

# The M.P. Commissioner of Oaths Rules, 1976

MADHYA PRADESH

India

## The M.P. Commissioner of Oaths Rules, 1976

### Rule THE-M-P-COMMISSIONER-OF-OATHS-RULES-1976 of 1976

- Published on 25 March 1977
- Commenced on 25 March 1977
- [This is the version of this document from 25 March 1977.]
- [Note: The original publication document is not available and this content could not be verified.]

The M.P. Commissioner of Oaths Rules, 1976 Published vide Notification No. 5798-3-1-27-75, dated 25-3-1977, Published in M.P. Rajpatra, Part 4 (ga), dated 1-7-1977, page 98 In exercise of the powers conferred by Section 122 read with Section 139 of the Code of Civil Procedure, 1908 (No. 5 of 1908) and in supersession of all the rules previously made on the subject, the High Court of Madhya Pradesh, with the previous approval of the State Government, hereby makes the following rules, the same having been previously published as required by Section 122 of the said Code namely :-

#### 1. Short title.

- [(1)] [Renumbered by Notification No. C-3916-III-I-27-75, dated 12-8-96, Published in M.P. Gazette Part 4 (Ga), dated 30-8-96.] These rules may be called The Madhya Pradesh Commissioner of Oaths Rules, 1976. (2) [ They shall come into force on the date of their publication in the Official Gazette.] [Inserted by Notification No. C-3916-III-I-27-75, dated 12-8-96, Published in M.P. Gazette Part 4 (ga), dated 30-8-96.]

#### 2. Definitions.

- In these rules, unless the context otherwise requires, -(a) "Appointing authority" means the High Court. (b) "Court" means only Civil Court under superintendence of the High Court. (c) "Form" means a form appended to these rules. (d) "Commissioner of Oaths" means person other than Civil Courts or Magistrates authorized under Section 139 (a) C.P.C. or under Section 297 Cr.P.C. or any other Court generally or specially empowered under Section 139 (c), C.P.C. to administer oath to the deponent. (e) "District Judge" means District Judge of the area in relation to which any person has been appointed as Commissioner of Oath.

### **3. Appointment of Oaths Commissioner.**

- [(1)] [Renumbered by Notification No. C-3916-III-I-27-75, dated 12-8-96, Published in M.P. Gazette Part 4 (Ga), dated 30-8-96.] Commissioner of Oaths shall be appointed by the appointing authority for different areas out of panel of lawyers prepared and submitted by the District Judges of different areas in order of merit after obtaining their consent from time to time.(2)[ The application for appointment of the Commissioner of Oath shall be made in Form-1.] [Inserted by Notification No. C-3916-III-I-27-75, dated 12-8-96, Published in M.P. Gazette Part 4 (ga), dated 30-8-96.]

#### **3A. [ [Inserted by Notification No. C-3916-III-I-27-75, dated 12-8-96, Published in M.P. Gazette Part 4 (ga), dated 30-8-96.]**

(1)Before proceeding to prepare the panel under existing Rule 3 the District Judge shall arrive at a decision as to whether there is a need to appoint a Commissioner of Oath for any area in his District.(2)The need for such an appointment under Sub-rule (1) shall be determined as per the following norms :-(i)the number of Commissioners may ordinary be the same as half the number of Courts situated at a place;(ii)Station with only one Court or Link Court shall have one Commissioner.(3)The District Judge shall notify the vacancy to the concerning Bar Association and invite applications therefor. Application shall be submitted within 15 days of the notification.]

### **4. Qualification for appointment of Oaths Commissioner.**

- [(1) No person shall be eligible for inclusion on panel for appointment as Commissioner of Oaths unless he has been legal practitioner for at least five years on the date of submission of panel by the District Judge.(2)Such Legal Practitioner should be registered with the State Bar Council of Madhya Pradesh and practising in the station in which he desires to be appointed.] [Substituted by Notification No. C-3916-III-I-27-75, dated 12-8-96, Published in M.P. Gazette Part 4 (ga), dated 30-8-96.]

### **5. Jurisdiction of Commissioner of Oaths.**

- The Commissioner of Oaths shall have power to verify affidavits to be used in Courts by administering oaths and affirmations.

### **6. Register of Oaths Commissioner.**

- The District Judge shall enter the name of Commissioner of Oaths appointed by the appointing authority in the register of Commissioner of Oaths to be maintained in [Form 1-A] [Substituted by Notification No. C-3916-III-I-27-75, dated 12-8-96, Published in M.P. Gazette Part 4 (ga), dated 30-8-96.] and shall issue to such a person a certificate in Form II on payment of prescribed fees.

**7. [ Term of Commissioner of Oaths. [Substituted by Notification No. C-3916-III-I-27-75, dated 12-8-96, Published in M.P. Gazette Part 4 (ga), dated 30-8-96.]**

- Commissioner of Oaths shall be appointed for a period not exceeding three years, and his certificates may thereafter be renewed every three years by the District Judge with prior approval of appointing authority on payment of prescribed fee.(2)The application for renewal of certificate shall be made in Form II-A to the District Judge concerned ninety days before the date on which the term under the existing certificate expires:Provided that the delay of thirty days may be condoned by the District Judge if it is shown that the delay occurred for the reasons beyond control of the applicant.(3)The application shall be accompanied by a copy of Treasury Challan evidencing the deposit of the fee prescribed.]

**8. [ Fee for the issue and renewal of certificates of Commissioner of Oaths. [Substituted by Notification No. C-3916-III-I-27-75, dated 12-8-96, published in M.P. Gazette Part 4 (ga) dated 30-8-96.]**

- The fee for issue of certificate of appointment of Commissioner of Oaths shall be Rs. five hundred and the fee for renewal of such certificate shall be Rs. three hundred per year. A certificate of renewal shall be issued in Form No. III on payment of prescribed fee. The fee shall not be refundable.]

**9. [ Fee payable to Commissioner of Oaths. [Substituted by Notification No. C-3916-III-I-27-75, dated 12-8-96, published in M.P. Gazette Part 4 (ga) dated 30-8-96.]**

- Every Commissioner of Oaths shall be entitled to charge fee of Rs. 5.00 per affidavit or such other fees as may be fixed by the appointing authority from time to time.Note. - Every Commissioner of Oaths shall be entitled to charge the actual railway fare of second class or actual bus fare when he is required to attend any place outside his office or court premises.]

**10. Register to be maintained by Commissioner of Oaths.**

(a)Every Commissioner of Oaths shall maintain a register in form IV and shall enter the details of all business transacted by him in this register soon after the affidavit is verified.(b)Every Commissioner of Oaths shall permit the District Judge or any such officer as the appointing authority may appoint in this behalf to inspect the register maintained by Commissioner of Oaths under sub-rule (a) above.(c)Every Commissioner of Oaths shall grant a receipt in form V for the fees charged/realized by him and make entry thereof in the register maintained under Rule 10(a).

## **11. Seal of Oaths Commissioner.**

- Every Commissioner of Oaths shall use a plain circular seal bearing his name and name of area within which he has been appointed to exercise his functions and the circumstances Commissioner of Oaths.

## **12. Affidavit to be divided into paragraphs.**

- Every affidavit containing a statement of facts shall be drawn up in the first person divided into paragraphs which shall be numbered consecutively and each paragraph, as nearly as may be, be confined to a distinct portion of the subject.

## **13. Fullscap paper to be used.**

- Every affidavit shall be fairly and legibly written or type written lithographed or printed, with quarter margin on one side only of the fullscap size paper.

## **14. Affidavits filed or presented in court.**

- Every affidavit shall be in the language of the court and shall bear the general heading, -"In the court of....."The affidavit and every exhibit annexed thereto shall be marked with the particulars-of the case or proceeding in which it is sworn. The affidavit shall contain no statement which is in the nature of an expression of opinion or argument.

## **15. Full particulars of persons and places to be given.**

- An affidavit shall fully describe the person swearing it with such particulars as are his full name, the name of his father, his rank or degree in life, his profession, calling occupation or trade and his place of residence. Any person or place referred to in an affidavit shall be fully described in such manner as to enable his or its identity to be clearly fixed.

## **16. Persons who make affidavit.**

- Except as otherwise provided by law or by these rules or by an order of any court an affidavit may be sworn by any person having knowledge of the facts deposed to therein. Two or more persons may join in an affidavit, each deposing separately to such facts as are within his, knowledge.

## **17. Form of affidavit.**

- When the deponent speaks to any fact within his own knowledge, he must do so directly and positively using the words "I affirm" or "I make oath and say" or words to that effect.

## **18. Facts to be within the knowledge of the deponent.**

- Except on an interlocutory application, an affidavit shall be confined to such facts as the deponent is able, on his own knowledge to prove.

## **19. Deponent's knowledge of source to be stated.**

(a) On an interlocutory application when a particular fact is not within the deponent's own knowledge, but is based on his belief or information received from others which he believes to be true the deponent shall use the expression "I am informed and venially believe such information to be true", or words to that effect, and shall sufficiently describe for the purpose of identification, the person or persons from whom his information was received. (b) When any facts is stated on the basis of information derived from a document, full particulars of that document shall be stated and the deponent shall verify that he believes such information to be true.

## **20. Identification of deponent.**

- Every person swearing an affidavit shall, if not personally known to the person before whom the affidavit is sworn, be identified before that person, by someone known to him, and in such case the person whom the affidavit is made shall state at the foot of the affidavit, the name, address and description of the person by whom such identification was made. Such identification may be made by a person : (a) personally acquainted with the person to be identified; or (b) who is reasonably satisfied as to his identity : Provided that, in the later case the person so identifying shall sign at the foot of the affidavit a declaration in the following form after there has been affixed to such declaration in his presence the signature or thumb impression of the person as identified, namely :-  
Form of Declaration I (name, description and address) declare that I am satisfied on the ground stated below that the person making this affidavit and alleging himself to be A, B is that person. (Here state the grounds)

## **21. Affidavit by purdanashin woman.**

- No affidavit purporting to have been sworn by a woman who did not appear unveiled in the presence of the person before whom the affidavit was made, shall be used unless she was identified in the manner specified in Rule 20 and the affidavit is accompanied by a separate affidavit, by the person identifying her made at the time of identification setting forth the circumstances in which she was personally known to him or he was satisfied that she was such person as she alleged herself to be in her affidavit.

## **22. Contents to be explained to deponent.**

- The person before whom an affidavit is sworn shall ask the deponent if he has read the affidavit and understands the contents thereof. If the deponent states, that he has not read it or appears not to understand the contents or does not know the language thereof, he shall read and explain it or

cause another person, to read and explain to such person in his presence. Until he is satisfied that the deponent fully understands its contents, he shall, not allow the affidavit to be sworn.

### **23. Impounding of affidavit.**

- When it appears to the Commissioner of Oaths that the deponent cannot be made or will not understand the contents of the affidavit, he shall impound it and forward it to the District Judge for such action as he may consider necessary. When an affidavit is impounded under this rule, the person impounding the same shall certify thereon the date on which and the circumstances in which it was impounded.

### **24. Oath or affirmation by deponent.**

- The persons administering an oath or affirmation to the Person making affidavit, shall follow the provisions of the Indian Oaths Act, 1873. The following forms are prescribed namely:-  
Oath I swear that my this declaration is true, that it conceals nothing; and that no part of it is false. So help me God.  
Affirmation I solemnly affirm that this my declaration is true, that it conceals nothing, and that no part of it is false.

### **25. Correction in affidavit.**

- All interlineations, alterations or erasures in an affidavit shall be initialed by the person swearing it and the person before whom it is sworn. Such interlineations, alterations or erasures shall be made in such manner as not to obliterate or render it impossible or difficult to read the original matter. In case such matter has been obliterated so as to make it impossible or difficult to read it, it shall be rewritten on the margin and initialed by the person before whom the affidavit is sworn. No interlineation, alteration or erasure shall be made in an affidavit after it has been sworn.

### **26. Certification of verification.**

- The person before whom an affidavit is sworn shall certify at the foot of the affidavit the fact of the affidavit having been sworn before him, the manner in which he has complied with Rule 20, and the date and hour of swearing of the affidavit and shall mark, initial and date any exhibits referred to therein.

### **27. Affidavit containing numerous corrections.**

- The Court may refuse to receive an affidavit in which interlineations, alterations or erasures, appear to be so numerous as to make it expedient that the affidavit should be rewritten.

## **28.**

IN THESE RULES, 'Affidavit' includes a petition and other document required to be sworn, and 'sworn' shall include 'Affirmed'.

## **29. Inquiry into allegations of professional and other misconduct of Commissioner of Oaths.**

(a)An inquiry into misconduct of Commissioners of Oath may be initiated either suo motu by appointing authority or/and District Judge or on a complaint received by such authority.(b)Where an inquiry is initiated suo motu by authorities referred to in the foregoing rule, the District Judge shall send to the Oath Commissioner a statement specifying the charge or charges against him together with particulars of oral or documentary evidence relied upon in support of such charge or charges and in other cases supply the Oath Commissioner with copy of complaint received by him.(c)The District Judge after giving to the person making the allegations in case of inquiry started on complaint as well as to the Oath Commissioner against whom such allegation is made an opportunity of being heard and after taking into consideration any evidence oral and documentary that may be produced before him, shall make a report to the appointing authority.(d)If the appointing authority after considering the report of the District Judge is of opinion that action should be taken against Oath Commissioner, the appointing authority may make an order : (1)Cancelling the certificate of appointment of Commissioner of Oath.(2)Suspending him from practice for a specified period.(3)Letting him off with a warning according to the nature and gravity of the misconduct of Oath Commissioner proved.

## **30. Submission of returns.**

- Every Commissioner of Oath shall in the first week of each quarter on 7th January, 7th April, 7th July, and 7th October submit to the District Judge quarterly return in Form VI of work done by him as Commissioner of Oath during the preceding quarter.

## **31.**

Every Commissioner of Oath shall have office at the place mentioned in the certificate of appointment and shall exhibit it in a conspicuous place thereat in a Board showing his name and designation as Commissioner of Oaths.

## **32. Removal of Commissioner of Oaths.**

- The appointing authority may in his discretion remove any Commissioner of Oaths from his office without assigning any reason and such Commissioner of Oaths shall not be entitled for refund of any fees.

**32A. [ Vacation of office of Commissioner of Oaths. [Inserted by Notification No. C-3916-III-I-27-75, dated 12-8-96, published in M.P. Gazette, Part 4 (ga), dated 30-8-96.]**

- The office of a Commissioner of Oaths shall stand vacated,-(i)on his tendering resignation in writing subject to its acceptance by the appointing authority; or(ii)on cancellation of his certificate or appointment under Rule 29 or removal under Rule 32; or(iii)on his death; or(iv)on his appointment as a Notary Public under the Notaries Act, 1952 (53 of 1952); or(v)on securing private or public employment; or(vi)on his ceasing to work as such for a continuous period of two months except where such conduct is condoned by District Judge concerned; or(vii)on expiry of the term of office if certificate is not renewed before such expiry :Provided that he shall continue to discharge his functions till his application for renewal is rejected.]

**33. & 34.**

[x x x] [Rules 33 & 34 omitted by Notification No. 3916-III-I-27-75, dated 12-8-96, published in M.P. Gazette, Part 4 (ga), dated 30-8-1996.][Form I] [Inserted by Notification No. 3916-III-I-27-75, dated 12-8-96, published in M.P. Gazette, Part 4 (ga), dated 30-8-1996.]Application for appointment as Commissioner of Oaths(Under Rule 3 of the Commissioner of Oaths Rules, 1976)

1. Name of the applicant .....
2. Father's/Husband's Name .....
3. Full address .....
4. Place of practice as entered in the certificate of registration as a lawyer .....
5. Year from which practising in law .....
6. Whether was appointment as a Commissioner of Oaths in the past? If so, the reason for termination of appointment .....
7. Whether was appointment as Notary in the past ? If so, the reason for termination of appointment .....
8. Facts attracting special consideration .....

Date..... Day of.....

Place.....

Signature of the applicant.

Declaration I..... solemnly affirm and declare that the above particulars are true to my personal knowledge and nothing has been suppressed relating to the above facts.

Date..... Day of.....

Place.....

Signature of the applicant.

For Office Use Only

1. Date of presentation or receipt of application. ....



2. Remarks of the District Judge .....
3. Any other special facts in the knowledge of the District Judge requiring special consideration. ....

Date..... Day of.....

Place.....

Signature of the District Judge with official seal.

[Form 1-A] [Renumbered by Notification No. C-3916-M-I-27-75, dated 12-8-96, published in M.P. Gazette Part 4 (ga), dated 30-8-96.] Register of Commissioner of Oath

Serial No.	Full name and address of Commissioner of Oath	Professional address of Commissioner of Oath	Qualification of Commissioners of Oath
(1)	(2)	(3)	(4)

Number of date of order of appointing authority reg. appointment of Commissioners of Oath	Date of appointment	Area in which Commissioners of Oath may practise
(5)	(6)	(7)

Form IICertificate of Practice Pursuant to provisions of Rule 6 of Commissioner of Oaths Rules, Shri..... S/o..... Address..... having been appointed area Commissioner of Oaths by the appointing authority and having paid the prescribed fees and deposited that requisite security amount is authorized to practise as Commissioner of Oaths in the area specified below subject to provisions of the rules from..... to..... area in which the Commissioner of Oaths is allowed to practise..... Date..... Signature of District Judge [Form II-A] [Inserted by Notification No. C-3916-III-I-27-75, dated 12-8-96, published in M.P. Gazette, Part 4 (ga), dated 30-8-1996.] Application for Renewal of certificate of Commissioner of Oaths (Under Rule 7 of the Commissioner of Oaths Rules, 1976)

- Name of the applicant .....
- Place of the work. ....
- Period for which the renewal is sought .....
- Date on which the term expires. ....
- Amount of fee deposited for renewal (enclose the treasury challan) .....
- Special cause for delay if any, in making application (attached documents, if any supporting the claim). ....

Date..... Day of..... Place..... Signature of the applicant. For Office Use Only

- Date of presentation or receipt of application .....
- Remarks of the District Judge .....
- Reasons for condonation of delay (in short) .....
- Date on which the application is forwarded to the appointing authority .....

Date..... Day of..... Place..... Signature of the District Judge

with official seal  
 Form III  
 Renewal certificate of practice Pursuant to provisions of Rule 8 read with Rule 7 of Commissioner of Oaths Rules, the appointing authority having approved the renewal of certificate of practice is Commissioner of Oaths and rules issued in favour of Shri.....  
 s/o..... Address..... issued on..... for further period of one year w.e.f..... Shri.....  
 having deposited the prescribed fees and deposited the requisite fees. The Certificate of practice as Commissioner of Oaths in area specified below of Shri..... is renewed for a period of one year ending..... area in which Commissioner of Oaths is allowed to practice.....  
 Seal.....

Signature

Date..... District Judge

Form IV Register of business transacted by Commissioner of Oath

Serial No.	Date	Nature of document verified	Name of court where the document is to be used	Name of deponent
(1)	(2)	(3)	(4)	(5)

  

Name of attesting witness	Name of place where the documents verified	Fee charged	Travelling allowance if any charged	Signature of deponent	Remarks
(6)	(7)	(8)	(9)	(10)	(11)

Form V (in Duplicate) Receipt of fees and other charges realized by Commissioner of Oaths

Certificate No..... of Dist

Place..... Date..... S.No..... Received with thanks for  
 Shri/Smt/Kumari..... sum of rupees..... as verification fees..... and sum..... of.....  
 as travelling charges in connection with verification of..... (give description of documents)  
 entered at S.No..... of Register of business transacted by Commissioner of  
 Oath..... Signature, Commissioner of Oath  
 Form VI Form of return to be submitted by an  
 Oath Commissioner [See Rule 30]

1. Name and address of Oath Commissioner .....
  2. Registration Number .....
  3. Particulars of Oath Commissioner's acts done during the year .....
- Type of work Number of cases Fee charged

## 1. Administering oath to, or taking affidavit from any person

## 2. Other acts done as Oath Commissioner

Place and Date Signature of Oath Commissioner