

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 317.

*Oaths, Affirmations and Statutory Declarations.*

GENERAL ANNOTATION.

ADMINISTRATION.

The administration of this Chapter was vested in the Minister for Justice at the date of its preparation for inclusion.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers made under Section 148(1) of the Constitution.

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<sup>1</sup>Subsidiary legislation has not been up-dated.



INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 317.

*Oaths, Affirmations and Statutory Declarations Act.*

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 317.

***Oaths, Affirmations and Statutory Declarations Act.***

Being an Act relating to oaths, affirmations, statutory declarations and affidavits, and for related purposes.

PART I.—OATHS.

1. **General provision.**

Nothing in this Part invalidates an oath taken in a sufficient and lawful form.

2. **Witness's oath.**

Witnesses may be sworn—

- (a) in civil proceedings in Form 1; and
- (b) in criminal trials in Form 2.

3. **Voir Dire.**

A person may be sworn on the *voir dire* in Form 3.

4. **Interpreter's oath.**

(1) Interpreters may be sworn—

- (a) in civil proceedings in Form 4; and
- (b) in civil proceedings and criminal trials to interpret on the *voir dire*—in Form 5; and
- (c) for the purpose of conducting the arraignment of a person accused—in Form 6; and
- (d) for the purposes of a criminal trial—in Form 7, except that—
  - (i) where the witness and the accused are persons of different languages and the interpreter is unable to interpret to the accused, the reference in that form to the accused shall be omitted and an additional interpreter sworn to interpret to the accused the English interpretation of the first interpreter; and
  - (ii) where a witness and the accused are persons of different languages and an interpreter can be found conversant with the language of the accused and the witness and able to interpret between them, and a second interpreter can be found conversant with English and with a language with which the first interpreter is conversant and able to interpret from that last-mentioned language into English, the first interpreter may be sworn through the second interpreter in Form 8; and
  - (iii) whatever the number of interpreters necessary before the statements of the accused and the witness can be interpreted into one and the same language and into English, the same forms of oath shall be

administered, with the necessary modifications, to each interpreter in succession.

(2) Subsection (1) (d) (ii) and (iii) apply in civil cases as far as practicable.

PART II.—AFFIRMATIONS.

5. Declaration or affirmation instead of oath.

(1) This section applies to a person who—

- (a) in a civil or criminal proceeding is called as a witness in a court or before a Commissioner for Oaths or other person authorized to administer an oath; or
- (b) has to make a statement in an information, complaint or proceeding in a court or before a Commissioner for Oaths or other person authorized to administer an oath; or
- (c) is required or desires to make an affidavit or deposition,

and who—

- (d) objects to taking an oath; or
- (e) is reasonably objected to as incompetent to take an oath; or
- (f) appears to the court, Commissioner for Oaths or other authorized person, incompetent to take an oath; or
- (g) desires or is required to take an oath in a form and manner required by his religion to make it binding on his conscience, but which it is found to be impracticable to administer to him in that form and manner at the time when, and the place where, the oath is desired or required to be taken.

(Amended by No. 10 of 1978, s. 1.)

(2) A person to whom this section applies may, instead of an oath referred to in Subsection (1)—

- (a) if he is called as a witness—make a solemn declaration or affirmation in Form 9; or
- (b) in any other case—make a solemn declaration or affirmation in Form 10.

6. Taking evidence of person incompetent to take oath, etc.

(1) Where a person called in a civil or criminal proceeding as a witness in a court or before a Commissioner for Oaths or other person authorized to administer an oath, appears to the court, Commissioner for Oaths or person authorized, to be incapable—

- (a) of comprehending the nature of an oath; or
- (b) of understanding the meaning of the solemn declaration or affirmation referred to in Section 5,

the court, Commissioner for Oaths or person shall, if satisfied that the person called as a witness understands that he will be liable to punishment if his evidence is false, declare in what manner his evidence shall be taken. (Amended by No. 10 of 1978, s. 2.)

(2) When evidence is taken as provided for by Subsection (1) the same consequences follow as if an oath had been administered in the ordinary manner.

(3) Nothing in this section affects the operation of any law or rule of law or practice relating to the corroboration of evidence.

7. Interpreters.

Section 6 extends and applies, with the necessary modifications, to interpreters called to interpret in a civil or criminal proceeding in a court or before a Commissioner for Oaths or other person authorized to administer an oath.

(Amended by No. 10 of 1978, s. 3.)

**8. Mode of binding interpreters in certain cases.**

(1) If, in a civil or criminal proceeding in a court or before a Commissioner for Oaths or other person authorized to administer an oath—

- (a) it is necessary to call an interpreter (whether for the purpose of the arraignment of a person accused or for the interpretation of the evidence of witnesses); and
- b) it appears to the court, Commissioner for Oaths or other authorized person that the person called as interpreter—
  - (i) understands the language of the accused or other person between whom and the court, Commissioner for Oaths or other authorized person, he is called to interpret, sufficiently to be able to make true explanation of the evidence and other proceedings; and
  - (ii) cannot for any cause be then and there sworn in the form and manner prescribed for the purpose or desired by him,

the court, Commissioner for Oaths or person authorized shall—

- (c) declare in what manner the interpreter shall be sworn or otherwise bound to make true explanation; and
- (d) ascertain that true explanation of the evidence and all other proceedings is made to the accused person.

(2) If the court, Commissioner for Oaths or person authorized to administer an oath is satisfied that true explanation is made in accordance with Subsection (1), the trial and any verdict given at the trial is as valid as if the interpreter had been sworn in the ordinary manner.

*(Amended by No. 10 of 1978, s. 4.)*

**PART III.—STATUTORY DECLARATIONS.**

**9. Authority to make and use statutory declarations.**

(1) If he so desires a person may make a statutory declaration in relation to a matter.

(2) Subject to Subsection (3), a statutory declaration may, unless the contrary intention appears, be used for any purpose or in connexion with any matter arising under a law or in connexion with the administration of a Department of the Public Service.

(3) Subsection (2) does not authorize a statutory declaration to be used as evidence in judicial proceedings, but this section does not prevent a statutory declaration from being so used.

**10. References to statutory declarations.**

Unless the contrary intention appears, a reference in any law to a statutory declaration includes a reference to a statutory declaration made by virtue of this Part.

**11. Form of statutory declaration.**

(1) A statutory declaration may be in Form 11 and may be made before—

- (a) a District Officer, a magistrate or a clerk of court; or
- (b) a Commissioner for Oaths; or
- (c) a Notary Public.

*(Replaced by No. 10 of 1978, s. 5.)*

**12. Commissioners for Oaths.**

The Minister, may, by notice in the National Gazette, appoint persons to be Commissioners for Oaths.

*(Amended by No. 25 of 1976, Schedule 24 and No. 10 of 1978, s. 6.)*

**13. Declarations under other Acts, etc.**

Unless the contrary intention appears, where by a law a declaration is required to be made by a person before some other person, the declaration may be made—

- (a) before the person specified in that law; or
- (b) before a person before whom a statutory declaration may be made under this Act.

**PART IV.—AFFIDAVITS.**

**14. Commissioner for Oaths may take affidavits.**

A Commissioner for Oaths may take and receive affidavits in all matters pending in a court.

*(Amended by No. 10 of 1978, s. 7.)*

**15. Commissioners for Affidavits.** *(Repealed by No. 10 of 1978, s. 9.)*

**PART V.—ATTESTATION OF INSTRUMENTS.**

**16. Justices of a State, etc., may take affidavits, etc.**

Where by a law an affidavit or statutory declaration—

- (a) is required or permitted to be sworn or made before; or
- (b) a document is required or permitted to be authenticated or witnessed by,

a Commissioner for Oaths, then—

- (c) the affidavit or statutory declaration may be sworn or made before; or
- (d) the document may be authenticated or witnessed by,

a person authorized to authenticate or witness the affidavit or statutory declaration in another country.

*(Amended by No. 10 of 1978, s. 9.)*

**PART VI.—COMMISSIONERS FOR OATHS.**

*(Added by No. 10 of 1978, s. 10.)*

**17. Powers of Commissioners for Oaths.**

(1) A Commissioner for Oaths may administer any oath or affirmation whether or not required by law to be taken or made.

(2) A Commissioner for Oaths has, in relation to the taking of affidavits, administering of oaths and affirmations, the witnessing of documents and any other similar functions, all the powers, duties and functions that were held by or applicable to the office of Justice of the Peace immediately before 4 May 1978.



PART VII.—TRANSITIONAL.

(Added by No. 10 of 1978, s. 11.)

18. Persons deemed to be Commissioner for Oaths.

A person who, before 4 May 1978 was—

- (a) appointed to be a Justice of the Peace or a Commissioner for Declarations; or
- (b) authorized to be a Commissioner for Affidavits,

shall, from that date, be deemed to be a Commissioner for Oaths appointed under this Act.

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SCHEDULE 1.

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Sec. 2(a).

Form 1.

WITNESS' OATH—CIVIL CAUSES.

The evidence that you give to the court touching the matters in question between the parties will be the truth, the whole truth and nothing but the truth.

So help you God!

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Sec. 2(b).

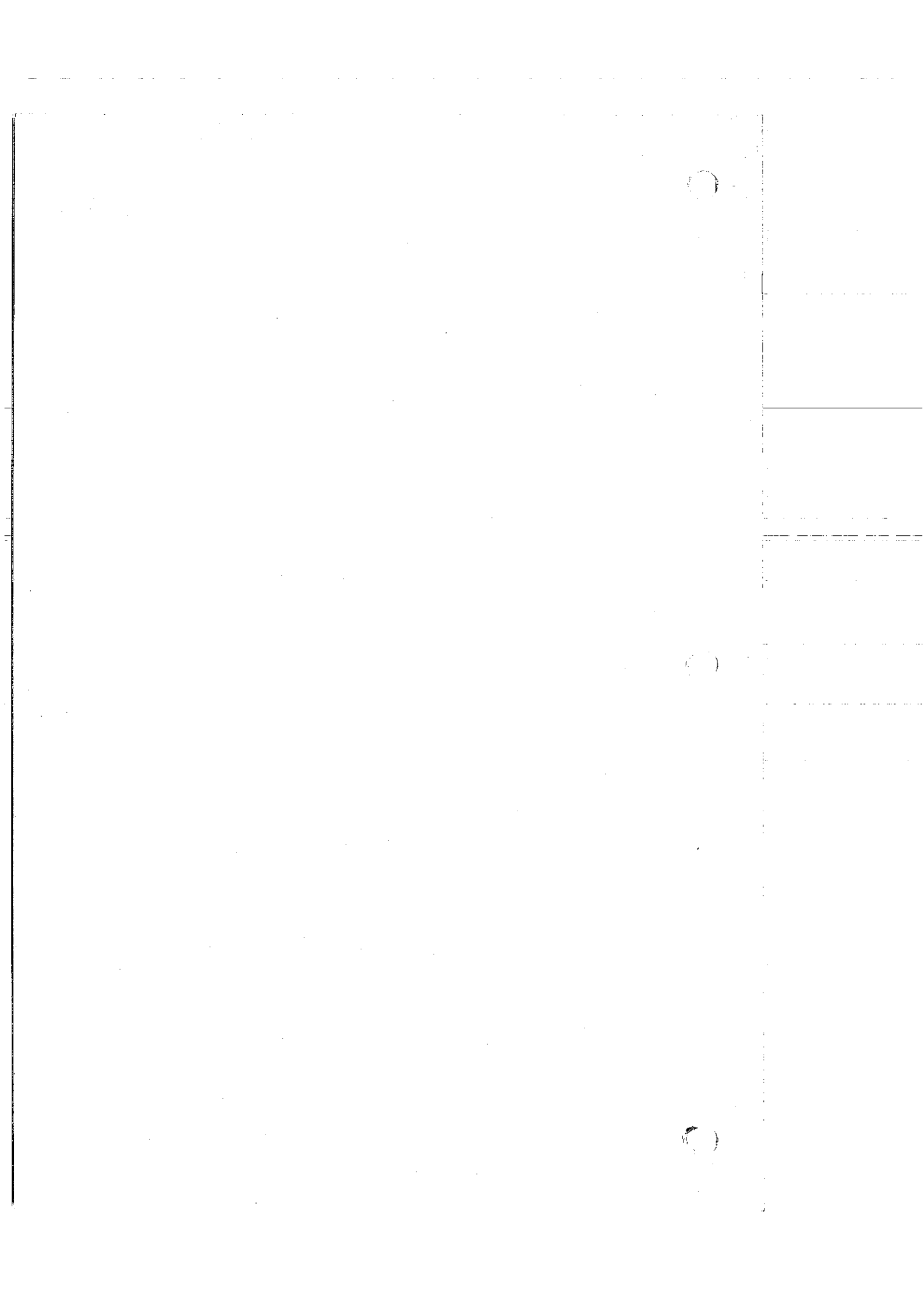
Form 2.

WITNESS' OATH—CRIMINAL TRIALS.

The evidence that you give to the court between the State and the accused (or defendant) will be the truth, the whole truth and nothing but the truth.

So help you God!

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Sec. 3.

Form 3.

OATH ON THE VOIR DIRE.

The evidence that you give will be the truth, the whole truth and nothing but the truth.

So help you God!

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Sec. 4(1)(a).

Form 4.

INTERPRETER'S OATH—CIVIL CAUSES.

You swear that you understand (*describe the language*) which is understood by the witness (*or plaintiff or defendant*), and are able to interpret between him and the court and all persons who understand the English language.

So help you God!

You will well and truly interpret and give true explanations between the witness (*or plaintiff or defendant*) and the court and all persons who understand the English language to the best of your knowledge, skill and ability, and the evidence that you give will be the truth, the whole truth and nothing but the truth.

So help you God!

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Sec. 4(1)(b).

Form 5.

INTERPRETER'S OATH—ON THE VOIR DIRE.

You swear that you understand (*describe the language*) which is understood by the witness (*or plaintiff or defendant or accused*), and are able to interpret between him and the court and all persons who understand the English language.

So help you God!

You will well and truly interpret and give true explanations between the witness (*or plaintiff or defendant or accused*) and the court and all persons who understand the English language to the best of your knowledge, skill and ability, and the evidence that you give will be the truth, the whole truth and nothing but the truth.

So help you God!

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Sec. 4(1)(c).

Form 6.

INTERPRETER'S OATH—ON THE ARRAIGNMENT.

You swear that you understand (*describe the language*) which is understood by the accused and are able to interpret between him and the court.

So help you God!

You will well and truly interpret and give true explanations between the accused and the court to the best of your knowledge, skill and ability, and the evidence that you give will be the truth, the whole truth and nothing but the truth.

So help you God!

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Sec. 4(1)(d).

Form 7.

INTERPRETER'S OATH—CRIMINAL TRIALS.

You swear that you understand (*describe the language*) which is understood by the accused (*or* defendant), and are able to interpret between him and the court and between him and all persons who understand the English language.

So help you God!

You will well and truly interpret and give true explanations between the accused and the court and between him and all persons who understand the English language to the best of your knowledge, skill and ability, and the evidence that you give to the court between the State and the accused will be the truth, the whole truth and nothing but the truth.

So help you God!

You swear that you understand (*describe the language*) which is understood by the witness, and are able to interpret between him and the court and the accused (*or* defendant) and all persons who understand the English language.

So help you God!

You will well and truly interpret and give true explanations between the witness the court and the accused and all persons who understand the English language, and the evidence that you give the court between the state and the accused (*or* defendant) will be the truth, the whole truth and nothing but the truth.

So help you God!

Sec. 4(1)(d)(ii), 4(2).

Form 8.

INTERVENING INTERPRETER'S OATH.

You swear that you understand (*describe the languages*) which are understood by the witness and the accused, and are able to interpret between them.

So help you God!

You will well and truly interpret and give true explanations between the witness and the accused, and between the accused and the witness, and between them and each of them and the court and all interpreters, witnesses and persons whatsoever, to the best of your knowledge, skill and ability, and the evidence that you give to the court between the State and the accused will be the truth, the whole truth and nothing but the truth.

So help you God!

Sec. 5(2)(a).

Form 9.

DECLARATION.

I solemnly declare that the evidence now about to be given (*or* the statement now about to be made) by me is the truth, the whole truth and nothing but the truth.

Sec. 5(2)(b).

Form 10.

AFFIRMATION.

I, \_\_\_\_\_, do solemnly sincerely and truly declare and affirm, etc.

*Oaths, Affirmations and Statutory Declarations*

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Sec. 11(1).

Form 11.

STATUTORY DECLARATION.

I, *(insert name, address and occupation of person making the declaration)*, do solemnly and sincerely declare *(insert the matter specified. Where the matter is long it should be set out in numbered paragraphs)*.

And I make this solemn declaration by virtue of the *Oaths, Affirmations and Statutory Declarations Act*, conscientiously believing the statements contained in it to be true in every particular.

*(Signature of person making the declaration)*.

Declared at \_\_\_\_\_, 19 \_\_\_\_

Before me,

*(Signature of person before whom the declaration is made)*.

*(Insert title of person before whom the declaration is made)*.

Q

Q

Q

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 317.

*Oaths, Affirmations and Statutory Declarations.*

APPENDIX.

SOURCE OF THE OATHS, AFFIRMATIONS AND STATUTORY DECLARATIONS ACT.

Part A.—Previous Legislation.

*Oaths, Affirmations and Statutory Declarations Act 1962 (No. 14 of 1962)*

as amended by—

*Statute Law Revision (Independence) Act 1975 (No. 92 of 1975)*

*Statute Law Revision (Transfer of Powers) Act 1976 (No. 25 of 1976)*

*Oaths, Affirmations and Statutory Declarations (Commissioner for Oaths) Act 1978 (No. 10 of 1978).*

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference <sup>1</sup> .	Section, etc., in Revised Edition.	Previous Reference <sup>1</sup> .
1	16	16	29
2	8	17	30
3	9	18	11 (10/1978)
4	10,11,12,13	Schedule—	
5	18	Form 1	Fourth Schedule
6	19	Form 2	Fifth Schedule
7	20	Form 3	Sixth Schedule
8	21	Form 4	Seventh Schedule
9	22	Form 5	Eighth Schedule
10	23	Form 6	Ninth Schedule
11	24	Form 7	Tenth Schedule
12	25	Form 8	Eleventh Schedule
13	26	Form 9	Twelfth Schedule
14	27	Form 10	Thirteenth Schedule
15 (Rep.)	28	Form 11	Fourteenth Schedule

<sup>1</sup>Unless otherwise indicated, references are to the Act set out in Part A.

