

Technical Bulletin: 03/18

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Use of mobile device to administer a religious oath

Background

This technical bulletin will serve to inform witnessing officers on the use of mobile devices (such as a Kindle, iPad or mobile phone) containing electronic religious text for the purposes of taking an oath.

The *Oaths Act 1867* (Oaths Act) is the governing act for statutory declarations in Queensland. Although section 33 of the Oaths Act, which talks about how to administer an oath, was written in the early 1920s, it continues to be interpreted and applied in the modern legal system.

What is an oath?

An oath is a solemn declaration or undertaking that calls upon God to witness the truthfulness of the statement a person is making.

A document made under oath is said to be 'sworn under oath', as the contents of the document are 'sworn before God'.

An affirmation contains no lesser obligation to tell the truth than an oath, but does not require a holy book to be used.

Can I use a mobile device for taking a religious oath?

The short answer is yes, but there is a caveat; any mobile device containing a religious text can only be considered for use if a physical copy is not on hand.

This interpretation of sections 32 and 33 of the Oaths Act has been tested in court and now forms part of the common law¹.

The essential aspect of an oath is the deponent accepting that the oath is binding upon their conscience. Judicial decisions, which now form part of the common law, have shown that regardless of the form in which the religious text is contained or displayed, this aspect of an oath is unchangeable.

How do I administer an oath using an electronic device?

When using a mobile device for this purpose it would be prudent to confirm that there is a copy of a religious text on the device (if the device is not the property of the witnessing officer).

¹ R v O'Sullivan; Ex parte Attorney-General [1988] 1 Qd R 672 (O'Sullivan's case)



Frequently asked questions

Can I refuse to administer an oath or an affirmation if it is contrary to my personal beliefs?

No, you may not refuse to administer an oath or affirmation if the deponent wants to swear on a religious text which differs from yours or chooses not to use one at all.

Every person in Queensland has the right to be sworn or affirmed in the manner in which their religion directs or approves. It is the duty of a witnessing officer in Queensland to ensure a deponent is provided every opportunity within reason to take an oath or affirmation in their own way.

What should I record in my logbook?

Record all of the information you normally would, but add “oath taken on mobile device” as an additional comment.

Legislation and further reading

Chapter 4.6 - Duties of Justices of the Peace (Qualified) and Duties of Commissioners for Declarations handbooks

[JP and Cdec handbooks](#)

Oaths Act 1867

www.legislation.qld.gov.au

Regards,

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