - (a) sign the declaration and print his full name and business address below his signature; and
  - (b) state his designation and the area for which he holds his appointment or the office held by him if he holds his appointment ex officio.

#### 4.3.5 Regulation 6:

A commissioner of oaths shall not charge any fee for administering any oath or affirmation or attesting any declaration.

#### 4.3.6 Regulation 7

- (1) A commissioner of oaths shall not administer an oath or affirmation relating to a matter in which he has an interest.
- (2) Sub-regulation (1) shall not apply to an affidavit or a declaration mentioned in the Schedule.

### **5. DECLARATIONS EXEMPTED FROM THE PROVISIONS OF REGULATION 7(2)**

Paragraph 2 to the Schedule to the regulations: *Declarations Exempted from Provisions of Regulation 7* states that:

*A declaration taken by a commissioner of oaths who is not an attorney and whose only interest therein arises out of his employment and in the course of his duty.*

### **6. APPLICATION PROCESS: SAIGA COMMISSIONER OF OATHS**

- 6.1 In order to make use of the designation *Commissioner of Oaths*, an RGA (member) must send a completed application form to SAIGA.
- 6.2 Only members in good standing may apply to become a Commissioner of Oaths.
- 6.3 The SAIGA Secretariat will issue an invoice once the details of the member have been confirmed.
- 6.4 Within seven working days, after receipt of proof of payment, a commissioner of oaths' stamp will be couriered to the member.
- 6.5 The stamp's validity will be depended on a member's continuing membership of SAIGA.

6.6 The COMMISSIONER OF OATHS designation will only be valid whilst a member is a member in good standing.

### **7. COMMISSIONER OF OATHS STAMP**

7.1 If you are a SAIGA member in good standing you may apply to the Secretariat to issue you with Commissioner of Oaths stamp. The stamp will be customised with your details.

7.2 A once off application fee is payable which will cover for the costs associated with the administration, procuring and couriering of the stamp to a member.

7.3 A commissioner of oaths may not authorise any other person to use his/her stamp.

7.4 If a commissioner of oaths' stamp is used for unintended purposes due to negligence the commissioner of oaths will be held liable in law.

7.5 In the event that a member status changes to that of a member not in good standing the stamp must be returned to the SAIGA Secretariat within 30 days.

### **8. HOW TO CERTIFY A DOCUMENT TO BE A TRUE COPY**

- A copy of a document which must be certified as a true copy of the original must be compared with the original document and it must be made sure that the two documents are, in fact, the same.
- If the Commissioner of Oaths is sure that the copy is in fact a true copy of the original document and no unauthorized amendments have been made, the Commissioner of Oaths must write down or stamp that he/she certifies that the document is a true copy of the original document and that there are no indications that the original document has been altered by unauthorized persons.
- A document can be certified to be a true copy by a commissioner of oaths by verifying the copy against the original and by stating the words:

***'Certified a true copy of the original'***

- This is the stamp to be used in conjunction with your Commissioner of Oaths stamp, and your signature

**8.1 ADMINISTRATION OF AN OATH OR AFFIRMATION**

In agreement to terms of section 10 of the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act 16 of 1963)

I, certify that the DEPONENT has acknowledged that he/she knows and understands the contents of this affidavit, he/she does not have any objection to taking the oath, and the he/she considers it to be binding on his/her conscience and which was sworn to and signed before me on this

the \_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_, and that the administering oath complied with the regulations contained in Government Gazette No. R1258 of July 1972, as amended.

Signature \_\_\_\_\_ Full Names \_\_\_\_\_

COMMISSIONER OF OATHS

Designation: Registered Government Auditor ex officio: Republic of South Africa

Date: \_\_\_\_\_ Place \_\_\_\_\_

Business Address:

\_\_\_\_\_  
(Physical address not postal address)

**8.2 CERTIFICATION OF DOCUMENTS**

*Certified a true copy of the original document*

I certify that this document is a true copy of the original, which was examined by me and that, from my observations, that there are no indications that the original document has been altered by unauthorized persons.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
FULL NAMES COMMISSIONER OF OATHS:

Designation: RGA ex officio: Republic of South Africa

Date: \_\_\_\_\_ Place \_\_\_\_\_

Business Address:

\_\_\_\_\_  
(physical address not postal address)