

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 7746

31 July 2026

**INVITATION FOR PUBLIC COMMENTS ON THE DRAFT REGULATIONS
GOVERNING THE ADMINISTERING OF AN OATH OR AFFIRMATION****1. INVITATION**

- 1.1 The Department of Justice and Constitutional Development (the Department) invites interested parties to submit written comments on the draft Regulations made under the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act No. 16 of 1963) (the Act). The draft Regulations will repeal and replace the current Regulations Governing the Administering of an Oath or Affirmation, 1972.
- 1.2 The draft Regulations are issued in terms of section 10 of the Act, and are available on the website of the Department at:
<https://www.justice.gov.za/legislation/invitations/invites.htm>

2. COMMENTS

- 2.1 The comments must be submitted not later than **Monday, 31 August 2026**, marked for the attention of **Mr M Mokulubete**, and—
- (a) if they are forwarded by post, be addressed to—
The Department of Justice and Constitutional Development
Private Bag X81, Pretoria, 0001
 - (b) if they are delivered by hand, be delivered at—
The Department of Justice and Constitutional Development
Momentum Building, 329 Pretorius Street, Pretoria
 - (c) if they are delivered by email, be emailed to MMokulubete@justice.gov.za.
- 2.2 For more information, please contact Mr M Mokulubete on **012 406 4755 / 084 842 5780**

GOVERNMENT NOTICE

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

No. R.

2026

JUSTICES OF THE PEACE AND COMMISSIONERS OF OATHS ACT, 1963

REGULATIONS GOVERNING THE ADMINISTERING OF AN OATH OR AFFIRMATION

The President has, in terms of section 10 of the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act No. 16 of 1963), made the regulations in the Schedule.

SCHEDULE

Definition

1. In these Regulations, any word or expression to which a meaning has been assigned in the Act has the meaning so assigned and, unless the context otherwise indicates—

“**affidavit**” means a written statement made voluntarily under oath or upon affirmation before a commissioner, whether in the physical presence of each other or not;

“**commissioner**” means a person appointed in terms of section 5(1) or designated in terms of section 6 of the Act as a commissioner of oaths;

“**justice of the peace**” means a person appointed in terms of section 2(1) or designated in terms of section 4 of the Act as the justice of the peace;

“**Minister**” means the Cabinet member responsible for the administration of justice;

“**sign**” means affixing or appending a signature including an electronic signature comprising the initial or name of the person signing, in any font, style or size which is intended by the person to serve as a signature and includes an advanced electronic signature as provided for in the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002), and ‘signed’ has a corresponding meaning; and

“**the Act**” means the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act No. 16 of 1963).

Administration of oath or affirmation

2. (1) An oath is administered by the commissioner 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 the commissioner by causing the deponent to utter the following words: 'I truly affirm that the contents of this declaration are true'.

Duties of commissioner

3. (1) Before a commissioner administers to any person the oath or affirmation prescribed by regulation 2, the commissioner must ask the deponent whether the deponent—

- (a) knows and understands the contents of the declaration;
- (b) has any objection to taking the prescribed oath; and
- (c) considers the prescribed oath to be binding on the deponent's conscience.

(2) If the deponent acknowledges to know and understand the contents of the declaration and informs the commissioner that the deponent does not have any objection to taking the oath and that the deponent considers it to be binding on the deponent's conscience, the commissioner must administer the oath prescribed by regulation 2(1).

(3) If the deponent acknowledges to know and understand the contents of the declaration, but objects to taking the oath or informs the commissioner of oaths that the deponent does not consider the oath to be binding on the deponent's conscience the commissioner must administer the affirmation prescribed by regulation 2(2).

Signing of declaration

4. (1) Subject to regulation 5, the deponent must sign the declaration in the presence of the commissioner.

(2) If the deponent cannot write, the deponent must, subject to regulation 5, in the presence of the commissioner affix a mark at the foot of the declaration.

(3) If the commissioner has any doubt as to the deponent's inability to write, the commissioner must cause such inability to be certified at the foot of the declaration by some other trustworthy person.

Electronic commissioning

5. (1) If any document that requires to be made under oath or affirmation is submitted electronically or through the online portal or any other legitimate electronic platform, the commissioner may administer the oath or affirmation, as prescribed by regulation 2, through an audio-visual communication with the person required to sign the document.

(2) (a) If that document was signed before the oath or affirmation is administered, the commissioner must ascertain if the deponent is the person who signed the document, and

if so satisfied the commissioner may administer the oath or affirmation as prescribed by regulation 2.

(b) The mark or typed name or surname of the deponent at the space provided for the deponent's signature is, for the purposes of this regulation and regulation 4(2), considered and must be treated as the signature of the deponent.

(3) For the purposes of this regulation, the administering of the oath or affirmation by the commissioner in an instance where the deponent is not in the physical presence of the commissioner is in all respects valid as if it was administered in the physical presence of the commissioner.

Certificate

6. (1) Below the deponent's signature or mark, the commissioner must certify that the deponent has acknowledged to know and understand the contents of the declaration and must state the manner, place and date of taking the declaration.

(2) The commissioner must—

- (a) sign the declaration and print full names and surname, and business address below the signature; and
- (b) state the commissioner's designation and the area for which the appointment is held or the office held by that commissioner if the appointment is held *ex officio*.

Prohibitions on commissioner

7. A commissioner—

- (a) must not charge any fee for administering any oath or affirmation or attesting any declaration;
- (b) may not peruse the declaration to be commissioned, unless it is necessary to do so for whatever reason that the commissioner deems necessary; and
- (c) must not administer an oath or affirmation relating to matter in which that commissioner has interest, unless it is an affidavit or a declaration mentioned in the Annexure.

Repeal and transitional provisions

8. (1) The regulations published under Government Notice No. R. 1258 of 21 July 1972, are hereby repealed.

(2) Anything done under a provision of the repealed regulations referred to in sub-regulation (1), and which could have been done under a corresponding provision of these

Regulations, is regarded as having been done under the said corresponding provision of these Regulations.

Short title

9. These Regulations are called the Regulations Governing the Administering of an Oath or Affirmation, 2026.

ANNEXURE

DECLARATIONS EXEMPTED FROM THE PROVISIONS OF REGULATION 7(c)

1. A declaration taken by a legal practitioner which—
 - (a) is required for the obtaining of registration in a deeds registry referred to in section 1(1) of the Deeds Registries Act, 1937 (Act No. 47 of 1937); or
 - (b) should be furnished to a Minister or an administrator or an officer in the service of the State.
2. A declaration taken by a commissioner of oaths who is not a legal practitioner and whose only interest therein arises out of that commissioner's employment and in the course of that commissioner's duty.