[Français](http://www.ontario.ca/fr/lois/loi/90e23)

Evidence Act

R.S.O. 1990, CHAPTER E.23

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Definitions

**1** In this Act,

“action” includes an issue, matter, arbitration, reference, investigation, inquiry, a prosecution for an offence committed against a statute of Ontario or against a by-law or regulation made under any such statute and any other proceeding authorized or permitted to be tried, heard, had or taken by or before a court under the law of Ontario; (“action”)

“court” includes a judge, arbitrator, umpire, commissioner, justice of the peace or other officer or person having by law or by consent of parties authority to hear, receive and examine evidence; (“tribunal”)

“spouse” means a spouse as defined in section 1 of the Family Law Act. (“conjoint”) R.S.O. 1990, c. E.23, s. 1; 2005, c. 5, s. 25 (1).

**Section Amendments with date in force (d/m/y)**

[2005, c. 5, s. 25 (1)](http://www.ontario.ca/laws/statute/S05005" \l "s25s1) - 09/03/2005

Application of Act

**2** This Act applies to all actions and other matters whatsoever respecting which the Legislature has jurisdiction. R.S.O. 1990, c. E.23, s. 2.

Administration of oaths and affirmations

Authorized persons

**3** (1)  Where by any Act of the Legislature or order of the Assembly an oath or affirmation is authorized or directed to be administered, the oath or affirmation may be administered by any person authorized to take affidavits in Ontario. R.S.O. 1990, c. E.23, s. 3 (1).

Courts

(2)  Every court has power to administer or cause to be administered an oath or affirmation to every witness who is called to give evidence before the court. R.S.O. 1990, c. E.23, s. 3 (2).

Certification

**4** Where an oath, affirmation or declaration is directed to be made before a person, he or she has power and authority to administer it and to certify to its having been made. R.S.O. 1990, c. E.23, s. 4.

Recordings and transcripts of evidence

Recording

**5** (1)  Despite any Act, regulation or the rules of court, a stenographic reporter, shorthand writer, stenographer or other person who is authorized to record evidence and proceedings in an action in a court or in a proceeding authorized by or under any Act may record the evidence and the proceedings by any form of shorthand or by any device for recording sound of a type approved by the Attorney General. R.S.O. 1990, c. E.23, s. 5 (1).

Admissibility of transcripts

(2)  Despite any Act or regulation or the rules of court, a transcript of the whole or a part of any evidence that has or proceedings that have been recorded in accordance with subsection (1) and that has or have been certified in accordance with the Act, regulation or rule of court, if any, applicable thereto and that is otherwise admissible by law is admissible in evidence whether or not the witness or any of the parties to the action or proceeding has approved the method used to record the evidence and the proceedings and whether or not he or she has read or signed the transcript. R.S.O. 1990, c. E.23, s. 5 (2).

Regulations

(3)  The Attorney General may make regulations,

(a) requiring the certification of recordings of evidence and proceedings under subsection (1), and respecting the certification of those recordings;

(b) requiring the certification of transcripts under subsection (2), and respecting the certification of those transcripts; and

(c) prescribing the format, wording or content of certificates to be used in connection with certification under clauses (a) and (b). 2001, c. 9, Sched. B, s. 8; 2011, c. 1, Sched. 1, s. 2.

**Section Amendments with date in force (d/m/y)**

[2001, c. 9, Sched. B, s. 8](http://www.ontario.ca/laws/statute/S01009" \l "schedbs8) - 29/06/2001

[2011, c. 1, Sched. 1, s. 2](http://www.ontario.ca/laws/statute/S11001" \l "sched1s2) - 30/03/2011

Witnesses, not incapacitated by crime, etc.

**6** No person offered as a witness in an action shall be excluded from giving evidence by reason of any alleged incapacity from crime or interest. R.S.O. 1990, c. E.23, s. 6.

Admissibility notwithstanding interest or crime

**7** Every person offered as a witness shall be admitted to give evidence although he or she has an interest in the matter in question or in the event of the action and although he or she has been previously convicted of a crime or offence. R.S.O. 1990, c. E.23, s. 7.

Evidence of parties

**8** (1)  The parties to an action and the persons on whose behalf it is brought, instituted, opposed or defended are, except as hereinafter otherwise provided, competent and compellable to give evidence on behalf of themselves or of any of the parties, and the spouses of such parties and persons are, except as hereinafter otherwise provided, competent and compellable to give evidence on behalf of any of the parties. R.S.O. 1990, c. E.23, s. 8 (1); 2005, c. 5, s. 25 (2).

Evidence of spouse

(2)  Without limiting the generality of subsection (1), a spouse may in an action give evidence that he or she did or did not have sexual intercourse with the other party to the marriage at any time or within any period of time before or during the marriage. R.S.O. 1990, c. E.23, s. 8 (2); 2005, c. 5, s. 25 (3).

**Section Amendments with date in force (d/m/y)**

[2005, c. 5, s. 25 (2, 3)](http://www.ontario.ca/laws/statute/S05005" \l "s25s2) - 09/03/2005

Witness not excused from answering questions tending to criminate

**9** (1)  A witness shall not be excused from answering any question upon the ground that the answer may tend to criminate the witness or may tend to establish his or her liability to a civil proceeding at the instance of the Crown or of any person or to a prosecution under any Act of the Legislature. R.S.O. 1990, c. E.23, s. 9 (1).

Answer not to be used in evidence against witness

(2)  If, with respect to a question, a witness objects to answer upon any of the grounds mentioned in subsection (1) and if, but for this section or any Act of the Parliament of Canada, he or she would therefore be excused from answering such question, then, although the witness is by reason of this section or by reason of any Act of the Parliament of Canada compelled to answer, the answer so given shall not be used or receivable in evidence against him or her in any civil proceeding or in any proceeding under any Act of the Legislature. R.S.O. 1990, c. E.23, s. 9 (2).

Evidence in proceedings in consequence of adultery

**10** The parties to a proceeding instituted in consequence of adultery and the spouses of such parties are competent to give evidence in such proceedings, but no witness in any such proceeding, whether a party to the suit or not, is liable to be asked or bound to answer any question tending to show that he or she is guilty of adultery, unless such witness has already given evidence in the same proceeding in disproof of his or her alleged adultery. R.S.O. 1990, c. E.23, s. 10; 2005, c. 5, s. 25 (4).

**Section Amendments with date in force (d/m/y)**

[2005, c. 5, s. 25 (4)](http://www.ontario.ca/laws/statute/S05005" \l "s25s4) - 09/03/2005

Communications made during marriage

**11** A person is not compellable to disclose any communication made to the person by his or her spouse during the marriage. 2005, c. 5, s. 25 (5).

**Section Amendments with date in force (d/m/y)**

[2005, c. 5, s. 25 (5)](http://www.ontario.ca/laws/statute/S05005" \l "s25s5) - 09/03/2005

Expert evidence

**12** Where it is intended by a party to examine as witnesses persons entitled, according to the law or practice, to give opinion evidence, not more than three of such witnesses may be called upon either side without the leave of the judge or other person presiding. R.S.O. 1990, c. E.23, s. 12.

Actions by or against heirs, etc.

**13** In an action by or against the heirs, next of kin, executors, administrators or assigns of a deceased person, an opposite or interested party shall not obtain a verdict, judgment or decision on his or her own evidence in respect of any matter occurring before the death of the deceased person, unless such evidence is corroborated by some other material evidence. R.S.O. 1990, c. E.23, s. 13.

Actions by or against incapable persons, etc.

**14** An opposite or interested party in an action by or against one of the following persons shall not obtain a verdict, judgment or decision on the party’s own evidence, unless the evidence is corroborated by some other material evidence:

1. A person who has been found,

i. incapable of managing property under the Substitute Decisions Act, 1992 or under the Mental Health Act,

ii. incapable of personal care under the Substitute Decisions Act, 1992, or

iii. incapable by a court in Canada or elsewhere.

2. A patient in a psychiatric facility.

3. A person who, because of a mental disorder within the meaning of the Mental Health Act, is incapable of giving evidence. 2009, c. 33, Sched. 2, s. 32 (1).

**Section Amendments with date in force (d/m/y)**

[2009, c. 33, Sched. 2, s. 32 (1)](http://www.ontario.ca/laws/statute/S09033" \l "sched2s32s1) - 15/12/2009

Use of examination for discovery of officer or employee of corporation at trial

**15** An examination for discovery, or any part thereof, of an officer or employee of a corporation made under the rules of court may be used as evidence at the trial by any party adverse in interest to the corporation, subject to such protection to the corporation as the rules of court provide. R.S.O. 1990, c. E.23, s. 15.

Mode of administering oath

**16** Where an oath may be lawfully taken, it may be administered to a person while such person holds in his or her hand a copy of the Old or New Testament without requiring him or her to kiss the same, or, when the person objects to being sworn in this manner or declares that the oath so administered is not binding upon the person’s conscience, then in such manner and form and with such ceremonies as he or she declares to be binding. R.S.O. 1990, c. E.23, s. 16.

Affirmation in lieu of oath

**17** (1)  A person may, instead of taking an oath, make an affirmation or declaration that is of the same force and effect as if the person had taken an oath in the usual form. 2009, c. 33, Sched. 2, s. 32 (2).

Certifying affirmation

(2)  Where the evidence is in the form of an affidavit or written deposition, the person before whom it is taken shall certify that the deponent satisfied him or her that the deponent was a person entitled to affirm. R.S.O. 1990, c. E.23, s. 17 (2).

**Section Amendments with date in force (d/m/y)**

[2009, c. 33, Sched. 2, s. 32 (2)](http://www.ontario.ca/laws/statute/S09033" \l "sched2s32s2) - 15/12/2009

Presumption of competency

**18** (1)  A person of any age is presumed to be competent to give evidence. 1995, c. 6, s. 6 (1).

Challenge, examination

(2)  When a person’s competence is challenged, the judge, justice or other presiding officer shall examine the person. 1995, c. 6, s. 6 (1).

Exception

(3)  However, if the judge, justice or other presiding officer is of the opinion that the person’s ability to give evidence might be adversely affected if he or she examined the person, the person may be examined by counsel instead. 1995, c. 6, s. 6 (1).

**Section Amendments with date in force (d/m/y)**

1995, c. 6, s. 6 (1) - 11/06/1996

Evidence of witness under 14

**18.1**  (1)  When the competence of a proposed witness who is a person under the age of 14 is challenged, the court may admit the person’s evidence if the person is able to communicate the evidence, understands the nature of an oath or solemn affirmation and testifies under oath or solemn affirmation. 1995, c. 6, s. 6 (1).

Same

(2)  The court may admit the person’s evidence, if the person is able to communicate the evidence, even though the person does not understand the nature of an oath or solemn affirmation, if the person understands what it means to tell the truth and promises to tell the truth. 1995, c. 6, s. 6 (1).

Further discretion

(3)  If the court is of the opinion that the person’s evidence is sufficiently reliable, the court has discretion to admit it, if the person is able to communicate the evidence, even if the person understands neither the nature of an oath or solemn affirmation nor what it means to tell the truth. 1995, c. 6, s. 6 (1).

**Section Amendments with date in force (d/m/y)**

1995, c. 6, s. 6 (1) - 11/06/1996

Corroboration not required, witness under 14

**18.2**  (1)  Evidence given by a person under the age of 14 need not be corroborated. 1995, c. 6, s. 6 (1).

No mandatory warning

(2)  It is not necessary to instruct the trier of fact that it is unsafe to rely on the uncorroborated evidence of a person under the age of 14. 1995, c. 6, s. 6 (1).

**Section Amendments with date in force (d/m/y)**

1995, c. 6, s. 6 (1) - 11/06/1996

Videotaped testimony, witness under 18

**18.3**  (1)  A videotape of the testimony of a witness under the age of 18 that satisfies the conditions set out in subsection (2) may be admitted in evidence, if the court is of the opinion that this is likely to help the witness give complete and accurate testimony or that it is in the best interests of the witness. 1995, c. 6, s. 6 (1).

Conditions

(2)  The judge or other person who is to preside at the trial and the lawyers of the parties to the proceeding shall be present when the testimony is given, and the lawyers shall be given an opportunity to examine the witness in the same way as if he or she were testifying in the courtroom. 1995, c. 6, s. 6 (1).

Screen, support person

(3)  Subsection 18.4 (1) and section 18.5 apply with necessary modifications when testimony is being videotaped. 1995, c. 6, s. 6 (1).

Effect of admitting videotape

(4)  If a videotape is admitted under subsection (1), the witness need not attend or testify and shall not be summoned to testify. 1995, c. 6, s. 6 (1).

Exception

(5)  However, in exceptional circumstances, the court may require the witness to attend and testify even though a videotape of his or her testimony has been admitted in evidence. 1995, c. 6, s. 6 (1).

Videotaped interview

(6)  With the leave of the court, a videotape of an interview with a person under the age of 18 may be admitted in evidence if the person, while testifying, adopts the contents of the videotape. 1995, c. 6, s. 6 (1).

Hearsay exceptions preserved

(7)  Subsection (6) is in addition to any rule of law under which a videotape may be admitted in evidence. 1995, c. 6, s. 6 (1).

**Section Amendments with date in force (d/m/y)**

1995, c. 6, s. 6 (1) - 11/06/1996

Special measures, witness under 18

Screen

**18.4**  (1)  A witness under the age of 18 may testify behind a screen or similar device that allows the witness not to see an adverse party, if the court is of the opinion that this is likely to help the witness give complete and accurate testimony or that it is in the best interests of the witness, and if the condition set out in subsection (4) is satisfied. 1995, c. 6, s. 6 (1).

Closed-circuit television

(2)  The court may order that closed-circuit television be used instead of a screen or similar device if the court is of the opinion that,

(a) a screen or similar device is insufficient to allow the witness to give complete and accurate testimony; or

(b) the best interests of the witness require the use of closed-circuit television. 1995, c. 6, s. 6 (1).

Same

(3)  If the court makes an order under subsection (2), the witness shall testify outside the courtroom and his or her testimony shall be shown in the courtroom by means of closed-circuit television. 1995, c. 6, s. 6 (1).

Condition

(4)  When a screen or similar device or closed-circuit television is used, the judge and jury and the parties to the proceeding and their lawyers shall be able to see and hear the witness testify. 1995, c. 6, s. 6 (1).

**Section Amendments with date in force (d/m/y)**

1995, c. 6, s. 6 (1) - 11/06/1996

Support person, witness under 18

**18.5**  (1)  During the testimony of a witness under the age of 18, a support person chosen by the witness may accompany him or her. 1995, c. 6, s. 6 (1).

Court’s discretion

(2)  If the court determines that the support person chosen by the witness is not appropriate for any reason, the witness is entitled to choose another support person. 1995, c. 6, s. 6 (1).

Examples

(3)  The following are examples of reasons on the basis of which the court may determine that the support person chosen by a witness is not appropriate:

1. The court is of the opinion that the support person may attempt to influence the testimony of the witness.

2. The support person behaves in a disruptive manner.

3. The support person is also a witness in the proceeding. 1995, c. 6, s. 6 (1).

**Section Amendments with date in force (d/m/y)**

1995, c. 6, s. 6 (1) - 11/06/1996

Personal cross-examination by adverse party

**18.6**  (1)  The court may prohibit personal cross-examination of a witness under the age of 18 by an adverse party if the court is of the opinion that such a cross-examination,

(a) would be likely to affect adversely the ability of the witness to give evidence; or

(b) would not be in the best interests of the witness. 1995, c. 6, s. 6 (1).

Alternatives

(2)  If the court prohibits personal cross-examination by the adverse party, the cross-examination may be conducted in some other appropriate way (for example, by means of questions written by the adverse party and read to the witness by the court). 1995, c. 6, s. 6 (1).

**Section Amendments with date in force (d/m/y)**

1995, c. 6, s. 6 (1) - 11/06/1996

Attendance of witnesses

**19** A witness served in due time with a summons issued out of a court in Ontario, and paid proper witness fees and conduct money, who makes default in obeying such summons, without any lawful and reasonable impediment, in addition to any penalty he or she may incur as for a contempt of court, is liable to an action on the part of the person by whom, or on whose behalf, he or she has been summonsed for any damage that such person may sustain or be put to by reason of such default. R.S.O. 1990, c. E.23, s. 19.

[The following provisions were enacted by the Province of Canada as part of Chapter 9 of 1854. They were carried into the Consolidated Statutes of Canada, 1859 as sections 4-11 and 13 of Chapter 79. They have appeared in their present form in successive revisions since Confederation. They are revised in the Revised Statutes of Ontario to provide for gender-neutrality and to include a French version. See Rideout vs Rideout (1956) O.W.N. 644].

Courts may issue subpoenas to any part of Canada

4.  If in any action or suit depending in any of Her Majesty’s Superior Courts of Law or Equity in Canada, it appears to the Court, or when not sitting, it appears to any Judge of the Court that it is proper to compel the personal attendance at any trial or *enquête* or examination of witnesses, of any person who may not be within the jurisdiction of the Court in which the action or suit is pending, the Court or Judge, in their or his or her discretion, may order that a writ called a writ of *subpoena ad testificandum* or of *subpoena duces tecum* shall issue in special form, commanding such person to attend as a witness at such trial or *enquête* or examination of witnesses wherever he or she may be in Canada.

Service thereof in any part of Canada to be good

5.  The service of any such writ or process in any part of Canada, shall be valid and effectual to all intents and purposes, as if the same had been served within the jurisdiction of the Court from which it has issued, according to the practice of such Court.

When not to be issued

6.  No such writ shall be issued in any case in which an action is pending for the same cause of action, in that section of the Province, whether Upper or Lower Canada respectively, within which such witness or witnesses may reside.

Writs to be specially noted

7.  Every such writ shall have at the foot, or in the margin thereof, a statement or notice that the same is issued by the special order of the Court or Judge making such order, and no such writ shall issue without such special order.

Consequences of disobedience

8.  In case any person so served does not appear according to the exigency of such writ or process, the Court out of which the same issued, may, upon proof made of the service thereof, and of such default to the satisfaction of such Court, transmit a certificate of such default, under the seal of the same Court, to any of Her Majesty’s Superior Courts of Law or Equity in that part of Canada in which the person so served may reside, being out of the jurisdiction of the Court transmitting such certificate, and the Court to which such certificate is sent, shall thereupon proceed against and punish such person so having made default, in like manner as they might have done if such person had neglected or refused to appear to a writ of subpoena or other similar process issued out of such last mentioned Court.

If expenses paid or tendered

9.  No such certificate of default shall be transmitted by any Court, nor shall any person be punished for neglect or refusal to attend any trial or *enquête* or examination of witnesses, in obedience to any such subpoena or other similar process, unless it be made to appear to the Court transmitting and also to the Court receiving such certificate, that a reasonable and sufficient sum of money, according to the rate *per diem* and per mile allowed to witnesses by the law and practice of the Superior Court of Law within the jurisdiction of which such person was found, to defray the expenses of coming and attending to give evidence and of returning from giving evidence, had been tendered to such person at the time when the writ of subpoena, or other similar process was served upon him or her.

How service proved

10.  The service of such writs of subpoena or other similar process, in Lower Canada, shall be proved by the certificate of a Bailiff within the jurisdiction where the service has been made, under his or her oath of office, and such service in Upper Canada by the affidavit of service endorsed on or annexed to such writ by the person who served the same.

Costs of attendance provided for

11.  The costs of the attendance of any such witness shall not be taxed against the adverse party to such suit, beyond the amount that would have been allowed on a commission *rogatoire*, or to examine witnesses unless the Court or Judge before whom such trial or *enquête* or examination of witnesses is had, so orders.

. . . . .

Power to issue commissions to examine witnesses preserved

13.  Nothing herein contained shall affect the power of any Court to issue a commission for the examination of witnesses out of its jurisdiction, nor affect the admissibility of any evidence at any trial or proceeding, where such evidence is now by law receivable, on the ground of any witness being beyond the jurisdiction of the Court.

Examination of witnesses, proof of contradictory written statements

**20** A witness may be cross-examined as to previous statements made by him or her in writing, or reduced into writing, relative to the matter in question, without the writing being shown to the witness, but, if it is intended to contradict the witness by the writing, his or her attention shall, before such contradictory proof is given, be called to those parts of the writing that are to be used for the purpose of so contradicting the witness, and the judge or other person presiding at any time during the trial or proceeding may require the production of the writing for his or her inspection, and may thereupon make such use of it for the purposes of the trial or proceeding as he or she thinks fit. R.S.O. 1990, c. E.23, s. 20.

Proof of contradictory oral statements

**21** If a witness upon cross-examination as to a former statement made by him or her relative to the matter in question and inconsistent with his or her present testimony does not distinctly admit that he or she did make such statement, proof may be given that the witness did in fact make it, but before such proof is given the circumstances of the supposed statement sufficient to designate the particular occasion shall be mentioned to the witness, and the witness shall be asked whether or not he or she did make such statement. R.S.O. 1990, c. E.23, s. 21.

Proof of previous conviction of a witness

**22** (1)  A witness may be asked whether he or she has been convicted of any crime, and upon being so asked, if the witness either denies the fact or refuses to answer, the conviction may be proved, and a certificate containing the substance and effect only, omitting the formal part, of the charge and of the conviction, purporting to be signed by the officer having the custody of the records of the court at which the offender was convicted, or by the deputy of the officer, is, upon proof of the identity of the witness as such convict, sufficient evidence of the conviction, without proof of the signature or of the official character of the person appearing to have signed the certificate. R.S.O. 1990, c. E.23, s. 22 (1).

(2)  Repealed: 1995, c. 6, s. 6 (2).

**Section Amendments with date in force (d/m/y)**

1995, c. 6, s. 6 (2) - 11/06/1996

Proof of conviction or discharge

**22.1**  (1)  Proof that a person has been convicted or discharged anywhere in Canada of a crime is proof, in the absence of evidence to the contrary, that the crime was committed by the person, if,

(a) no appeal of the conviction or discharge was taken and the time for an appeal has expired; or

(b) an appeal of the conviction or discharge was taken but was dismissed or abandoned and no further appeal is available. 1995, c. 6, s. 6 (3).

Same

(2)  Subsection (1) applies whether or not the convicted or discharged person is a party to the proceeding. 1995, c. 6, s. 6 (3).

Same

(3)  For the purposes of subsection (1), a certificate containing the substance and effect only, omitting the formal part, of the charge and of the conviction or discharge, purporting to be signed by the officer having the custody of the records of the court at which the offender was convicted or discharged, or by the deputy of the officer, is, on proof of the identity of the person named as convicted or discharged person in the certificate, sufficient evidence of the conviction or discharge of that person, without proof of the signature or of the official character of the person appearing to have signed the certificate. 1995, c. 6, s. 6 (3).

**Section Amendments with date in force (d/m/y)**

1995, c. 6, s. 6 (3) - 11/06/1996

How far a party may discredit his or her own witness

**23** A party producing a witness shall not be allowed to impeach his or her credit by general evidence of bad character, but the party may contradict the witness by other evidence, or, if the witness in the opinion of the judge or other person presiding proves adverse, such party may, by leave of the judge or other person presiding, prove that the witness made at some other time a statement inconsistent with his or her present testimony, but before such last-mentioned proof is given the circumstances of the proposed statement sufficient to designate the particular occasion shall be mentioned to the witness and the witness shall be asked whether or not he or she did make such statement. R.S.O. 1990, c. E.23, s. 23.

Letters patent

**24** Letters patent under the Great Seal of the United Kingdom, or of any other of His Majesty’s dominions, may be proved by the production of an exemplification thereof, or of the enrolment thereof, under the Great Seal under which such letters patent were issued, and such exemplification has the like force and effect for all purposes as the letters patent thereby exemplified or enrolled, as well against His Majesty as against all other persons whomsoever. R.S.O. 1990, c. E.23, s. 24; 2024, c. 2, Sched. 19, s. 6 (3).

**Section Amendments with date in force (d/m/y)**

[2024, c. 2, Sched. 19, s. 6 (3)](http://www.ontario.ca/laws/statute/S24002" \l "sched7s6s3) - 06/03/2024

**24.1**  Repealed: 2006, c. 21, Sched. F, s. 110.

**Section Amendments with date in force (d/m/y)**

1998, c. 18, Sched. B, s. 7 (1) - 18/12/1998

[2006, c. 21, Sched. F, s. 110](http://www.ontario.ca/laws/statute/S06021" \l "schedfs110) - 25/07/2007

**24.2**  Repealed: 2006, c. 21, Sched. F, s. 110.

**Section Amendments with date in force (d/m/y)**

[2002, c.18, Sched. A, s. 8](http://www.ontario.ca/laws/statute/S02018" \l "schedas8) - no effect - see [2006, c. 21, Sched. F, s. 110](http://www.ontario.ca/laws/statute/S06021" \l "schedfs110) - 25/07/2007

[2006, c. 21, Sched. F, s. 110](http://www.ontario.ca/laws/statute/S06021" \l "schedfs110) - 25/07/2007

Copies of statutes, etc.

**25**Copies of statutes, official gazettes, ordinances, regulations, proclamations, journals, orders, appointments to office, notices thereof and other public documents purporting to be published by or under the authority of the Parliament of the United Kingdom, or of the Imperial Government or by or under the authority of the government or of any legislative body of any dominion, commonwealth, state, province, colony, territory or possession within His Majesty’s dominions, shall be admitted in evidence to prove the contents thereof. R.S.O. 1990, c. E.23, s. 25; 2020, c. 34, Sched. 13, s. 3 (1); 2024, c. 2, Sched. 19, s. 6 (1).

**Section Amendments with date in force (d/m/y)**

[2020, c. 34, Sched. 13, s. 3 (1)](http://www.ontario.ca/laws/statute/S20034" \l "sched13s3s1) - 31/03/2021

[2024, c. 2, Sched. 19, s. 6 (1)](http://www.ontario.ca/laws/statute/S24002" \l "sched7s6s1) - 06/03/2024

Proclamations, orders, etc.

**26**Proof in the absence of evidence to the contrary of a proclamation, order, regulation or appointment to office made or issued,

(a) by the Governor General or the Governor General in Council, or other chief executive officer or administrator of the Government of Canada; or

(b) by or under the authority of a minister or head of a department of the Government of Canada or of a provincial or territorial government in Canada; or

(c) by a Lieutenant Governor or Lieutenant Governor in Council or other chief executive officer or administrator of Ontario or of any other province or territory in Canada,

may be given by the production of,

(d) a copy of the *Canada Gazette* or of the official gazette for a province or territory purporting to contain a notice of such proclamation, order, regulation or appointment;

(e) a copy of such proclamation, order, regulation or appointment purporting to be published by the King’s Printer for Ontario, the printer for the Government of Canada or the government printer for the province or territory; or

(f) a copy of or extract from such proclamation, order, regulation or appointment purporting to be certified to be a true copy by such minister or head of a department or by the clerk, or assistant or acting clerk of the Executive Council or by the head of a department of the Government of Canada or of a provincial or territorial government or by his or her deputy or acting deputy. R.S.O. 1990, c. E.23, s. 26; 1993, c. 27, Sched.; 2020, c. 34, Sched. 13, s. 3 (2); 2024, c. 2, Sched. 19, s. 6 (2).

**Section Amendments with date in force (d/m/y)**

1993, c. 27, Sched. - 31/12/1991

[2020, c. 34, Sched. 13, s. 3 (2)](http://www.ontario.ca/laws/statute/S20034" \l "sched13s3s2) - 31/03/2021

[2024, c. 2, Sched. 19, s. 6 (2)](http://www.ontario.ca/laws/statute/S24002" \l "sched7s6s2) - 06/03/2024

Orders signed by Secretary of State or member of Executive Council

**27** An order in writing purporting to be signed by the Secretary of State of Canada and to be written by command of the Governor General shall be received in evidence as the order of the Governor General and an order in writing purporting to be signed by a member of the Executive Council and to be written by command of the Lieutenant Governor shall be received in evidence as the order of the Lieutenant Governor. R.S.O. 1990, c. E.23, s. 27.

Notices in *Gazette*

**28** Copies of proclamations and of official and other documents, notices and advertisements published in the *Canada Gazette*, or in *The Ontario Gazette*, or in the official gazette of any province or territory in Canada are proof, in the absence of evidence to the contrary, of the originals and of the contents thereof. R.S.O. 1990, c. E.23, s. 28; 2020, c. 34, Sched. 13, s. 3 (3).

**Section Amendments with date in force (d/m/y)**

[2020, c. 34, Sched. 13, s. 3 (3)](http://www.ontario.ca/laws/statute/S20034" \l "sched13s3s3) - 31/03/2021

Public or official documents

**29** Where the original record could be received in evidence, a copy of an official or public document in Ontario, purporting to be certified under the hand of the proper officer, or the person in whose custody such official or public document is placed, or of a document, by-law, rule, regulation or proceeding, or of an entry in a register or other book of a corporation, created by charter or statute in Ontario, purporting to be certified under the seal of the corporation and the hand of the presiding officer or secretary thereof, is receivable in evidence without proof of the seal of the corporation, or of the signature or of the official character of the person or persons appearing to have signed the same, and without further proof thereof. R.S.O. 1990, c. E.23, s. 29.

Privilege in case of official documents

**30** Where a document is in the official possession, custody or power of a member of the Executive Council, or of the head of a ministry of the public service of Ontario, if the deputy head or other officer of the ministry has the document in his or her personal possession, and is called as a witness, he or she is entitled, acting herein by the direction and on behalf of such member of the Executive Council or head of the ministry, to object to producing the document on the ground that it is privileged, and such objection may be taken by him or her in the same manner, and has the same effect, as if such member of the Executive Council or head of the ministry were personally present and made the objection. R.S.O. 1990, c. E.23, s. 30.

Sharing of information within public sector not affecting privilege

**30.1**(1)  In this section,

“public sector body” means,

(a) the Crown in right of Ontario,

(b) a Crown agency as defined in the Crown Liability and Proceedings Act, 2019,

(c) a Crown corporation as defined in the Crown Liability and Proceedings Act, 2019, or

(d) any person, body or office specified by the regulations made under subsection (7). 2024, c. 2, Sched. 7, s. 1.

Privilege not waived, affected

(2)  If a public sector body shares information on a confidential basis with another public sector body, the sharing does not constitute a waiver of, or otherwise affect, any privilege that applies with respect to the information. 2024, c. 2, Sched. 7, s. 1.

Same

(3)  For the purposes of subsection (2), privilege includes solicitor-client privilege, litigation privilege, settlement privilege and public interest immunity. 2024, c. 2, Sched. 7, s. 1.

Same

(4)  Subsection (2) applies regardless of whether the public sector body is required to share the information. 2024, c. 2, Sched. 7, s. 1.

Retroactive application

(5)  This section is deemed to have applied with respect to any sharing of information between public sector bodies before the day the Enhancing Access to Justice Act, 2024 received Royal Assent. 2024, c. 2, Sched. 7, s. 1.

Same

(6)  In the case of a person, body or office that becomes a public sector body after the day the Enhancing Access to Justice Act, 2024 receives Royal Assent, this section is also deemed to have applied with respect to any sharing of information with or by the person, body or office before becoming a public sector body. 2024, c. 2, Sched. 7, s. 1.

Regulations

(7)  The Lieutenant Governor in Council may make regulations prescribing persons, bodies or offices for the purposes of clause (d) of the definition of “public sector body” in subsection (1). 2024, c. 2, Sched. 7, s. 1.

**Section Amendments with date in force (d/m/y)**

[2024, c. 2, Sched. 7, s. 1](http://www.ontario.ca/laws/statute/S24002" \l "sched7s1) - 06/03/2024

Books of accounts of municipalities and government departments

**31** (1)  Repealed: 2002, c. 17, Sched. F, Table.

Copies of entries

(2)  A copy of an entry in a book of account kept by a municipality or in a department of the Government of Canada or of Ontario shall be received as proof in the absence of evidence to the contrary of such entry and of the matters, transactions and accounts recorded therein, if it is proved by the oath, affirmation or affidavit of an officer of the municipality or of the department,

(a) that the book was, at the time of the making of the entry, one of the ordinary books kept by the municipality or in the department;

(b) that the entry was apparently, and as the deponent believes, made in the usual and ordinary course of business of the municipality or department; and

(c) that such copy is a true copy thereof. R.S.O. 1990, c. E.23, s. 31 (2); 1993, c. 27, Sched.

**Section Amendments with date in force (d/m/y)**

1993, c. 27, Sched. - 31/12/1991

[2002, c. 17, Sched. F, Table](http://www.ontario.ca/laws/statute/S02017" \l "schedfs1s1) - 01/01/2003

Copies of public books or documents

**32** (1)  Where a book or other document is of so public a nature as to be admissible in evidence on its mere production from the proper custody, a copy thereof or extract therefrom is admissible in evidence if it is proved that it is an examined copy or extract, or that it purports to be signed and certified as a true copy or extract by the officer to whose custody the original was entrusted. R.S.O. 1990, c. E.23, s. 32 (1).

Copies to be delivered if required

(2)  Such officer shall furnish the certified copy or extract to any person applying for it at a reasonable time, upon the person paying therefor a sum not exceeding 10 cents for every folio of 100 words. R.S.O. 1990, c. E.23, s. 32 (2).

Books and records of banks

Definition

**33** (1)  In this section,

“bank” means a bank to which the *Bank Act* (Canada) applies and includes a branch, agency or office of a bank. R.S.O. 1990, c. E.23, s. 33 (1); 2002, c. 8, Sched. I, s. 10.

Copies of entries

(2)  Subject to this section, a copy of an entry in a book or record kept in a bank is in any action to which the bank is not a party proof in the absence of evidence to the contrary of such entry and of the matters, transactions and accounts therein recorded. R.S.O. 1990, c. E.23, s. 33 (2); 1993, c. 27, Sched.

Proof required as to entry in ordinary course of business

(3)  A copy of an entry in such book or record shall not be received in evidence under this section unless it is first proved that the book or record was at the time of making the entry one of the ordinary books or records of the bank, that the entry was made in the usual and ordinary course of business, that the book or record is in the custody or control of the bank, or its successor, and that such copy is a true copy thereof, and such proof may be given by the manager or accountant, or a former manager of the bank or its successor, and may be given orally or by affidavit. R.S.O. 1990, c. E.23, s. 33 (3).

Production of books to be required only under order

(4)  A bank or officer of a bank is not, in an action to which the bank is not a party, compellable to produce any book or record the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the court or a judge made for special cause. R.S.O. 1990, c. E.23, s. 33 (4).

Inspection of account

(5)  On the application of a party to an action, the court or judge may order that such party be at liberty to inspect and take copies of any entries in the books or records of a bank for the purposes of such proceeding, but a person whose account is to be inspected shall be served with notice of the application at least two clear days before the hearing thereof, and, if it is shown to the satisfaction of the court or judge that such person cannot be notified personally, such notice may be given by addressing it to the bank. R.S.O. 1990, c. E.23, s. 33 (5).

Costs

(6)  The costs of an application to a court or judge under or for the purposes of this section, and the costs of any thing done or to be done under an order of a court or judge made under or for the purposes of this section, are in the discretion of the court or judge who may order such costs or any part thereof to be paid to a party by the bank, where such costs have been occasioned by a default or delay on the part of the bank, and any such order against a bank may be enforced as if the bank were a party to the proceeding. R.S.O. 1990, c. E.23, s. 33 (6).

**Section Amendments with date in force (d/m/y)**

1993, c. 27, Sched. - 31/12/1991

[2002, c. 8, Sched. I, s. 10](http://www.ontario.ca/laws/statute/S02008" \l "schedis10) - 05/01/2005

Prints from photographic film

Definitions

**34** (1)  In this section,

“person” includes,

(a) the Government of Canada and of a province of Canada, and a department, commission, board or branch of any such government,

(b) a corporation, its successors and assigns, and

(c) the heirs, executors, administrators or other legal representatives of a person; (“personne”)

“photographic film” includes any photographic plate, microphotographic film and photostatic negative, and “photograph” has a corresponding meaning. (“pellicule photographique”, “photographier”) R.S.O. 1990, c. E.23, s. 34 (1).

Admissible in evidence

(2)  Where a bill of exchange, promissory note, cheque, receipt, instrument, agreement, document, plan or a record or book or entry therein kept or held by a person,

(a) is photographed in the course of an established practice of such person of photographing objects of the same or a similar class in order to keep a permanent record thereof; and

(b) is destroyed by or in the presence of such person or of one or more of the person’s employees or delivered to another person in the ordinary course of business or lost,

a print from the photographic film is admissible in evidence in all cases and for all purposes for which the object photographed would have been admissible. R.S.O. 1990, c. E.23, s. 34 (2).

(3)  Repealed: 1999, c. 12, Sched. B, s. 7 (1).

(4)  Repealed: 1999, c. 12, Sched. B, s. 7 (1).

Proof of compliance with conditions

(5)  Proof of compliance with the conditions prescribed by this section may be given by any person having knowledge of the facts either orally or by affidavit sworn or affirmed before a notary public, and, unless the court otherwise orders, a notarial copy of any such affidavit is admissible in evidence in lieu of the original affidavit. R.S.O. 1990, c. E.23, s. 34 (5).

**Section Amendments with date in force (d/m/y)**

1999, c. 12, Sched. B, s. 7 (1) - 30/06/2000

Electronic records

Definitions

**34.1**  (1)  In this section,

“data” means representations, in any form, of information or concepts; (“données”)

“electronic record” means data that is recorded or stored on any medium in or by a computer system or other similar device, that can be read or perceived by a person or a computer system or other similar device, and includes a display, printout or other output of that data, other than a printout referred to in subsection (6); (“document électronique”)

“electronic records system” includes the computer system or other similar device by or in which data is recorded or stored, and any procedures related to the recording and storage of electronic records. (“système d’archivage électronique”) 1999, c. 12, Sched. B, s. 7 (2).

Application

(2)  This section does not modify any common law or statutory rule relating to the admissibility of records, except the rules relating to authentication and best evidence. 1999, c. 12, Sched. B, s. 7 (2).

Power of court

(3)  A court may have regard to evidence adduced under this section in applying any common law or statutory rule relating to the admissibility of records. 1999, c. 12, Sched. B, s. 7 (2).

Authentication

(4)  The person seeking to introduce an electronic record has the burden of proving its authenticity by evidence capable of supporting a finding that the electronic record is what the person claims it to be. 1999, c. 12, Sched. B, s. 7 (2).

Application of best evidence rule

(5)  Subject to subsection (6), where the best evidence rule is applicable in respect of an electronic record, it is satisfied on proof of the integrity of the electronic record. 2000, c. 26, Sched. A, s. 7 (1).

Same

(5.1)  The integrity of an electronic record may be proved by evidence of the integrity of the electronic records system by or in which the data was recorded or stored, or by evidence that reliable encryption techniques were used to support the integrity of the electronic record. 2000, c. 26, Sched. A, s. 7 (1).

What constitutes record

(6)  An electronic record in the form of a printout that has been manifestly or consistently acted on, relied upon, or used as the record of the information recorded or stored on the printout, is the record for the purposes of the best evidence rule. 1999, c. 12, Sched. B, s. 7 (2).

Presumption of integrity

(7)  In the absence of evidence to the contrary, the integrity of the electronic records system by or in which an electronic record is recorded or stored is proved for the purposes of subsection (5),

(a) by evidence that supports a finding that at all material times the computer system or other similar device was operating properly or, if it was not, the fact of its not operating properly did not affect the integrity of the electronic record, and there are no other reasonable grounds to doubt the integrity of the electronic records system;

(b) if it is established that the electronic record was recorded or stored by a party to the proceeding who is adverse in interest to the party seeking to introduce it; or

(c) if it is established that the electronic record was recorded or stored in the usual and ordinary course of business by a person who is not a party to the proceeding and who did not record or store it under the control of the party seeking to introduce the record. 1999, c. 12, Sched. B, s. 7 (2).

Standards

(8)  For the purpose of determining under any rule of law whether an electronic record is admissible, evidence may be presented in respect of any standard, procedure, usage or practice on how electronic records are to be recorded or stored, having regard to the type of business or endeavour that used, recorded or stored the electronic record and the nature and purpose of the electronic record. 1999, c. 12, Sched. B, s. 7 (2).

Proof by affidavit

(9)  The matters referred to in subsections (6), (7) and (8) may be established by an affidavit given to the best of the deponent’s knowledge and belief. 1999, c. 12, Sched. B, s. 7 (2).

Cross-examination

(10)  A deponent of an affidavit referred to in subsection (9) that has been introduced in evidence may be cross-examined as of right by a party to the proceeding who is adverse in interest to the party who has introduced the affidavit or has caused the affidavit to be introduced. 1999, c. 12, Sched. B, s. 7 (2).

Same

(11)  Any party to the proceeding may, with leave of the court, cross-examine a person referred to in clause (7) (c). 1999, c. 12, Sched. B, s. 7 (2).

**Section Amendments with date in force (d/m/y)**

1999, c. 12, Sched. B, s. 7 (2) - 30/06/2000

[2000, c. 26, Sched. A, s. 7 (1)](http://www.ontario.ca/laws/statute/S00026" \l "schedas7s1) - 15/04/2001

Business records

Definitions

**35** (1)  In this section,

“business” includes every kind of business, profession, occupation, calling, operation or activity, whether carried on for profit or otherwise; (“entreprise”)

“record” includes any information that is recorded or stored by means of any device. (“document”) R.S.O. 1990, c. E.23, s. 35 (1).

Where business records admissible

(2)  Any writing or record made of any act, transaction, occurrence or event is admissible as evidence of such act, transaction, occurrence or event if made in the usual and ordinary course of any business and if it was in the usual and ordinary course of such business to make such writing or record at the time of such act, transaction, occurrence or event or within a reasonable time thereafter. R.S.O. 1990, c. E.23, s. 35 (2).

Notice and production

(3)  Subsection (2) does not apply unless the party tendering the writing or record has given at least seven days notice of the party’s intention to all other parties in the action, and any party to the action is entitled to obtain from the person who has possession thereof production for inspection of the writing or record within five days after giving notice to produce the same. R.S.O. 1990, c. E.23, s. 35 (3).

Surrounding circumstances

(4)  The circumstances of the making of such a writing or record, including lack of personal knowledge by the maker, may be shown to affect its weight, but such circumstances do not affect its admissibility. R.S.O. 1990, c. E.23, s. 35 (4).

Previous rules as to admissibility and privileged documents not affected

(5)  Nothing in this section affects the admissibility of any evidence that would be admissible apart from this section or makes admissible any writing or record that is privileged. R.S.O. 1990, c. E.23, s. 35 (5).

Judicial notice to be taken of signatures of judges, etc.

**36** (1)  All courts, judges, justices, associate judges, clerks of courts, commissioners and other officers acting judicially, shall take judicial notice of the signature of any judge of any court in Canada, in Ontario and in every other province and territory in Canada, where the judge’s signature is appended or attached to a decree, order, certificate, affidavit, or judicial or official document. R.S.O. 1990, c. E.23, s. 36 (1); 1996, c. 25, s. 5; 2020, c. 11, Sched. 5, s. 15; 2021, c. 4, Sched. 3, s. 21.

Interpretation

(2)  The members of the Canadian Transport Commission and a referee appointed under the *Drainage Act* shall be deemed judges for the purposes of this section. R.S.O. 1990, c. E.23, s. 36 (2); 2017, c. 8, Sched. 17, s. 6; 2021, c. 4, Sched. 6, s. 47.

**Section Amendments with date in force (d/m/y)**

1996, c. 25, s. 5 - 31/10/1996

[2017, c. 8, Sched. 17, s. 6](http://www.ontario.ca/laws/statute/S17008" \l "sched17s6) - 01/04/2018

[2020, c. 11, Sched. 5, s. 15](http://www.ontario.ca/laws/statute/S20011" \l "sched5s15) - 08/01/2021

[2021, c. 4, Sched. 3, s. 21](http://www.ontario.ca/laws/statute/S21004" \l "sched3s21) - 01/09/2021; [2021, c. 4, Sched. 6, s. 47](http://www.ontario.ca/laws/statute/S21004" \l "sched6s47) - 01/06/2021

Proof of handwriting, when not required

**37** No proof is required of the handwriting or official position of a person certifying to the truth of a copy of or extract from any proclamation, order, regulation or appointment, or to any matter or thing as to which he or she is by law authorized or required to certify. R.S.O. 1990, c. E.23, s. 37.

Foreign judgments, etc., how proved

**38** A judgment, decree or other judicial proceeding recovered, made, had or taken in the Supreme Court of Judicature or in any court of record in England or Ireland or in any of the superior courts of law, equity or bankruptcy in Scotland, or in any court of record in Canada, or in any of the provinces or territories in Canada, or in any British colony or possession, or in any court of record of the United States of America, or of any state of the United States of America, may be proved by an exemplification of the same under the seal of the court without any proof of the authenticity of such seal or other proof whatever, in the same manner as a judgment, decree or other judicial proceeding of the Superior Court of Justice may be proved by an exemplification thereof. R.S.O. 1990, c. E.23, s. 38; 2000, c. 26, Sched. A, s. 7 (2).

**Section Amendments with date in force (d/m/y)**

[2000, c. 26, Sched. A, s. 7 (2)](http://www.ontario.ca/laws/statute/S00026" \l "schedas7s2) - 06/12/2000

Copies of notarial acts in Quebec admissible

**39** (1)  A copy of a notarial act or instrument in writing made in Quebec before a notary and filed, enrolled or enregistered by such notary, certified by a notary or prothonotary to be a true copy of the original thereby certified to be in his or her possession as such notary or prothonotary, is receivable in evidence in the place and stead of the original, and has the same force and effect as the original would have if produced and proved. R.S.O. 1990, c. E.23, s. 39 (1).

How impeached

(2)  The proof of such certified copy may be rebutted or set aside by proof that there is no such original, or that the copy is not a true copy of the original in some material particular, or that the original is not an instrument of such nature as may, by the law of Quebec, be taken before a notary, or be filed, enrolled or enregistered by a notary. R.S.O. 1990, c. E.23, s. 39 (2).

Protests of bills and notes

**40** A protest of a bill of exchange or promissory note purporting to be under the hand of a notary public wherever made is proof, in the absence of evidence to the contrary, of the allegations and facts therein stated. R.S.O. 1990, c. E.23, s. 40.

Effect of certain certificates of notaries

**41** Any note, memorandum or certificate purporting to be made by a notary public in Canada, in his or her own handwriting or to be signed by him or her at the foot of or embodied in any protest, or in a regular register of official acts purporting to be kept by him or her is proof, in the absence of evidence to the contrary, of the fact of notice of non-acceptance or non-payment of a bill of exchange or promissory note having been sent or delivered at the time and in the manner stated in such note, certificate or memorandum. R.S.O. 1990, c. E.23, s. 41.

Proving titles under Small Claims Court executions

**42** In proving a title under a sheriff’s conveyance based upon an execution issued from the Small Claims Court, it is sufficient to prove the judgment recovered in the Small Claims Court without proof of any prior proceedings. R.S.O. 1990, c. E.23, s. 42.

Solemn declaration

**43** Any person authorized to take declarations in Ontario may receive the solemn declaration of any person in attestation of the truth of any fact or of any account rendered in writing and the declaration and any declaration authorized or required by any Act of the Legislature shall be in the following form:

I, ..................., solemnly declare that (*state* the fact or facts declared to), and I 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.

Declared before me

at the of

this day of , 20

A Commissioner, etc.

R.S.O. 1990, c. E.23, s. 43.

Oaths, etc., administered by commissioned officers

**44** (1)  An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made in or outside Ontario before a person who holds a commission as an officer in the Canadian Forces and is on full-time service is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made in Ontario before a commissioner for taking affidavits in Ontario. R.S.O. 1990, c. E.23, s. 44 (1).

Admissibility

(2)  A document that purports to be signed by a person mentioned in subsection (1) in testimony of an oath, affidavit, affirmation or statutory declaration having been administered, sworn, affirmed or made before him or her and on which the officer’s rank and unit are shown below his or her signature is admissible in evidence without proof of the signature or rank or unit or that he or she is on full-time service. R.S.O. 1990, c. E.23, s. 44 (2).

Oaths, etc., administered outside Ontario

**45** (1)  An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made outside Ontario before,

(a) a judge;

(b) a magistrate;

(c) an officer of a court of justice;

(d) a commissioner for taking affidavits or other competent authority of the like nature;

(e) a notary public;

(f) the head of a city, town, village, township or other municipality;

(g) an officer of any of His Majesty’s diplomatic or consular services, including an ambassador, envoy, minister, charge d’affairs, counsellor, secretary, attache, consul-general, consul, vice-consul, pro-consul, consular agent, acting consul-general, acting consul, acting vice-consul and acting consular agent;

(h) an officer of the Canadian diplomatic, consular or representative services, including, in addition to the diplomatic and consular officers mentioned in clause (g), a high commissioner, permanent delegate, acting high commissioner, acting permanent delegate, counsellor and secretary; or

(i) a Canadian Government trade commissioner or assistant trade commissioner,

exercising his or her functions or having jurisdiction or authority as such in the place in which it is administered, sworn, affirmed or made, is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made in Ontario before a commissioner for taking affidavits in Ontario. R.S.O. 1990, c. E.23, s. 45 (1); 2024, c. 2, Sched. 19, s. 6 (3).

Idem

(2)  An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made outside Ontario before a notary public for Ontario or before a commissioner for taking affidavits in Ontario is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made in Ontario before a commissioner for taking affidavits in Ontario. R.S.O. 1990, c. E.23, s. 45 (2).

Admissibility

(3)  A document that purports to be signed by a person mentioned in subsection (1) or (2) in testimony of an oath, affidavit, affirmation or statutory declaration having been administered, sworn, affirmed or made before him or her, and on which the person’s office is shown below his or her signature, and,

(a) in the case of a notary public, that purports to have impressed thereon or attached thereto his or her official seal;

(b) in the case of a person mentioned in clause (1) (f), that purports to have impressed thereon or attached thereto the seal of the municipality;

(c) in the case of a person mentioned in clause (1) (g), (h) or (i), that purports to have impressed thereon or attached thereto his or her seal or the seal or stamp of his or her office or of the office to which he or she is attached,

is admissible in evidence without proof of his or her signature or of his or her office or official character or of the seal or stamp and without proof that he or she was exercising his or her functions or had jurisdiction or authority in the place in which the oath, affidavit, affirmation or statutory declaration was administered, sworn, affirmed or made. R.S.O. 1990, c. E.23, s. 45 (3).

**Section Amendments with date in force (d/m/y)**

[2024, c. 2, Sched. 19, s. 6 (3)](http://www.ontario.ca/laws/statute/S24002" \l "sched7s6s3) - 06/03/2024

Formal defects, when not to vitiate

**46** No informality in the heading or other formal requisites to any affidavit, declaration or affirmation made or taken before a commissioner or other person authorized to take affidavits under the *Commissioners for Taking Affidavits Act*, or under this Act, is any objection to its reception in evidence if the court or judge before whom it is tendered thinks proper to receive it. R.S.O. 1990, c. E.23, s. 46; 2020, c. 7, Sched. 4, s. 10.

**Section Amendments with date in force (d/m/y)**

[2020, c. 7, Sched. 4, s. 10](http://www.ontario.ca/laws/statute/S20007" \l "sched4s10) - 12/05/2020

Affidavit sworn before solicitor for a party

**47** An affidavit or declaration is not inadmissible or unusable in evidence in an action for the reason only that it is made before the solicitor of a party to the action or before the partner, associate, clerk or agent of such solicitor. R.S.O. 1990, c. E.23, s. 47.

Admissibility of copies of depositions

**48** (1)  Where an examination or deposition of a party or witness has been taken before a judge or other officer or person appointed to take it, copies of it, certified under the hand of the judge, officer or other person taking it, shall, without proof of the signature, be received and read in evidence, saving all just exceptions. R.S.O. 1990, c. E.23, s. 48 (1).

Presumption

(2)  An examination or deposition received or read in evidence under subsection (1) shall be presumed to represent accurately the evidence of the party or witness, unless there is good reason to doubt its accuracy. R.S.O. 1990, c. E.23, s. 48 (2).

Effect of probate, etc., as evidence of will, etc.

**49** In order to establish a devise or other testamentary disposition of or affecting real estate, probate of the will or letters of administration with the will annexed containing such devise or disposition, or a copy thereof, under the seal of the court that granted it or under the seal of the Superior Court of Justice, are proof, in the absence of evidence to the contrary, of the will and of its validity and contents. R.S.O. 1990, c. E.23, s. 49; 2000, c. 26, Sched. A, s. 7 (2).

**Section Amendments with date in force (d/m/y)**

[2000, c. 26, Sched. A, s. 7 (2)](http://www.ontario.ca/laws/statute/S00026" \l "schedas7s2) - 06/12/2000

Proof in the case of will of real estate filed in courts outside Ontario

**50** (1)  Where a person dies in any of His Majesty’s possessions outside Ontario having made a will sufficient to pass real estate in Ontario, purporting to devise, charge or affect real estate in Ontario, the party desiring to establish any such disposition, after giving one month’s notice to the opposite party to the proceeding of the party’s intentions so to do, may produce and file the probate of the will or letters of administration with the will annexed or a certified copy thereof under the seal of the court that granted the same with a certificate of the judge, registrar or clerk of such court that the original will is filed and remains in the court and purports to have been executed before two witnesses, and such probate or letters of administration or certified copy with such certificate is, unless the court otherwise orders, proof in the absence of evidence to the contrary of the will and of its validity and contents. R.S.O. 1990, c. E.23, s. 50 (1); 1993, c. 27, Sched; 2024, c. 2, Sched. 19, s. 6 (3).

Effect of certificate

(2)  The production of the certificate mentioned in subsection (1) is proof in the absence of evidence to the contrary of the facts therein stated and of the authority of the judge, registrar or clerk, without proof of his or her appointment, authority or signature. R.S.O. 1990, c. E.23, s. 50 (2); 1993, c. 27, Sched.

**Section Amendments with date in force (d/m/y)**

1993, c. 27, Sched. - 31/12/1991

[2024, c. 2, Sched. 19, s. 6 (3)](http://www.ontario.ca/laws/statute/S24002" \l "sched7s6s3) - 06/03/2024

Military records

**51** The production of a certificate, purporting to be signed by an authority authorized in that behalf by the *National Defence Act* (Canada) or by regulations made thereunder, stating that the person named in the certificate died, or was deemed to have died, on a date set forth therein, is proof, in the absence of evidence to the contrary, for any purpose to which the authority of the Legislature extends that the person so named died on that date, and also of the office, authority and signature of the person signing the certificate, without any proof of his or her appointment, authority or signature. R.S.O. 1990, c. E.23, s. 51.

Reports and evidence of practitioners

Definition

**52** (1)  In this section,

“practitioner” means,

(a) a member of a College as defined in subsection 1 (1) of the *Regulated Health Professions Act, 1991*,

(b) a drugless practitioner registered under the *Drugless Practitioners Act*,

(c) a person licensed or registered to practise in another part of Canada under an Act that is similar to an Act referred to in clause (a) or (b). R.S.O. 1990, c. E.23, s. 52 (1); 1998, c. 18, Sched. G, s. 50.

Medical reports

(2)  A report obtained by or prepared for a party to an action and signed by a practitioner and any other report of the practitioner that relates to the action are, with leave of the court and after at least ten days notice has been given to all other parties, admissible in evidence in the action. R.S.O. 1990, c. E.23, s. 52 (2).

Entitlement

(3)  Unless otherwise ordered by the court, a party to an action is entitled, at the time that notice is given under subsection (2), to a copy of the report together with any other report of the practitioner that relates to the action. R.S.O. 1990, c. E.23, s. 52 (3).

Report required

(4)  Except by leave of the judge presiding at the trial, a practitioner who signs a report with respect to a party shall not give evidence at the trial unless the report is given to all other parties in accordance with subsection (2). R.S.O. 1990, c. E.23, s. 52 (4).

If practitioner called unnecessarily

(5)  If a practitioner is required to give evidence in person in an action and the court is of the opinion that the evidence could have been produced as effectively by way of a report, the court may order the party that required the attendance of the practitioner to pay as costs therefor such sum as the court considers appropriate. R.S.O. 1990, c. E.23, s. 52 (5).

**Section Amendments with date in force (d/m/y)**

1998, c. 18, Sched. G, s. 50 - 01/02/1999

Registered instruments

Definition

**53** (1)  In this section,

“instrument” has the meaning assigned to it in section 1 of the *Registry Act*. R.S.O. 1990, c. E.23, s. 53 (1).

Proof

(2)  A copy of an instrument or memorial, certified to be a true copy by the land registrar in whose office the instrument or memorial is deposited, filed, kept or registered, is proof of the original, in the absence of evidence to the contrary, except in the cases provided for in subsection (3). 1998, c. 18, Sched. B, s. 7 (2).

Where certified copies of registered instruments may be used

(3)  Where it would be necessary to produce and prove an instrument or memorial that has been so deposited, filed, kept or registered in order to establish such instrument or memorial and the contents thereof, the party intending to prove it may give notice to the opposite party, at least ten days before the trial or other proceeding in which the proof is intended to be adduced, that the party intends at the trial or other proceeding to give in evidence, as proof of the instrument or memorial, a copy thereof certified by the land registrar, and in every such case the copy so certified is sufficient evidence of the instrument or memorial and of its validity and contents unless the party receiving the notice, within four days after such receipt, gives notice that the party disputes its validity, in which case the costs of producing and proving it may be ordered to be paid by any or either of the parties as is considered just. R.S.O. 1990, c. E.23, s. 53 (3); 1998, c. 18, Sched. B, s. 7 (3).

**Section Amendments with date in force (d/m/y)**

1998, c. 18, Sched. B, s. 7 (2, 3) - 18/12/1998

Filing copies of official documents

**54** (1)  Where a public officer produces upon a summons an original document, it shall not be deposited in court unless otherwise ordered, but, if the document or a copy is needed for subsequent reference or use, a copy thereof or of so much thereof as is considered necessary, certified under the hand of the officer producing the document or otherwise proved, shall be filed as an exhibit in the place of the original, and the officer is entitled to receive in addition to his or her ordinary fees the fees for any certified copy, to be paid to the officer before it is delivered or filed. R.S.O. 1990, c. E.23, s. 54 (1).

When original to be retained

(2)  Where an order is made that the original be retained, the order shall be delivered to the public officer and the exhibit shall be retained in court and filed. R.S.O. 1990, c. E.23, s. 54 (2).

Proof of certain written instruments

**55** (1)  A party intending to prove the original of a telegram, letter, shipping bill, bill of lading, delivery order, receipt, account or other written instrument used in business or other transactions, may give notice to the opposite party, ten days at least before the trial or other proceeding in which the proof is intended to be adduced, that the party intends to give in evidence as proof of the contents a writing purporting to be a copy of the documents, and in the notice shall name some convenient time and place for the inspection thereof. R.S.O. 1990, c. E.23, s. 55 (1).

Inspection

(2)  Such copy may then be inspected by the opposite party, and is without further proof sufficient evidence of the contents of the original document, and shall be accepted and taken in lieu of the original, unless the party receiving the notice within four days after the time mentioned for such inspection gives notice that the party intends to dispute the correctness or genuineness of the copy at the trial or proceeding, and to require proof of the original, and the costs attending any production or proof of the original document are in the discretion of the court. R.S.O. 1990, c. E.23, s. 55 (2).

Where no attestation required

**56** It is not necessary to prove, by the attesting witness, an instrument to the validity of which attestation is not requisite. R.S.O. 1990, c. E.23, s. 56.

Comparison of disputed writing with genuine

**57** Comparison of a disputed writing with a writing proved to the satisfaction of the court to be genuine shall be permitted to be made by a witness, and such writings and the evidence of witnesses respecting them may be submitted to the court or jury as evidence of the genuineness or otherwise of the writing in dispute. R.S.O. 1990, c. E.23, s. 57.

Where instruments offered in evidence may be impounded

**58** Where a document is received in evidence, the court admitting it may direct that it be impounded and kept in such custody for such period and subject to such conditions as seem proper, or until the further order of the court or of the Superior Court of Justice or of a judge thereof, as the case may be. R.S.O. 1990, c. E.23, s. 58; 2000, c. 26, Sched. A, s. 7 (2).

**Section Amendments with date in force (d/m/y)**

[2000, c. 26, Sched. A, s. 7 (2)](http://www.ontario.ca/laws/statute/S00026" \l "schedas7s2) - 06/12/2000

Evidence dispensed with under *Vendors and Purchasers Act*

**59** It is not necessary in an action to produce any evidence that, by section 1 of the *Vendors and Purchasers Act*, is dispensed with as between vendor and purchaser, and the evidence declared to be sufficient as between vendor and purchaser is sufficient in the absence of evidence to the contrary for the purposes of the action. R.S.O. 1990, c. E.23, s. 59; 1993, c. 27, Sched.

**Section Amendments with date in force (d/m/y)**

1993, c. 27, Sched - 31/12/1991

Evidence for foreign tribunals

**60** (1)  Where it is made to appear to the Superior Court of Justice or a judge thereof, that a court or tribunal of competent jurisdiction in a foreign country has duly authorized, by commission, order or other process, for a purpose for which a letter of request could be issued under the rules of court, the obtaining of the testimony in or in relation to an action, suit or proceeding pending in or before such foreign court or tribunal, of a witness out of the jurisdiction thereof and within the jurisdiction of the court or judge so applied to, such court or judge may order the examination of such witness before the person appointed, and in the manner and form directed by the commission, order or other process, and may, by the same or by a subsequent order, command the attendance of a person named therein for the purpose of being examined, or the production of a writing or other document or thing mentioned in the order, and may give all such directions as to the time and place of the examination, and all other matters connected therewith as seem proper, and the order may be enforced, and any disobedience thereto punished, in like manner as in the case of an order made by the court or judge in an action pending in the court or before a judge of the court. R.S.O. 1990, c. E.23, s. 60 (1); 2000, c. 26, Sched. A, s. 7 (2).

Payment of expenses of witness

(2)  A person whose attendance is so ordered is entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial in the Superior Court of Justice. R.S.O. 1990, c. E.23, s. 60 (2); 2000, c. 26, Sched. A, s. 7 (2).

Right of refusal to answer questions and to produce documents

(3)  A person examined under such commission, order or process has the like right to object to answer questions tending to criminate himself or herself, and to refuse to answer any questions that, in an action pending in the court by which or by a judge whereof or before the judge by whom the order for examination was made, the witness would be entitled to object or to refuse to answer, and no person shall be compelled to produce at the examination any writing, document or thing that the person could not be compelled to produce at the trial of such an action. R.S.O. 1990, c. E.23, s. 60 (3).

Administration of oath

(4)  Where the commission, order or other process, or the instructions of the court accompanying the same, direct that the person to be examined shall be sworn or shall affirm, the person so appointed has authority to administer the oath to the person or take his or her affirmation. R.S.O. 1990, c. E.23, s. 60 (4).

**Section Amendments with date in force (d/m/y)**

[2000, c. 26, Sched. A, s. 7 (2)](http://www.ontario.ca/laws/statute/S00026" \l "schedas7s2) - 06/12/2000

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