



Australian Capital Territory

# **Oaths and Affirmations Act 1984 No 79**

## **Republication No 3**

Republication date: 8 February 2002

Last amendment made by Act 2001 No 44

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Oaths and Affirmations Act 1984* as in force on 8 February 2002. It includes any amendment, repeal or expiry affecting the republished law to 12 September 2001 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

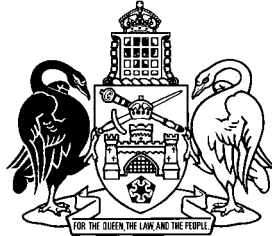
### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Oaths and Affirmations Act 1984

## Contents

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	Page
<b>Part 1</b>	<b>Preliminary</b>
1	Short title 2
4	Definitions for Act 2
5	Application of Act 2
<b>Part 2</b>	<b>Form of oaths and affirmations</b>
6	Oath or affirmation of office 3
6A	Oaths or affirmations by member of Assembly 3
7	Oath or affirmation by witness 3
8	Oath or affirmation by interpreter of spoken language 4
9	Oath or affirmation by interpreter of signs 4
10	Oath or affirmation by deponent to affidavit 4

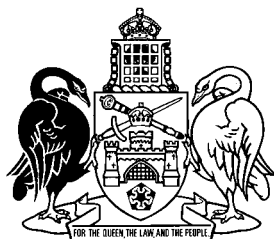
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	Page
<b>Part 3 Administration of oath or affidavit</b>	
10A Authority to administer oath or affirmation to member of Assembly	5
11 Authority to administer oath etc	5
12 Swearing or affirming of affidavit	6
13 Affidavit by affirmation	6
<b>Part 4 Affirmations</b>	
14 Entitlement to make affirmation	7
15 Requirement to make affirmation	7
16 Effect of affirmation	7
<b>Part 5 Manner of taking oaths and making affirmations</b>	
17 Oath or affirmation by spoken words or other means	8
18 Written evidence of oath or affirmation of office	8
19 Affidavit by person unable to understand English	9
20 Affidavit by illiterate or blind person	9
<b>Part 6 Miscellaneous</b>	
21 Alternative form and manner for oath	10
22 Validity of oath or affirmation	10
23 Effect of noncompliance	10
24 Oath or affirmation for purposes of foreign tribunal	10
25 Oath or affirmation without authority	11
26 Oath etc for purposes of foreign law	11
27 Fee	12
<b>Schedule 1 Oath and affirmation of office</b>	13
<b>Schedule 1A Oaths and affirmations by member of Legislative Assembly</b>	14
<b>Part 1A.1</b>	14
<b>Part 1A.2</b>	15

<b>Schedule 2</b>	<b>Oath and affirmation by witness</b>	Page 16
<b>Schedule 3</b>	<b>Oath and affirmation by interpreter of spoken language</b>	17
<b>Schedule 4</b>	<b>Oath and affirmation by interpreter of statements made by means of signs</b>	18
<b>Schedule 5</b>	<b>Oath and affirmation by deponent to affidavit</b>	19
<b>Endnotes</b>		
1	About the endnotes	20
2	Abbreviation key	20
3	Legislation history	21
4	Amendment history	22
5	Earlier republications	23



Amendments incorporated to  
12 September 2001



Australian Capital Territory

# Oaths and Affirmations Act 1984

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An Act relating to oaths and affirmations

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## Part 1 Preliminary

### 1 Short title

This Act may be cited as the *Oaths and Affirmations Act 1984*.

### 4 Definitions for Act

In this Act:

*Note* A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

***court*** includes any tribunal or person having authority under a law in force in the ACT, or by consent of parties, to receive evidence.

***diplomatic or consular representative***—see the *Evidence Act 1971*.

***proceeding*** means a matter or inquiry, whether civil or criminal, heard or conducted by a court in which evidence is, or may be, received.

### 5 Application of Act

This Act does not affect the operation of the *Supreme Court Rules*.



## Part 2                      Form of oaths and affirmations

### 6            Oath or affirmation of office

- (1) An oath of office to be taken by a person under a law in force in the ACT shall, where the form of oath is not prescribed by or under that law, be in accordance with the form of oath specified in schedule 1.
- (2) Where a person is entitled or required to make an affirmation of office instead of taking an oath of office and the form of affirmation is not prescribed by or under the relevant law, the affirmation shall be in accordance with the form of affirmation specified in schedule 1.

### 6A        Oaths or affirmations by member of Assembly

Notwithstanding the *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), section 9 (1), a member of the Legislative Assembly, before taking his or her seat, shall make and subscribe—

- (a) an oath or affirmation in accordance with the form specified in schedule 1A, part 1A.1; or
- (b) an oath or affirmation in accordance with the form specified in schedule 1A, part 1A.2.

### 7            Oath or affirmation by witness

- (1) An oath to be taken by a person called as a witness in a proceeding shall, where no other form of oath is prescribed by or under the relevant law, be in accordance with the form of oath specified in schedule 2.
- (2) Where a person called as a witness in a proceeding is entitled or required to make an affirmation instead of taking an oath, and the form of affirmation is not prescribed by or under the relevant law, the affirmation shall be in accordance with the form of affirmation specified in schedule 2.

**8 Oath or affirmation by interpreter of spoken language**

- (1) An oath to be taken by a person who is to interpret a spoken language in a proceeding shall be in accordance with the form of oath specified in schedule 3.
- (2) Where a person who is to interpret a spoken language in a proceeding is entitled or required to make an affirmation instead of taking an oath, the affirmation shall be in accordance with the form of affirmation specified in schedule 3.

**9 Oath or affirmation by interpreter of signs**

- (1) An oath to be taken by a person who is to interpret statements in a proceeding made by means of signs shall be in accordance with the form of oath specified in schedule 4.
- (2) Where a person who is to interpret statements in a proceeding made by means of signs is entitled or required to make an affirmation instead of taking an oath, the affirmation shall be in accordance with the form of affirmation specified in schedule 4.

**10 Oath or affirmation by deponent to affidavit**

- (1) An oath to be taken by a deponent to an affidavit for use in a proceeding shall be in accordance with the form of oath specified in schedule 5.
- (2) Where a deponent to an affidavit for use in a proceeding is entitled or required to make an affirmation instead of taking an oath, the affirmation shall be in accordance with the form of affirmation specified in schedule 5.

## **Part 3                      Administration of oath or affidavit**

### **10A    Authority to administer oath or affirmation to member of Assembly**

An oath or affirmation referred to in section 6A shall be made and subscribed before the Chief Justice of the Supreme Court or a judge of that court authorised by the Chief Justice.

### **11      Authority to administer oath etc**

- (1) Subject to section 10A, an oath to be taken or affidavit to be made for the purposes of a proceeding or for any other purpose under a law in force in the ACT may be sworn or affirmed—
  - (a) in the ACT, before a justice of the peace, a notary public for the ACT or a legal practitioner; and
  - (b) in a State or another Territory, before—
    - (i) a person referred to in paragraph (a); or
    - (ii) a justice of the peace of that State or Territory; or
    - (iii) a notary public for that State or Territory; or
    - (iv) any other person having authority to administer an oath in that State or Territory; and
  - (c) in any other place, before—
    - (i) a person referred to in paragraph (a); or
    - (ii) an Australian diplomatic or consular representative in the country in which that place is situated; or
    - (iii) a notary public for that place; or
    - (iv) any person having authority to administer an oath in that place.

- (2) A person authorised under subsection (1) to administer an oath may, for any purpose for which the oath may be administered, administer an affirmation.

**12 Swearing or affirming of affidavit**

Where, by a law in force in the ACT, an affidavit is required or permitted to be made, the affidavit may be sworn or affirmed in accordance with part 5.

**13 Affidavit by affirmation**

Where a deponent to an affidavit makes an affirmation under section 10 (2), the form of jurat shall be varied and the necessary alterations shall be made so as to conform with the affirmation.

## **Part 4                      Affirmations**

### **14      Entitlement to make affirmation**

- (1) In any case where an oath is required or permitted by law, a person is entitled, instead of taking such an oath, to make an affirmation.
- (2) This section has effect notwithstanding anything contained in any other Territory law.

### **15      Requirement to make affirmation**

Where a person required or permitted by law to take an oath—

- (a) appears to a person before whom an oath may be taken to be incompetent to take an oath; or
- (b) is objected to, on grounds a person before whom an oath may be taken considers reasonable, as incompetent to take an oath; or
- (c) wishes to take an oath in a form and manner permitted under section 21, but it is not, in the opinion of a person before whom an oath may be taken, reasonably practicable without inconvenience or delay for him to take that oath at the appropriate time and place;

the person before whom an oath may be taken may require that firstmentioned person to make an affirmation instead of taking an oath.

### **16      Effect of affirmation**

An affirmation made by a person under this part has the same effect for all purposes as if that person had taken an oath.

## **Part 5                      Manner of taking oaths and making affirmations**

### **17      Oath or affirmation by spoken words or other means**

- (1) A person taking an oath shall, if the person is physically capable of doing so, in the presence of the person before whom the oath is taken—
  - (a) hold in his or her hand the Bible, the New Testament or the Old Testament; and
  - (b) at the same time, say the words of the oath.
- (2) A person making an affirmation shall, if the person is physically capable of doing so, in the presence of the person before whom the affirmation is made, say the words of the affirmation.
- (3) The words of an oath or affirmation shall be spoken in the English language or such other language as the person before whom the oath is taken or affirmation made allows.
- (4) A person who is incapable of speaking may express the words of an oath or affirmation by signs or by such other means as the person before whom the oath is taken or affirmation made allows.

### **18      Written evidence of oath or affirmation of office**

A person who has taken or made an oath or affirmation of office shall forthwith, in the presence of the person before whom the oath or affirmation was taken or made, sign an instrument showing the form of that oath or affirmation, and the person before whom the oath or affirmation was taken or made shall certify on the instrument that the oath or affirmation was taken or made and the date on which it was taken or made.

**19 Affidavit by person unable to understand English**

Where, in relation to an affidavit, an oath or affirmation is allowed to be taken or made in a language other than English, the person before whom the affidavit is made shall certify in or below the jurat that a person whose name and address are stated in the certificate swore or affirmed before the firstmentioned person—

- (a) that he or she had in the presence of the firstmentioned person interpreted to the deponent—
  - (i) the contents of the affidavit; and
  - (ii) the words of the oath or affirmation; and
- (b) that the deponent seemed to understand the affidavit and the oath or affirmation; and
- (c) that the deponent had sworn or affirmed that the contents of the affidavit so interpreted to him or her were true.

**20 Affidavit by illiterate or blind person**

Where it appears to the person before whom an affidavit is made that the deponent is illiterate or blind, the person shall certify in or below the jurat that the affidavit was read in his or her presence to the deponent and that the deponent seemed to understand the affidavit.

## Part 6 Miscellaneous

### 21 Alternative form and manner for oath

Subject to sections 6A and 15 but notwithstanding any other provision of this Act, where a person who is required or permitted to take an oath states, in the presence of the person before whom the oath is to be taken, that an oath taken in a form and manner other than the form and manner specified in this Act would be binding on him or her, the oath may be taken in that form and manner.

### 22 Validity of oath or affirmation

- (1) Where a person has taken or made an oath or affirmation the person is required or permitted to take or make in accordance with a form prescribed by or under a law in force in the ACT or in any form and manner that the person has stated to be binding on him or her, that person is bound by the oath or affirmation for all purposes for which it was taken or made.
- (2) Where a person has taken an oath in accordance with this Act or another law in force in the ACT, the fact that the person did not at the relevant time have any religious belief or did not for any other reason regard the oath as binding on the person does not affect the validity of that oath.

### 23 Effect of noncompliance

The validity of an oath or affirmation is not affected by reason only of a failure to comply with the provisions of part 2 or 5.

### 24 Oath or affirmation for purposes of foreign tribunal

- (1) Subject to this section, a person appointed by a foreign tribunal to take evidence in the ACT for that tribunal may administer an oath or affirmation in the ACT for the purpose of taking that evidence.
- (2) Where an oath or affirmation to be administered under subsection (1) relates to evidence to be taken for a foreign tribunal



other than a court or a judge, the oath or affirmation shall not be administered without the consent of the Minister.

- (3) Nothing in this section authorises a person to administer an oath or affirmation in connection with criminal proceedings.
- (4) In this section:

*foreign tribunal* means a person or body authorised by a law of a place outside the ACT to take or receive evidence in that place.

## **25 Oath or affirmation without authority**

- (1) A person shall not, unless the person is authorised to do so by or under a law in force in the ACT—
  - (a) require another person to take an oath or make an affirmation; or
  - (b) administer an oath or affirmation to another person.
- (2) A person who wilfully contravenes subsection (1) commits an offence.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

## **26 Oath etc for purposes of foreign law**

- (1) Subject to section 24 (2), where an oath, affirmation or affidavit is required or permitted by a foreign law for any purpose, nothing in this Act makes it an offence for an authorised person to administer the oath or affirmation, or take the affidavit, for that purpose.
- (2) In this section:

*authorised person* means a person authorised under this Act to administer an oath or affirmation, or take an affidavit.

*foreign law* means a law of a place outside the ACT.

**27     Fee**

A fee is not payable to any person in respect of an oath taken or affirmation made in accordance with this Act.

## **Schedule 1      Oath and affirmation of office**

(see s 6)

### **Oath**

I, A.B., do swear that I will well and truly serve in the office of

So help me God!

### **Affirmation**

I, A.B., do solemnly and sincerely affirm and declare that I will well  
and truly serve in the office of

## **Schedule 1A      Oaths and affirmations by member of Legislative Assembly**

(see s 6A)

### **Part 1A.1**

#### Oath

I, A.B., swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth, Her heirs and successors according to law. So help me God!

#### Affirmation

I, A.B., solemnly affirm that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth, Her heirs and successors according to law.

## **Part 1A.2**

### Oath

I, A.B., swear that I will faithfully serve the people of the Australian Capital Territory as a member of the Legislative Assembly and discharge my responsibilities according to law. So help me God!

### Affirmation

I, A.B., solemnly affirm that I will faithfully serve the people of the Australian Capital Territory as a member of the Legislative Assembly and discharge my responsibilities according to law.

## **Schedule 2      Oath and affirmation by witness**

(see s 7)

### **Oath**

I swear by Almighty God that the evidence I shall give will be the truth, the whole truth, and nothing but the truth.

### **Affirmation**

I solemnly declare and affirm that the evidence I shall give will be the truth, the whole truth, and nothing but the truth.

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## **Schedule 3      Oath and affirmation by interpreter of spoken language**

(see s 8)

### **Oath**

I swear by Almighty God that I shall, to the best of my skill and ability,  
truly and faithfully translate from the English language into the  
language and from the                      language into the English language.

### **Affirmation**

I solemnly declare and affirm that I shall, to the best of my skill and ability,  
truly and faithfully translate from the English language into the  
language and from the                      language into the English language.

## **Schedule 4      Oath and affirmation by interpreter of statements made by means of signs**

(see s 9)

### **Oath**

I swear by Almighty God that I shall, to the best of my skill and ability, truly and faithfully communicate by signs or other convenient means words spoken in the English language and translate into the English language statements made by means of signs.

### **Affirmation**

I solemnly declare and affirm that I shall, to the best of my ability, truly and faithfully communicate by signs or other convenient means words spoken in the English language and translate into the English language statements made by means of signs.



## **Schedule 5      Oath and affirmation by deponent to affidavit**

(see s 10)

### **Oath**

I swear by Almighty God that the signature to this affidavit is my signature and that every statement in the affidavit is true.

### **Affirmation**

I solemnly declare and affirm that the signature to this affidavit is my signature and that every statement in the affidavit is true.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnotes.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
ins = inserted/added	renum = renumbered
LA = Legislation Act 2001	reloc = relocated
LR = legislation register	R[X] = Republication No
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
o = order	sub = substituted
om = omitted/repealed	SL = Subordinate Law
	<u>underlining</u> = whole or part not commenced

### 3 Legislation history

The *Oaths and Affirmations Act 1984* was originally the *Oaths and Affirmations Ordinance 1984*. It became an ACT Act on self-government (11 May 1989).

After 11 May 1989 and before 10 November 1999, Acts commenced on their notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) s 25).

#### Legislation before self-government

##### **Oaths and Affirmations Act 1984 No 79**

notified 19 December 1984

commenced 19 December 1984

as amended by

##### **Self-Government (Consequential Amendments) Ordinance 1989 No 38 sch 1**

notified 10 May 1989 (Cwlth Gaz 1989 No S164)

s 1, s 2 commenced 10 May 1989 (s 2 (1))

sch 1 commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989 No S164)

#### Legislation after self-government

##### **Statute Law Revision (Penalties) Act 1994 No 81 sch**

notified 29 November 1994 (Gaz 1994 No S253)

s 1, s 2 commenced 29 November 1994 (s 2 (1))

sch commenced 29 November 1994 (s 2 (2) and Gaz 1994 No S269)

##### **Oaths and Affirmations (Amendment) Act 1995 No 34**

notified 31 October 1995 (Gaz 1995 No S266)

commenced 31 October 1995 (s 2)

##### **Statute Law Revision Act 1995 No 46 sch**

notified 18 December 1995 (Gaz 1995 No S306)

commenced 18 December 1995 (s 2)

##### **Legal Practitioners (Consequential Amendments) Act 1997 No 96 sch**

notified 1 December 1997 (Gaz 1997 No S380)

s 1, s 2 commenced 1 December 1997 (s 2 (1))

sch commenced 1 June 1998 (s 2 (2))

## Endnotes

### 4 Amendment history

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#### **Legislation (Consequential Amendments) Act 2001 No 44 pt 263**

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 263 commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

## 4 Amendment history

### **Repeal**

s 2 om 2001 No 44 amdt 1.2997

### **The Oaths Act**

s 3 om 2001 No 44 amdt 1.2997

### **Definitions for Act**

s 4 def *barrister and solicitor* om 1997 No 96 sch

### **Application of Act**

s 5 am 1995 No 46 sch

### **Oaths or affirmations by member of Assembly**

s 6A ins 1995 No 34 s 4

### **Authority to administer oath or affirmation to member of Assembly**

s 10A ins 1995 No 34 s 5

### **Authority to administer oath etc**

s 11 am 1995 No 34 s 6; 1997 No 96 sch

### **Alternative form and manner for oath**

s 21 am 1995 No 34 s 7

### **Oath or affirmation for purposes of foreign tribunal**

s 24 am 1989 No 38 sch 1

### **Oath or affirmation without authority**

s 25 am 1994 No 81 sch

### **Amendment of *Seat of Government (Administration) Ordinance 1930***

s 28 om 1989 No 38 sch 1

### **Oaths and affirmations by member of Legislative Assembly**

sch 1A ins 1995 No 34 s 8

pt 1A.1 hdg (prev sch 1 pt 1 hdg) renum R3 LA

pt 1A.2 hdg (prev sch 1 pt 2 hdg) renum R3 LA

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Republication No	Amendments to	Republication date
1	Ord 1989 No 38	30 June 1991
2	Act 1995 No 46	1 January 1996

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[www.legislation.act.gov.au](http://www.legislation.act.gov.au)

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