



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. LXV]

FRIDAY, JUNE 28, 2024 / ASHADHA 7, 1946

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART IV-C

Statutory Rules and Orders (Other than those published in Parts I, I-A and I-L) made by Statutory Authorities other than the Government of Gujarat including those made by the Government of India, the High Courts, the Director of Municipalities, the Commissioner of Police, the Director of Prohibition and Excise, the District Magistrates and the Election Commission, Election Tribunals, Returning Officers and other authorities under the Election Commission.

BY THE HIGH COURT OF GUJARAT AT AHMEDABAD

NOTIFICATION

No. C-3006/2024

THE GUJARAT COMMISSIONER OF OATHS RULES, 2024

Preamble :- In exercise of powers conferred by Section 3(2)(a) of the Oaths Act, 1969, Section 122 read with Section 139 of the Code of Civil Procedure, 1908 (5 of 1908), Section 477(1) read with Section 297(1)(b) of the Code of Criminal Procedure, 1973 and in supersession of all the Rules previously made on the subject, the High Court of Gujarat, with previous approval of the Government of Gujarat, hereby makes following Rules to empower an advocate to function as Commissioner of Oaths for the Courts subordinate to the High Court of Gujarat and all matters incidental thereto.

1. Short Title and Commencement :-

- (1) These Rules may be called the "The Gujarat Commissioner of Oaths Rules, 2024."
- (2) These Rules shall come into force from the date of its publication in the *Official Gazette*.

2. Definition :- In these rules, unless the context otherwise requires :

- (a) **High Court** means the High Court of Gujarat.
- (b) **"Empowering Authority"** means the Principal Judge, City Civil and Sessions Court, Ahmedabad or the Chief Judge, Small Cause Court, Ahmedabad or the Chief Metropolitan Magistrates' Court, Ahmedabad or the Principal District Judge of District Court, President, Industrial Tribunal, Principal Judge, Family Court as the case may be.

- (c) **“Court”** means the City Civil & Sessions Court, Ahmedabad, the Small Cause Court, Ahmedabad, the Metropolitan Magistrates’ Courts, Ahmedabad and District and Sessions Courts and Taluka Courts subordinate to it, Industrial Tribunal & Labour Courts and Family Courts under the superintendence of the High Court of Gujarat.
- (d) **“Form”** means a form appended to these Rules.
- (e) **“Commissioner of Oaths”** means persons other than Civil Courts or Magistrates authorized under Section 139 (c) of Code of Civil Procedure, 1908 or under Section of 297 of Code of Criminal Procedure, 1973 or any other Court generally or specially empowered under Section 139 of Code of Civil Procedure, 1908 to administer oath to the deponent.
- (f) **“Principal Judicial Officer/Principal District Judge”** means Principal Judicial Officer of concerned City Courts at Ahmedabad, i.e. the Principal Judge, City Civil and Sessions Court, Ahmedabad or Principal Judge, Family Court of President, Industrial Court or the Chief Judge, Small Cause Court, Ahmedabad or the Chief Metropolitan Magistrate, Metropolitan Magistrates’ Courts, Ahmedabad or the Principal District Judge having judicial jurisdiction of the District in relation to which any person has been empowered as Commissioner of Oath.

3. **Empowerment of Oaths Commissioner :-**

- (1) Commissioner of Oaths shall be empowered by the Empowering Authorities for City Courts/District Courts/Family Courts/Industrial Tribunal/Labour Courts as the case may be, out of panel of lawyers prepared by such authority in order of merit after obtaining their consents from time to time.
- (2) Before preparing the panel under Rule 3, the Empowering Authority shall arrive at a decision as to whether there is a need to empower Commissioner/s of Oath for his/her Court or any Court/s of the District.
- (3) The need for such an empowerment under Sub-rule (2) shall be determined as per the following norms :-
- (i). 1 Commissioner of Oaths each for the City Civil and Sessions Court, Ahmedabad, the Small Cause Court, Ahmedabad and the Metropolitan Magistrates’ Courts, Ahmedabad; and,
- (ii). 1 Commissioner of Oaths may ordinarily be for District & Sessions Court at District Headquarter and 1 Commissioner of Oaths may be for each Taluka Court in the District, who shall be the Commissioner of Oaths for link Court also.
- (iii). 1 Commissioner of Oaths each for Industrial Court, Labour Courts, Family Courts, and Family Courts at Taluka places.
- (4) The Empowering Authority shall notify vacancy to the concerned Bar Association and invite applications therefore. Applications shall be submitted within 15 days from the date of Notification.
- (5) The application for empowerment of the Commissioner of Oath shall be made in Form-1.

4. **Qualifications for Empowerment of Oaths Commissioner :-**

- (1) No person shall be eligible for inclusion on panel for empowerment as Commissioner of Oaths unless he/she has been a legal practitioner for at least three years on the date of submission of panel by the Principal Judicial Officer/Principal District Judge.
- (2) Such Legal Practitioner should be registered with the Bar Council of Gujarat State and must be practicing in the Court, in which, he/she desires to be empowered.

5. **Jurisdiction of Commissioner of Oaths :-**

The Commissioners of Oaths shall have power to verify affidavits to be used only in such Courts/Tribunals, for which they are empowered, by administering oaths and affirmations.

6. **Register of Oaths Commissioner :-**

The Empowering Authority shall enter name of Commissioner of Oaths in the register of Commissioner of Oaths to be maintained in Form-1-A and shall issue to such a person a Certificate in Form-II on payment of prescribed fees.

7. Term of Commissioner of Oaths :-

- (1) The Commissioner of Oaths shall be empowered for a period not exceeding three years and his certificate may, thereafter, be renewed every three years by the Empowering Authority on payment of prescribed fee.
- (2) The application for renewal of certificate shall be made in Form-II-A to the Empowering Authority concerned ninety days before the date, on which, the term under existing certificate expires.
Provided that the delay of thirty days may be condoned by the Empowering Authority 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/Postal Order/Receipt evidencing the deposit of the fee prescribed.
- (4) However, empowerment or extension as Oath Commissioner may be made or given as the case may be, by relaxing the above term of three years, in the following cases for the periods indicated against them in addition to the maximum period three years :
 - (a) In case of Advocates suffering from permanent disability between 50% to 69%, for a period 5 to 7 years.
 - (b) In case of Advocates suffering from permanent disability from 70% or more, for a period of 10 years to 15 years.
 - (c) In case of Senior Citizens having the age of 60 years or more, as many terms of two years each as may be requested by them.
 - (d) In case of deserted/widowed/divorcee/unmarried women Advocates, for one term of two years.

8. Fee for the issue and renewal of certificates of Commissioner of Oaths :-

The fee for issuance of certificate of empowerment of Commissioner of Oaths shall be Rs.500/- (Rupees Five Hundred only) and the fee for renewal of such certificate shall be Rs.300 (Rupees Three Hundred only) 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 :-

- (1) Every Commissioner of Oaths shall be entitled to charge fee of Rs.100/- (Rupees Hundred only) per affidavit or such other fees as may be fixed by the empowering authority from time to time.
- (2) The Commissioner of Oaths shall be entitled to charge the actual railway fare of second class or actual bus fare when he/she is required to attend any place outside his/her work place or court premises; but, within territorial Jurisdiction of concerned Court/District Court, besides the above charge.
- (3) Every Commissioner of Oaths shall give a receipt in Form-V for the fee charged/realized by him/her and make entry thereof in the register maintained under Rule 10(a). The Commissioner of Oaths shall keep counter foil of receipt for inspection.
- (4) The above charge will be in addition to any stamp duty payable on the affidavit under the Gujarat Stamp Act, 1958.

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/her in this register soon after the affidavit is verified.
- (b) Every Commissioner of Oaths shall permit the Empowering Authority or any such officer as the Empowering Authority may appoint in this behalf to inspect the register maintained by Commissioner of Oaths under Sub-rule (a) above.

11. Seal of Oaths Commissioner :-

- (i) The Commissioner of Oaths for the City Courts / District Court / Taluka Court / Family Court / Industrial Courts / Labour Courts / Metropolitan Magistrate's Court, Ahmedabad / Small Causes

Court, Ahmedabad shall use a round Seal with State Emblem in the middle bearing the words “Oath Commissioner”, his/her name and name of Court, for which he/she has been empowered to exercise his/her function.

- (ii) The Commissioner of Oaths shall affix his/her signature and seal, mentioned under sub-rule (i), on every page of the affidavit and every page of the petition, application, return, rejoinder or other document, supported by such an affidavit.
- (iii) The Empowering Authority of concerned Court shall work out actual cost for making the seal and collect the same from the Oath Commissioner. On cessation of Oath Commissioner as such due to expiry of his/her term or otherwise, he/she shall immediately deposit the Seal to the registry of the concerned Court.

12. Affidavit to be divided into paragraph :-

Every affidavit containing 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. Foolscap paper to be used :-

Every affidavit shall be fairly and legibly written or typed written lithographed or printed with quarter margin on one side only of the foolscap 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/her full name, the name of his/her father, his/her rank or degree in life, his/her profession, calling occupation or trade and his/her place of residence. Any person or place referred to in an affidavit shall be fully described in such a manner as to enable his/her 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/her 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/her 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/her belief or information received from others, which he/she 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/her information was received.
- (b) When any fact 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/she 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/her 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/her 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/her 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/s stated below that the person making this affidavit and alleging himself/herself 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/her or he/she 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/she has read the affidavit and understands the contents thereof. If the deponent states, that he/she has not read it or appears not to understand the contents or does not know the language thereof, he/she shall read and explain it or cause another person, to read and explain to such person in his/her presence. Until he/she is satisfied that the deponent fully understands its contents, he/she 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/she shall impound it and forward it to the concerned Principal Judicial Officer/the Principal District Judge for such action as he/she 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, 1969. The following forms are prescribed namely:-

Oath

I swear that my this declaration is true and it conceals nothing and that no part of it, is false. So help me God.

Affirmation

I solemnly affirm that my this declaration is true and 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 a 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 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/her, the manner, in which he/she 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/s 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 Oaths may be initiated either suo motu by the Empowering Authority or on a complaint received by such Authority.
- (b) The Empowering Authority shall send to the Oath Commissioner, a statement specifying the charge or charges against him/her 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 them.
- (c) The Empowering Authority, 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/her, is of opinion that action should be taken against Oath Commissioner, the Empowering Authority may make an order :
 - (1) Canceling the certificate of empowerment of Commissioner of Oath.
 - (2) Suspending him/her from legal practice for a specified period.
 - (3) Letting him/her off with a warning according to the nature and gravity of the misconduct of Oath Commissioner proved.

30. Submission of return :-

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 Principal Judicial Officer/Principal District Judge quarterly return in Form VI of work done by him/her as Commissioner of Oath during the preceding quarter.

31. Every Commissioner of Oath shall have office at the place mentioned in the certificate of empowerment and shall exhibit it in a conspicuous place thereat in a Board showing his/her name and designation as Commissioner of Oaths.**32. Removal of Commissioner of Oaths :-**

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

33. Vacation of office of Commissioner of Oaths :-

The office of a Commissioner of Oaths shall stand vacated :

- (i) on expiry of the term of office if certificate is not renewed before such expiry; or,
- (ii) on his/her attaining the age of 70 years; or,
- (iii) on his/her tendering resignation in writing subject to its acceptance by the Empowering Authority; or,
- (iv) on cancellation of his/her certificate or empowerment under Rule 29 or removal under Rule 32; or,
- (v) on his/her empowerment as a Notary Public under the Notaries Act, 1952 (53 of 1952); or,
- (vi) on his/her securing private or public employment; or,

- (vii) on his/her ceasing to work as such for a continuous period of two months except where such conduct is condoned by the concerned Principal Judicial Officer / Principal District Judge; or,
- (viii) on his/her ceasing to be as advocate for any reason; or,
- (ix) on his/her incurring any punishment under Section 35(3) of the Advocates Act, 1961; or,
- (x) on his/her death.

Provided that he/she shall continue to discharge his/her functions till his/her application for renewal is rejected.

34. Nothing in these Rules shall be deemed to affect the powers of the High Court of Gujarat to make such orders from time to time as it may deem fit in regard to all matters forming part of these Rules and/or all matters incidental or ancillary thereto not specifically provided for here in above.

35. Overriding effect of these Rules :-

Notwithstanding anything contained in the Civil Manual, 1960, the Criminal Manual, 1977 or any other Rules for the time being in force or any Orders/Circulars/Notifications issued in this regard, these Rules shall have the overriding effects.

36. Protection of action taken in good faith :-

No suit, prosecution or other legal proceedings shall lie against Principal Officer/ Oath Commissioner for anything done or omitted to be done in good faith under these Rules.

MOOLCHAND TYAGI,
REGISTRAR GENERAL.

Form-I**Application for empowerment as Commissioner of Oaths**

(Under Rule 3 of the Gujarat Commissioner of Oaths Rules, 2024)

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 practicing in law :
6. Whether was empowered as a
Commissioner of Oaths in the past ?
If so, the reason for termination of
empowerment :
7. Whether was empowered as a
Notary in the past? If so, the reason
for termination of empowerment :
8. Facts attracting special consideration :

Date :

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 :

Place :

Signature of the applicant.

For office Use Only

1. Date of presentation or receipt of application :
2. Remarks of Principal Judicial Officer/
Principal District Judge :
3. Any other special facts in knowledge
of the Principal Judicial Officer /
Principal District Judge requiring
special consideration. :

Date :

Place :

Signature of Principal Judicial Officer/
Principal District Judge
with official seal.

Form- 1-A**Register of Commissioner of Oath**

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

Number of date of order of empowering authority reg. Empowerment of Commissioners of Oath	Date of empowerment	Court/District Court in which Commissioner of Oath may practice
(5)	(6)	(7)

Form-II**Certificate of Practice**

Pursuant to provisions of Rule 6 of Commissioner of Oaths Rules, 2024, Shri/Smt./Kum
 Son/Daughter/Wife of, Address,
 having been empowered as Commissioner of Oaths by the Empowering Authority and having paid the prescribed fees and deposited that requisite security amount, is authorized to practice as Commissioner of Oaths in the Court/District Court specified below subject to provisions of the Rules from to

Date :

Signature

Principal Judicial Officer/

Principal District Judge

Form-II-A**Application for renewal of certificate of Commissioner of Oaths**

(Under Rule 7 of the Gujarat Commissioner of Oaths Rules, 2024)

- 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 Treasury Challan/
Postal Order/Receipt)
- Special causes for delay, if any,
in making application :
(attached documents, if any supporting the claim).

Date :

Place :

Signature of the applicant

For office Use Only

1. Date of presentation or receipt of application :
2. Remarks of Principal Judicial Officer/Principal District Judge :
3. Reasons for condonation of delay (in short) :
4. Date on which application is forwarded to Empowering Authority :

Date :

Place :

Signature of Principal Judicial
Officer/ Principal District Judge
with official seal

Form-III**Renewal certificate of practice**

Pursuant to provisions of Rule 8 read with Rule 7 of the Gujarat Commissioner of Oaths Rules, 2024, the Empowering Authority approves the renewal of certificate of practice as Commissioner of Oaths issued in favour of Shri/Smt./Kum.....Son/Daughter/Wife of Address on for further period of one year w.e.f Shri/Smt./Kum. having deposited the prescribed fees and deposited the requisite security amount. The Certificate of practice as Commissioner of Oaths in respect of Shri/Smt./Kum. is renewed for a period of one year ending for Court/District Court, in which he/she is allowed to practice.

Seal :

Date :

Signature
Principal Judicial Officer/
Principal 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	Traveling 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 District

Place :

Date :

S. No :

Received with thanks for Shri/Smt./ Kumari sum of Rupees as verification fees and sum of Rupees as traveling charges in connection with verification of (give description of documents) entered at Sr. No. of Register of business transacted by Commissioner of Oath.

.....
Signature of 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. Particular of Oath
Commissioner's acts
done during the year :

Type of Work

Fee charged

Number of cases

1. Administering oath to or taking affidavit from any person

2. Other acts as Oath Commissioner

Place and Date

.....
Signature of Commissioner of Oath