



## **Affidavit**

An affidavit is a document containing a statement that the deponent swears to be true to the best of their knowledge.

The commissioner then signs as confirmation that the oath or affirmation was properly administered and that the deponent signed the document after taking the oath.

Instead of a commissioner, a notary public or another officer of the court may administer oaths or affirmations and similarly sign in confirmation.

## **Authentication & Legalization**

When documents are notarized in Canada for use abroad, such documents must go through a process of "authentication" and "legalization" in order for them to be valid in the foreign jurisdiction. The combined process of "authentication" and "legalization" is the Canadian equivalent of "apostille certificates" issued in other countries that are signatories to The Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents (1961). As Canada did not sign this convention, notaries in Canada do not provide "apostille certificates". However, in most circumstances (depending on the country and document in question), a notary public can provide you with our authentication and legalization services, whereby, we will authenticate and/or legalize your notarized documents for an extra fee (for details of our fees for this service, see our fees page)

"Authentication" is intended to remove the burden on foreign courts and foreign authorities in proving the genuineness of documents originating outside of their countries. Authentication is undertaken by both the Department of Foreign Affairs and International Trade ("DFAIT") and provincial authentication authorities such as the Government of Ontario's Management Board Secretariat (Official Documents) or the Official Documents and Appointments branch of Alberta's Department of Justice. Whether DFAIT and the provincial authentication authority are both required to authenticate a document depends entirely on the recipient foreign country's rules and, as such, advice should be sought from that country's embassy or consulate.

Authentication verifies the registration of a notary public as well as the notary's seal and signature. When a request is made, DFAIT and/or the provincial authentication authority checks its records to confirm the notary's registration and compares the notarial seal and signature on the document being submitted against records it holds of the notary's seal and signature. When the notary's authority, signature and seal are confirmed, the document to be authenticated will then receive a stamp (DFAIT) and/or an additional seal together with a statement from the provincial authentication authority to the effect that the notary is "known to be in good standing". Once this happens, nothing may be added to or removed from the document.

After authentication, "legalization" occurs when the document is presented to the consulate of the relevant foreign country for certification. At that point, the document normally acquires legal validity in the intended country of use.

## **Certified True Copies**

It often becomes necessary to obtain and use copies of a document rather than use the actual document itself. In this situation, we can photocopy the document and certify it as being a true or genuine copy of the original by affixing a signature, seal and statement to that effect on the copy. As a result, the veracity of the copied document is assured to persons to whom the photocopied document is later presented.

## **Commissioner of Oaths**

Commissioners of oaths are persons who are empowered under provincial or state legislation to administer and witness the swearing of oaths or solemn affirmations in the taking of an affidavit for any potential legal matter.

Commissioners of oaths are also empowered to witness any declaration as required under a statute. The person swearing an oath, making an affirmation or making a declaration is called a deponent or declarant.

A commissioner of oaths only certifies that the required oath or affirmation or declaration has been properly administered.

Commissioners of oaths do not certify the truth of the statements contained in a document; which remains the responsibility of declarants or deponents themselves. In most provinces and states, a commissioner of oath must administer the oath or declaration in the manner prescribed by law.

This requires that the deponent be physically present before the commissioner of oaths. Also, the commissioner of oaths must be satisfied about the authenticity of the deponent's or declarant's identity and signature before a he or she can sign the document themselves.

The deponent's or declarant's signature can usually be confirmed through comparing the signature on a piece of identification such as a driver's licence or on a provincial health insurance card.

### Types of Oaths

Where an oath is being witnessed by a notary public or a commissioner of oaths, the deponent is required to confirm the following: "Do you swear that the contents of this affidavit as subscribed by you are true? So help you God".

If this type of oath is not preferred, deponents may instead affirm by responding 'yes' to: "Do you solemnly affirm and declare that the contents of this affidavit as subscribed by you are true?" Where a solemn declaration is required instead, the deponent must declare in the positive to: "Do you make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath?".

In every case, the deponent must be physically present before the notary public or commissioner of oaths.

## **Consent to Travel Documents**

Due to increasing concern for the safety of children, many governments including that of Canada have initiated special requirements when children under 18 years of age are travelling without both parents.

Specifically, many countries now require that documentary evidence in the form of a notarized consent to travel letter be presented to establish the permission of the parent(s) / legal guardian(s) for a minor to cross international borders with an accompanying adult. This requirement is in addition to other legal requirements as specified by airlines and official authorities.

Also, it should be noted that a simple letter or consent form that has not been notarized by a licensed notary public may be rejected by border officials due to the fact that such letters or forms can be easily forged. The following are examples of circumstances under which you should consider having a notarized consent to travel document:

*Child Travelling With One Parent* – If a minor is travelling with only one parent, the absent parent is expected to provide notarized consent.

*Child Travelling Alone or Without Either Parent* – If a minor is traveling alone or is accompanied by an adult other than a parent, both parents, (or the sole documented custodial parent) must provide notarized consent.

*Child Has Only One Parent* – If a minor child has only one parent as evidenced by its birth certificate, a notarized copy of the birth certificate or the original will be sufficient proof allowing for travel.

## **Criminal Name Index Check (Criminal Background Check)**

The Criminal Name Index Check is conducted by comparing the individual's name and date of birth to information contained in the Canadian Police Information Centre Identification Data Bank. If there is no match then the result will indicate no match. If however there is a potential match, then the only way to confirm whether an individual has a criminal record is by the submission of fingerprints.

## **Certified Copies of Online Documents**

Today, many original documents are now found online. With no hard copy available, many institutions now expect printed documents to be certified as exact copies of the original version found online. Not only does this ensure that your documents are official and valid, but it also protects you from having your documents rejected or questioned later when being processed.

Certifying a copy of an online document is simple. The Notary Public prints out your desired website or online form and will notarize it by affirming that the print out is a true copy of the electronic version.

The Notary will also provide a Notarial Certificate to be attached to the printed document, complete with their stamp and seal verifying they have reviewed both the online and printed out versions and can testify that they are the same document.

## **Fingerprinting Services**

A Notary public may provide two types of fingerprinting services through L-1 Enrollment Fingerprinting Services, which are RCMP accredited. These include Electronic Fingerprinting and Submission as well as Ink & Roll Fingerprinting. Fingerprinting services can accommodate for:

- Adoption
- Citizenship
- Employment
- Immigration
- Name Change Applications
- Volunteer Employment
- Pardon Applications
- Privacy Act Requests

- Visas/Waivers for Foreign Work or Travel
- Other Non-Criminal Purposes

Electronic Fingerprinting and Submission: Using an RCMP accredited system, your fingerprints are captured and submitted electronically to the RCMP for processing.

Ink & Roll: In some cases, a set of prints on a physical fingerprint card may be required.

## **Land Title Searches**

A Title Search (also known as an Abstract or Abstract of Title) is performed when property is being transferred to new ownership, either through sale or inheritance. It is designed to report on and investigate the history of the property by accessing relevant records for any variances or irregularities associated with the property, which might inhibit its purchase or transfer. Title Searches are considered public record, and involve researching deed records of a property, as well as confirming the property's legal ownership. Title Searches are generally performed by searching the property address, but you can also search by owner name, with the results listing all properties owned by that individual.

Title Searches are an important part of the processes that real estate laws require when transferring ownership of property. Mortgage companies also require Title Searches in order to approve a loan. Title Search results will expose any easements, judgments, liens, mortgages, taxes or outstanding claims associated with the property; this may also include soil and water surveys.

All properties that are registered in the electronic database are available for electronic searching. Most major cities are available for electronic searches, which is the most efficient method for obtaining a Title Search. On occasions where the property is not available for electronic searching, a manual search is processed, where an agent visits the local Land Registry office. Although this process is more costly and time consuming, it is the only way to perform a Title Search for unlisted properties.

## **Letters of invitation**

Depending on the country of origin, some foreign nationals wishing to visit Canada must apply for a Temporary Resident Visa. In order to do so, a letter of invitation is often required. This letter is written on behalf of the Canadian resident who wishes to invite the person to apply for a visitor visa.

Once the letter is prepared and notarized, the person visiting Canada must present the original letter along with their application and other required documents to the Canadian consulate or embassy in their country

Almost always, visa offices require that letters of invitation be notarized by a Notary Public.

## Getting Married Abroad

If you are planning a wedding abroad it is particularly important that you obtain all the necessary documents before you leave. In most situations you will require a Single Status Declaration and notarized copies of official documents and various pieces of identification such as your birth certificate and if you are divorced, your divorce certificate. In addition, foreign authorities will likely require that these notarized copies be authenticated and legalized by the appropriate authorities before they are accepted in the foreign country.

Please be advised that each individual's situation is different and it is extremely important that you contact the appropriate Embassy or Consulate to ensure that you meet the requirements of the country in which you plan to wed as requirements vary from country to country and even from time to time.

## Notary Public

A notary public is a person who can witness oaths, solemn affirmations, the signing of affidavits or statutory declarations. A notary public may also certify documents to be true copies of the original.

In some jurisdictions, a notary public can also draft contracts, promissory notes, wills, mortgages and other legal documents. Almost always, the powers of a notary public in each province or state are derived from provincial or state legislation.

For example, in Ontario, a notary public derives his or her authority from the Notaries Act which states: "[a] notary public has and may use and exercise the power of drawing, passing, keeping and issuing all deeds and contracts, charter-parties and other mercantile transactions in Ontario, and also of attesting all commercial instruments that may be brought before him or her for public protestation, and otherwise of acting as is usual in the office of notary public, and may demand, receive and have all the rights, profits and emoluments rightfully appertaining and belonging to the calling of notary public."

In some jurisdictions such as a number of provinces, the requirements for becoming a notary public are much more stringent than the above and effectively result in only lawyers being able to provide notary public services.

Like commissioners of oaths, a notary public may also witness oaths, solemn affirmations and declarations but it is not necessary that a notarial seal be affixed to the document.

### *Affirmation of an Oath*

Where an oath is being witnessed by a notary public or a commissioner of oaths, the deponent is required to confirm the following: "Do you swear that the contents of this affidavit as subscribed by you are true? So help you God".

If this type of oath is not preferred, deponents may instead affirm by responding 'yes' to: "Do you solemnly affirm and declare that the contents of this affidavit as subscribed by you are true?"  
Where a solemn declaration is required instead, the deponent must declare in the positive to: "Do you make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath?"

In every case, the deponent must be physically present before the notary public or commissioner of oaths

## **Statutory Declarations**

A statutory declaration is a written summary of facts which the declarant solemnly states to be true before signing the documented summary. A statutory declaration is not sworn; rather it is affirmed to be true and must be witnessed by a justice of the peace, attorney, barrister, solicitor, notary public or some other designated official.

- Statutory Declaration of Common Law Union
- Statutory Declaration of Marital Status

## **Visa Processing**

The visa application process differs among countries, with each country setting its own criterion and regulations. The country issuing the visa usually attaches various conditions to the visa, such as the territory covered by the visa, the length of validity, the period that the person may stay in the country and whether the visa is valid for more than one visit.

The length of time to obtain a visa varies significantly, depending on the country, and in most cases the wait time is extended if the required documents are mailed as opposed to delivered in person. The time frame may range from a few days to several weeks.