

Report on Unnecessary Requirements for Sworn Statements

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- (a) promote the clarification and simplification of the law and its adaptation to modern social needs,
- (b) promote improvement of the administration of justice and respect for the rule of law, and
- (c) promote and carry out scholarly legal research.

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INTRODUCTORY NOTE

The British Columbia Law Institute has the honour to present:

Report on Unnecessary Requirements for Sworn Statements

In 1976, the Law Reform Commission of British Columbia published its *Report on Extra-Judicial Use of Sworn Statements*, which recommended the repeal of a large number of legislative provisions that require the use of a sworn statement. In this report we return to the subject of the Commission's 1976 report.

The term "sworn statement" is meant to embrace statements under oath or under affirmation, affidavits, solemn declarations, and statutory declarations. There is a family resemblance among all of these documents, as each requires a person to perform certain formal requirements that are primarily intended to assure the truth of the statement. Requirements for sworn statements in out-of-court settings appear in a wide variety of British Columbia statutes and regulations.

The Law Reform Commission's 1976 report provided both a framework for analyzing these provisions requiring sworn statements and recommendations for modernizing and simplifying the law. The framework for analysis and the recommendations for reform continue to have force. This report shows how both can be adapted to contemporary conditions and substantially implemented today.

Ann McLean
Chair,
British Columbia Law Institute

March 2006

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I. INTRODUCTION

A. Background

This report revisits a project that was carried out by the Law Reform Commission of British Columbia in the mid-1970s. In 1974, the Attorney General referred the following tasks to the Commission:¹

- (a) examine the extent to which the Statutes of British Columbia require, or provide for the use of affidavits and statutory declarations in non-court matters; and
- (b) explore the rationale behind those uses and consider the desirability of eliminating the need for them or developing less complex alternative devices designed to achieve the same end.

The Commission acceded to this reference. It circulated a working paper on the topic among the legal profession in November 1975.² The working paper was followed by a report, published in 1976, which “. . . set out the present state of the law, so far as we have been able to ascertain it, and [the Commission’s] recommendations for reform.”³ The recommendations contained in the Commission’s report were not implemented by the provincial government.

It is the position of this report that the Law Reform Commission’s description of the law was sound and continues to have force today and that the recommendations contained in the 1976 report are still relevant and provide a useful blueprint to modernize and simplify the law. This report will summarize the key findings, framework of analysis, and recommendations of the 1976 report. Then, it will review the developments in this area that have taken place since 1976. Finally, it will set out the Law Institute’s recommendations for reform, which will also have the effect of substantially implementing the 1976 report.

B. What Is a Sworn Statement?

The law can require a statement to be under oath, on affirmation, by affidavit, by statutory declaration, or by solemn declaration. Each of these terms has a distinct legal meaning. But, as the Law Reform Commission observed, they all bear a functional resemblance to one another.⁴ This report follows the usage of the Law Reform Commission. Where it em

1. Law Reform Commission of British Columbia, *Report on Extra-Judicial Use of Sworn Statements* (LRC 27) (Vancouver: The Commission, 1976) at 5.

2. *Working Paper on Extra-Judicial Use of Sworn Statements* (W.P. No. 17).

3. *Supra* note 1 at 5.

4. *Ibid.* at 5–6 (“ . . . we have, in the course of our research, been unable to discern any notable func-

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employs the term “sworn statement,” it intends that term to be taken as including all forms of statements made under oath, on affirmation, by affidavit, by statutory declaration, or by solemn declaration.

Sworn statements are used in the law for a variety of reasons. The Law Reform Commission identified three main functions for them:⁵

- (i) to reinforce the veracity of written or oral communications;
- (ii) to introduce an element of solemnity or dignity on ceremonial occasions; and
- (iii) to interpose a disinterested person in proceedings where his offices will be of benefit to one or more of the parties.

In contemporary statutes and regulations, the first function is by far the most prevalent, but the other two do crop up from time to time. For the most part in this report, sworn statements are documents containing a written statement of the evidence or testimony of a person.

The person giving evidence in a sworn statement (who, depending on the context, is called the “deponent” or “declarant”) must swear to the truth of the contents of the document. In order to do this, the deponent or declarant must attend before a commissioner for taking affidavits for British Columbia. In the vast majority of cases, this commissioner will be a lawyer or a notary public.⁶ Before both the deponent or declarant and the commissioner sign the document, the commissioner must administer the oath. This process is not precisely defined in law. In current thinking, administering an oath requires the commissioner to put the deponent or declarant on notice about the legal consequences of the document and to make some inquiry into the truth of the statements contained in it.⁷ There are three underly-

tional, as opposed to technical[,] distinction to be drawn between these various techniques”). The Commission also observed that “. . . even the technical distinctions are blurred” as a result of two statutes. *Ibid.* at 6. See *Interpretation Act*, R.S.B.C. 1996, c. 238, section 29 (defining “affidavit” or “oath” to include an affirmation, a statutory declaration, or a solemn declaration); *Evidence Act*, R.S.B.C. 1996, c. 124, sections 20; 69 (declaring that affirmations and solemn declarations have the same legal effect as statements under oath).

- 5. *Report on Extra-Judicial Use of Sworn Statements, ibid.* at 21.
- 6. The class of persons who may act as commissioners is broader than lawyers and notaries public. See *Evidence Act, supra* note 4, section 60 (commissioners because of office or employment). In addition, others may be qualified to act as commissioners in limited circumstances.
- 7. See *Owen v. Yorke*, [1984] B.C.J. No. 187 at para. 16 (S.C.) (QL), Proudfoot J. (“What is required, though, is that the person swearing or affirming is asked and replies to some simple fundamental inquiry as to the veracity of the content. Some such inquiry is necessary. I repeat, nothing elaborate;

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ing rationales to the process, each of which is said to assist it in guaranteeing the truth of a statement.⁸ First, it attaches an element of formality and solemnity to the giving of evidence. Second, it binds the conscience of the deponent or declarant in a religious or moral sense. And third, it raises the possibility of criminal liability for the giving of a false statement.⁹

In the course of the Law Institute's deliberations on this subject, we realized that sworn statements also fulfill a function that was not expressly enumerated by the Law Reform Commission. The commissioner who takes a sworn statement from a deponent or declarant will either know the person by previous acquaintance, be introduced to the deponent or declarant by a third party who is a mutual acquaintance of the commissioner and the deponent or declarant, or require the deponent or declarant to produce a reliable document or instrument (such as a valid driver's licence) that identifies the deponent or declarant.¹⁰ The commissioner's professional obligation has the effect of incorporating a confirmation of identity into the sworn statement. We considered the consequences of repealing this aspect of the formalities of verification contained in a sworn statement, and, as will be seen, decided that they do not detract from our recommendations in this report.

C. The Scope of This Report

This report covers much of the same ground that was set out in the reference that generated the 1976 report. It is concerned with sworn statements that are used outside court. No attempt has been made to examine the instances where the law requires the use of a sworn statement in court proceedings. Further, no attempt has been made to investigate the policy rationales that underlie the numerous obligations to provide information to the government or another person. Like the 1976 report,¹¹ this report accepts that there are valid reasons for

no Bible is necessary, no elaborate ceremony, but, rather, a simple inquiry which places some special meaning to the document that is completed.”). *See also* Law Society of British Columbia, *Professional Conduct Handbook*, looseleaf (Vancouver: The Law Society of British Columbia, 1993) at 49–52. This publication does not have the force of law, but it is binding on lawyers, and other commissioners can look to it as stating best practices.

8. *See* Law Reform Commission of British Columbia, *Report on Affidavits: Alternatives to Oaths* (LRC 115) (Vancouver: The Commission, 1990) at 1.
9. *See especially* *Criminal Code*, R.S.C. 1985, c. C-46, section 131 (perjury). In some circumstances, giving a false sworn statement can amount to other crimes as well. *See, e.g.,* *Criminal Code*, section 138 (offences relating to affidavits).
10. *See, e.g.,* *Professional Conduct Handbook*, *supra* note 7 at 50 (“The commissioner should be satisfied that the deponent is who the deponent represents himself or herself to be. Where the commissioner does not know the deponent personally, identification should be inspected and/or appropriate introductions should be obtained.”).
11. *Supra* note 1 at 5 (“We conceive it to be an unquestionable assumption that where the law at present

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requiring information and for requiring a guarantee of its honesty and accuracy. The focus is on the form that such a guarantee may take.

In one respect, this report is broader than the 1976 report. The Law Reform Commission restricted its study to the statutes of British Columbia. This decision was made, with some regret, due to lack of resources.¹² As advances in computer technology since the mid 1970s have helped to alleviate this problem, the Institute in this report was able to analyze both British Columbia's statutes and its regulations.

II. THE 1976 REPORT

The Commission began its work with a computer-assisted search of the statutes of British Columbia for requirements for sworn statements. Over 1000 such requirements were discovered. Just over half of these were related to court procedures. The remaining provisions were properly within the scope of the Commission's study.¹³

Much of the 1976 report is taken up with classifying these requirements for sworn statements. The Commission created a classification scheme containing eleven categories. This classification scheme was offered as a way of grasping the wide variety of occasions in which a sworn statement is required. It also functioned as a roadmap for approaching the implementation of the recommendations for reform found later in the report. The classification scheme helped to divide provisions that should be repealed from those that should not. It is necessary to review the categories of this classification scheme as they provide the basis for the implementation of the recommendations for reform that we discuss later in this report.

Category A encompassed formalities of verification in hearings and investigatory proceedings. This category was primarily focussed on statutes that authorize an administrative agency to conduct an investigation or to hold a hearing. The Commission acknowledged that proceedings in an administrative tribunal may resemble proceedings before a court, but concluded that it was better to interpret its reference broadly and include these statutes. Strictly speaking, they do not involve sworn statements for the purposes of

requires that statements be made, or information given, it is legitimate for some attempt to be made to ensure honesty and accuracy.”).

12. *Ibid.* at 38 (“An exhaustive search of the regulations for references to the formalities would take greater time and resources than the Commission may now efficiently command, and yet logic clearly dictates that the analysis we have applied to the statutes should also be applied to the regulations.”).

13. *Ibid.* at 7.

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court proceedings. This category contained the largest number of provisions of any of the Commission's eleven categories.¹⁴

Category B was made up of statutes that set out the requirements for applications to practise vocations. Some professions require applicants to give a sworn statement, verifying some or all of the contents of an application.¹⁵

Category C included applications to obtain permits, licences, leases, consents, and "permission to perform acts otherwise prohibited by law."¹⁶ This category was very diverse, embracing everything from "licences to carry on specific corporate activities" to "permission to vote under extraordinary circumstances at municipal elections."¹⁷

Category D involved statements relating to office. This category grouped together provisions that "impose an obligation on certain persons to swear to their good faith before they are permitted either to practise their chosen vocations or to perform specific tasks."¹⁸ A familiar example of such a sworn statement is the oath administered to newly called lawyers.

Category E contained sworn statements relating to financial statements, accounts, and returns. This category was distinguished from category C and from a subsequent category dealing with registrations (category I).¹⁹

Category F encompassed statements between private parties. It was made up of provisions that required certain communications between persons, not involving the government, to be accompanied by a sworn statement.²⁰

14. *Ibid.* at 7–8.

15. *Ibid.* at 8.

16. *Ibid.* at 9.

17. *Ibid.*

18. *Ibid.* at 10.

19. *Ibid.* at 11.

20. *Ibid.*

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Category G was made up of statements by public officials. In certain cases, a public official is required to attest to good faith in performing statutory duties. The Commission noted that there was a strong element of formality to this category.²¹

Category H included statements of allegiance. The Commission distinguished this category from category D (statements relating to office) by observing that these sworn statements were exclusively concerned with declaring allegiance to the Crown. The Commission also observed that the ceremonial aspect of this category has now overtaken its historical functions, which were connected with religious qualification for government offices.²²

Category I encompassed statements made to obtain registration. The Commission included in this category government registries involved with substantive rights and with gathering information.²³

Category J involved statements made to initiate investigatory proceedings. The Commission concluded that the policy rationale for requiring a sworn statement in these circumstances was “to deter vexatious or fraudulent complaints.”²⁴

Category K was made up of verified statements on miscellaneous occasions. This category was the residual category, where the Commission placed provisions that required a sworn statement, but that could not be classified into the previous ten categories.²⁵

The Commission then went on to discuss the disadvantages of relying on sworn statements as a means of ensuring honesty and accuracy. The Commission found three main disadvantages. First, there was the delay and inconvenience inherent in obtaining a sworn statement. Second, the obligation to provide a sworn statement was inconsistently applied, both across the statutes and within the categories identified by the Commission. And third, the psychological, moral, and religious underpinnings of sworn statements have, to a large degree, lost their force as motivators to provide a true and accurate statement.²⁶

21. *Ibid.* at 12.

22. *Ibid.*

23. *Ibid.* at 13.

24. *Ibid.*

25. *Ibid.*

26. *Ibid.* at 21–25. These three points provide the rationales for our recommendations for reform and are discussed more fully later in this report. *See*, below, at 11–16.

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Based on this analysis of the then-present law, the Commission formulated its recommendations for reform. Its basic recommendation was to repeal the requirements for sworn statements that had the sole purpose of “reinforc[ing] the veracity of statements required in out-of-court situations pursuant to Provincial statutes.”²⁷ The Commission recommended replacing these requirements with “a more simple and straightforward means of securing veracity.”²⁸ This simple and straightforward means involved the use of criminal liability, legislated by the creation of a provincial offence, and the disuse of any formalities in the making of the statement.²⁹

The Commission then revisited its classification scheme, seeking to accommodate its recommendations to the eleven categories. It determined that a number of these categories should be exceptions to the basic recommendations. The excepted categories were: category A;³⁰ category D;³¹ and category H.³² The remaining categories were divided into two distinct classes. The dividing line was the existence of an offence provision elsewhere in the statute which would adequately cover the making of a false statement. Those statutes that had such a provision were placed in class L; those that lacked it were put into class M.³³ The Commission proceeded to discuss, in general terms, the design of an effective offence provision for the class M statutes³⁴ and a few miscellaneous exceptions.³⁵

Finally, the Commission concluded the 1976 report by raising some issues connected with the implementation of its recommendations. The Commission noted that “. . . there are, in principle, two methods of approach to the process of implementing our recommendations.”³⁶ The first approach would take the form of a “referential” amendment. The class L and class M provisions would be repealed, a single offence provision would be enacted and

27. *Ibid.* at 27.

28. *Ibid.* at 26.

29. *Ibid.*

30. *Ibid.* at 33.

31. *Ibid.* at 37–38.

32. *Ibid.*

33. *Ibid.* at 27.

34. *Ibid.* at 28–32.

35. *Ibid.* at 33–37.

36. *Ibid.* at 46.

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incorporated by reference into those statutes requiring it, and a savings provisions would be used to ensure an orderly transition.³⁷ The second approach would be “. . . to amend every statute affected on a section-by-section basis.”³⁸ Such an implementing statute would be similar to the annual *Miscellaneous Statutes Amendment Acts*.

The Commission conceded that each approach had its drawbacks. The first approach would create difficulties both for future amendments to the affected statutes and to current users (who would have to be referred to the referential amendment).³⁹ The second approach would require the passage of “a large and awkward statute.”⁴⁰ Given these difficulties, the Commission declined to endorse any method of implementing its recommendations, though it did conclude that the second method would be preferable to the first.⁴¹

III. THE INTERVENING YEARS

The provincial government adopted neither of these two approaches to implementing the recommendations in the 1976 report. Perhaps sensing that the difficulties it discussed in connection with the two approaches would make full implementation in one swoop problematic, the Commission made a final recommendation that touched on the possibility of partially implementing its basic recommendation over time. It recommended that “[i]n future legislation and regulations, the formalities of verification should, out of court, be restricted to situations involving investigations or hearings, or to ceremonial occasions.”⁴² The idea was that no new requirements for sworn statements, apart from the noted exceptions, would be created and, as statutes are inevitably revised and modernized, the existing requirements could be reconsidered in the light of the Commission’s basic recommendation.

The Law Institute began research on this project by examining to what extent a step-by-step implementation of the Commission’s report had been achieved in fact by virtue of ongoing statutory amendment. As a first task in this project, the Institute noted up each of the provisions listed in Appendices L and M of the 1976 report. This noting-up made it clear that, whether by design or for entirely unrelated reasons, the government has repealed a number of requirements to give a sworn statement in the provisions identified by the

37. *Ibid.*

38. *Ibid.* at 47.

39. *Ibid.* at 46.

40. *Ibid.* at 47.

41. *Ibid.*

42. *Ibid.*

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Commission. We were able to determine that the majority of the provisions listed in both appendices have been repealed: 29 of the 46 provisions in Appendix L; and 119 of the 143 provisions in Appendix M.

It is also possible to discern certain patterns among the provisions that have been repealed or amended. In some cases, the requirement to provide a sworn statement formed part of a statute that has been repealed in full. Some examples of such statutes are the *Closing-out Sales Act*⁴³ and the *County Courts Act*.⁴⁴ These Acts were clearly repealed for reasons unconnected to the use of sworn statements. Similarly, some statutes have been repealed and replaced as part of a general attempt to modernize the law. For example, the *Bills of Sale Act*⁴⁵ has been overtaken by the *Personal Property Security Act*.⁴⁶ In addition to providing a modern legal framework for security interests in personal property, the *Personal Property Security Act* does not impose the requirements for sworn statements that were found in the *Bills of Sale Act*.

In other cases, the statute remains in force, but it no longer contains a requirement to provide a sworn statement. A number of statutes underwent a development that parallels that of section 7 (2) of the *Air Space Titles Act*.⁴⁷ The Commission included this provision in Appendix L because it required an applicant seeking to register an air space plan in the land title office to include an oath sworn by a British Columbia Land Surveyor, in the form provided in a schedule to the *Land Registry Act*.⁴⁸ When the *Air Space Titles Act* was repealed and replaced with Part 9 of the *Land Titles Act*,⁴⁹ this requirement that applications to register include the oath of a British Columbia Land Surveyor was replaced by a requirement to include the “prescribed statement” of a British Columbia Land Surveyor.⁵⁰

43. R.S.B.C. 1960, c. 59. The Commission noted that section 6 (2) of this Act contained a requirement to provide a sworn statement and included this provision in Appendix L.

44. R.S.B.C. 1960, c. 81. The Commission noted that section 92 of this Act contained a requirement to provide a sworn statement and included this provision in Appendix M.

45. R.S.B.C. 1960, c. 6. The Commission noted that sections 4, 13, 14 (1), and 20 of this Act contained requirements to provide a sworn statement and included these provisions in Appendix M.

46. R.S.B.C. 1996, c. 323.

47. S.B.C. 1971, c. 2.

48. R.S.B.C. 1960, c. 208.

49. S.B.C. 1978, c. 25.

50. *Land Titles Act, ibid.*, section 141 (2) (a).

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This prescribed statement was not made under oath.⁵¹ It was recently amended to provide that an air space plan submitted for registration must “bear the statement approved by the director.”⁵²

The other side of this coin involves determining how many requirements for sworn statements remain in existence in British Columbia law. This aspect of our study does not exactly parallel the 1976 report, because this report includes both statutes and regulations. With the aid of a computer search, the Law Institute surveyed the statutes and regulations in force in British Columbia as of December 2005 and determined that their numbers are similar to the statutory provisions recorded in the 1976 report. This result likely proceeds both from the increasing use of regulations in setting out formal requirements and from the enactment of new requirements to provide sworn statements. Nevertheless, finding a considerable number of requirements for sworn statements still in existence raised the question of whether the law should be reformed in accordance with the Law Reform Commission’s recommendations in the 1976 report.

IV. RECOMMENDATIONS FOR REFORM

A. Introduction

We approached the question of reform and relevance of the 1976 report first by classifying the provisions that currently impose an obligation to provide a sworn statement into the eleven categories identified in the Commission’s 1976 report. They appear in Appendices A–K.⁵³ At this level, the Law Reform Commission’s reasoning proved to be readily adaptable to contemporary statutes and regulations.

51. *See Land Title Regulation*, B.C. Reg. 334/79, Schedule A, Form 9 (statement by surveyor).

52. *Land Title Act*, R.S.B.C. 1996, c. 250, section 144 (2) (a), as am. by *Land Title and Survey Authority Act*, S.B.C. 2004, c. 66, section 85. The Law Institute encountered this formulation in several recently amended statutes. Unlike regulations, which are deposited with the Registrar of Regulations and published in the *British Columbia Gazette*, these types of forms and statements that are approved by a government official do not necessarily appear in the public record. As a result, they can provide a challenge for the legal researcher—unlike statutes and regulations, one cannot point to a text as providing the definitive form of the document. This informality undoubtedly provides advantages for administration: the person who is closest to the everyday operation of the government office is able to determine the content of the relevant document. For the purposes of this report, these types of provisions have been considered as not imposing a requirement to provide a sworn statement. This decision has been made because first, in strict terms, the relevant statute or regulation does not require a sworn statement, and, second, it is hoped that the relative informality of this structure would encourage government officials to accept documents that meet their substantive needs even if they do not rise to the formal level of a sworn statement.

53. *See*, below, at 31–44.

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After classifying these provisions, the focus can shift to weighing the reasons to reform the law and analyzing the Law Reform Commission's recommendations for reform. The 1976 report made one major, or "basic," recommendation, which was to repeal the requirement of providing a sworn statement in the majority of the provisions it identified and to replace this requirement with a requirement to provide a more informal statement. The Commission supplemented this basic recommendation by discussing exceptions to it and by examining the elements of a new provincial offence of providing a false statement. The question is whether these conclusions retain their force today.

B. Rationales for Reform

1. INTRODUCTION

The Law Reform Commission relied on three reasons in making its basic recommendation. First, there is an element of ". . . comparative inconvenience and delay involved in the compliance with formalities of verification. . . ." ⁵⁴ Second, these requirements are applied inconsistently. And third, the threat of criminal punishment is, on its own, a sufficient deterrent to the making of a false statement. For the reasons set out below, the Law Institute has also concluded that we can rely on these rationales as the bases for our recommendations.

2. DELAY AND INCONVENIENCE

The delay and inconvenience caused by fulfilling a requirement to give a sworn statement is the primary reason for rethinking the need to impose these requirements. In order to provide a sworn statement, a person must attend before a commissioner. This clearly takes time—to locate the commissioner, to arrange the appointment, and to complete the process of swearing or affirming the statement. It also takes money—to compensate the commissioner. And, in the sense that time is money, the process may impose costs due to frustration and lost opportunities to complete other tasks. As the Commission put it, "[i]t is clear to us that on any given day in this Province there must be hundreds of individuals who are required to identify, look for, employ the services of, and in some cases remunerate a Commissioner for Taking Affidavits, a Notary Public, or lawyer, and in so doing, to go through a ceremony which may be meaningful to some but which is undoubtedly incomprehensible to many." ⁵⁵

All of these points seem intuitively correct. The problem here is that it is practically impossible to attach a precise value to the amount of delay and inconvenience caused by unnecessary requirements for sworn statements. Some time and money is clearly spent in providing a sworn statement, as anyone who has gone through the process will know. The

54. *Report on Extra-Judicial Use of Sworn Statements*, *supra* note 1 at 21.

55. *Ibid.*

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difficulty consists in forming a general picture from these individual experiences. There is a danger in overestimating or in underestimating the delay and inconvenience caused, depending on the examples chosen. The Commission was aware of this danger in relying on anecdotal evidence. Nevertheless, it concluded that:⁵⁶

While it is doubtless possible to over-emphasize the elements of delay and inconvenience, and therefore cost, which compliance with the formalities brings in its wake, and while it is impossible to quantify these elements in terms of man-hours and money without extensive and time-consuming studies which would themselves be costly, our own experience as lawyers leads us to believe that the formalities do, in fact, result in considerable delay and needless inconvenience in a large number of situations involving members of the public, the legal profession, and the machinery of government.

There have been some developments since 1976, when these remarks were published. But conditions have not changed so dramatically as to rob this conclusion of all its force. There is still a considerable number of provisions that require a sworn statement. Further, the mechanics of giving a sworn statement have not changed since 1976. Finally, the Commission's comment on the personal experiences of lawyers rings true today.

Another aspect of the delay and inconvenience attending to requirements to provide a sworn statement occurs when there are formal defects in the process. Intentional noncompliance with a requirement to give a sworn statement by giving a false statement can result in criminal liability. Although technical noncompliance, such as a failure to observe an aspect of the process of giving a sworn statement that is true in all respects, will not attract criminal liability, it can result in serious consequences. As the Commission observed:⁵⁷

The absence of formalities of verification where they are required, or technical defects in their administration or form, may have serious consequences. Certain instruments, otherwise valid or complete, may be unregistrable; or rights normally accruing on registration may be held ineffectual. In addition, there are certain tribunals whose jurisdiction depends on compliance with the formalities, and absence or defects may result in the decisions of those tribunals being set aside.

In addition to the examples provided by the Commission, a striking illustration of the consequences of a procedural breach of the formalities of verification occurred in *Owen v. Yorke*,⁵⁸ a case decided after the 1976 report. *Owen v. Yorke* arose from the 1984 civic election in Vancouver. At issue were votes cast pursuant to a provision in force in 1984:⁵⁹

56. *Ibid.*

57. *Ibid.* at 15.

58. *Supra* note 7.

59. *Vancouver Charter*, S.B.C. 1953, c. 55, section 73A (1). The *Vancouver Charter* has been amended

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- 73A** (1) Where a person claims to be a qualified elector and his name does not appear to be on the current list of electors, he shall be entitled to receive ballot papers upon swearing or affirming an affidavit in the form required to the effect that he is qualified to vote at the election.

The petitioner attacked the formal validity of the affidavits provided under this section, arguing that the election officials who acted as commissioners in this case had not administered an oath. Instead, they had merely signed as witnesses. The court found that this procedural defect had in fact occurred. In the result, this technical lapse led ineluctably to the election of a councillor being set aside:⁶⁰

An affidavit that is not sworn in the appropriate fashion cannot attract any legal sanctions and that is wherein the mischief is created. It would be no deterrence or protection if no legal sanction followed. If no more than a mere signing is necessary, where is the deterrence? It is in reality the only protection that is available under the City Charter when dealing with electors permitted to vote under Section 73A. That protection is a sworn or affirmed affidavit with the appropriate remedy available if the proper procedure is not followed.

The integrity of the procedure of swearing or affirming an affidavit is so fundamental that such procedures are not to be compromised. I am not unmindful that certain expense and inconvenience will flow from my decision. In the case at bar the Court has no alternative.

Although dramatic results, such as the one in *Owen v. Yorke*, are rare, the potential for such an occurrence must be kept in mind as part of the delay, inconvenience, and expense which may flow from provisions requiring a sworn statement. The possibility of such results occurring in some cases is another inevitable consequence of the strict procedural requirements of sworn statements.

3. INCONSISTENCY OF APPLICATION

The Law Reform Commission observed that the inconsistent application of requirements to provide a sworn statement undermines one of the primary rationales for such requirements, which is “. . . that they are regarded as having some intrinsic merit as the best or only means of reinforcing the honesty and accuracy of statements required by the law.”⁶¹ The Institute’s research shows that inconsistency of application persists today. It is not an exaggeration to

since 1984. The closest equivalent to section 73A in the current legislation sets out different requirements and limits the situations where a sworn statement would be required. *See Vancouver Charter*, sections 30–30.1.

60. *Supra* note 7 at paras. 15; 18.

61. *Report on Extra-Judicial Use of Sworn Statements*, *supra* note 1 at 22.

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say that changes in the statutes since 1976 have resulted in even greater levels of inconsistency than were noticed by the Law Reform Commission.

The Commission's category B, which contains applications to practise vocations, provides an illustration of the inconsistencies that prevail in the law. An applicant seeking to practise podiatry must provide an affidavit that verifies the entire application:⁶²

- 6 (1) A person who wants to practise podiatry must file with the secretary of the board an application, verified by affidavit, to be supplied by the board, stating that the applicant is more than 19 years of age, of good moral character and possesses the qualifications as to general education, training and experience required by the rules made by the board.

An applicant under the *Engineers and Geoscientists Act*⁶³ may also be required to provide a sworn statement. In this case, however, the scope of the sworn statement is limited to verifying any credentials submitted in support of the application and the requirement is one that is only applied at the discretion of the governing council of the Association of Professional Engineers and Geoscientists of the Province of British Columbia:⁶⁴

- 17 (1) The council must cause the examination of all degrees, diplomas, certificates and other credentials presented or given in evidence for the purpose of obtaining registration.
- (2) The council may require the holder of credentials referred to in subsection (1) to attest, by oath or affidavit, any matter involved in his or her application.

In contrast, applicants to practise architecture⁶⁵ or medicine⁶⁶ are not required to submit a sworn statement. The other categories of sworn statements display similar anomalies.

62. *Podiatry Act*, R.S.B.C. 1996, c. 366, section 6 (1).

63. R.S.B.C. 1996, c. 116.

64. *Engineers and Geoscientists Act*, *ibid.*, section 17.

65. *Architects Act*, R.S.B.C. 1996, c. 17, section 36. The Law Reform Commission singled out this profession as an example of an application to practise a vocation that required the provision of a sworn statement. See *Report on Extra-Judicial Use of Sworn Statements*, *supra* note 1 at 22. At the time of the 1976 report, an applicant to become an articled student was required to provide an "affidavit of execution" together with a duplicate of the indenture of articles to the Architectural Institute of British Columbia. See *Architectural Profession Act*, R.S.B.C. 1960, c. 16, section 65 (1). This requirement to provide a sworn statement disappeared when the provisions respecting articled students were repealed. See *Architects Amendment Act, 1994*, S.B.C. 1994, c. 2, section 8.

66. *Medical Practitioners Act*, R.S.B.C. 1996, c. 285, section 34. See also *Report on Extra-Judicial Use of Sworn Statements*, *ibid.* (discussing the version of this Act in force in 1976).

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There does not appear to be a reason why one statute will impose a requirement to provide a sworn statement and another statute dealing with similar subjects or procedures will not. These inconsistencies have, in all likelihood, simply come about as certain statutes have been amended and others have not. They can only be cured by taking a systematic approach to sworn statements.

4. MOTIVATIONS FOR MAKING HONEST STATEMENTS

A certain level of formality surrounds the taking of a sworn statement. These ceremonial aspects of the process were said, in the more distant past, to bind the conscience of the deponent or declarant by invoking divine retribution for providing false information. More recently, after the law adapted to the fact that some people do not believe in a supreme being and permitted them to substitute a solemn affirmation in place of an oath, the ceremony surrounding a sworn statement was said to invest the statement with an elevated dignity that would impress the psyche of the deponent or declarant and lead that person to tell the truth.

The Law Reform Commission questioned whether the implicit possibility of divine punishment or the heightened ceremony of the occasion could still, on their own, provide a rationale for continuing to employ sworn statements:⁶⁷

While we are reluctant to be dogmatic about such an elusive matter, it is our opinion that in contemporary circumstances people are just as likely to be deterred from making false statements by the threat of criminal liability as by the psychological impact of an appearance before a person authorized by law to administer oaths, or by the moral and religious sanctions thereby invoked.

It is no more simple today to discern a person's motivation for providing a truthful statement. But, in our view, the Commission's conclusion on this point is as persuasive today as it was in 1976. It is not necessary to conclude that the ceremonial and formal aspects of sworn statements play no part in motivating individuals to tell the truth. But they do not, in themselves, provide a guarantee of truthfulness. In this regard, criminal sanctions are more likely to provide a sufficient guarantee.

5. CONFIRMING IDENTITY

As we noted earlier,⁶⁸ one of the functions of a sworn statement is to act as a confirmation of the deponent's or declarant's identity. In the years since the 1976 report, falsifying identity has become a more common and vexing problem. We have given some

67. *Report on Extra-Judicial Use of Sworn Statements, ibid.* at 24.

68. *See, above, at 3.*

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consideration as to whether repealing requirements to give a sworn statement will eliminate a useful safeguard against falsifying identity. We have concluded that it will not.

There are several reasons supporting this conclusion. First, the problem of falsifying identity like will not arise in connection with many of the provisions that are the subject of this report. For example, a series of provisions dealing with applications to practise vocations was discussed earlier. In those cases, it is clear that the formalities are directed toward the content of the application—since that is where the danger of falsification is most keenly felt. It would be a very rare case where someone used such an application as an occasion to impersonate another individual. Second, in those instances where impersonation is a more pressing concern, the formalities attendant upon a sworn statement are not the only deterrent that the law provides. Falsifying identity may leave a person liable to criminal prosecution—notably for the crime of personation with intent,⁶⁹ which, unlike perjury, does not require a person to swear an oath or make a solemn affirmation to be liable. Third, it can be questioned whether the formalities employed in making a sworn statement are, in and of themselves, necessary to provide a safeguard against falsifying identity in the course of providing information. Other devices may be of use here. For example, a requirement to provide contact information (such as an address and telephone number) and a job description or title could be included as part of an informal document. Such requirements introduce the possibility of oversight—someone may contact the person providing the information or make other inquiries—and this may in many cases act as a satisfactory deterrent to falsifying identity. In other cases, individuals or government bodies may have to be vigilant to guard against this problem.

C. Basic Recommendation

The Law Reform Commission's reasons for reform still stand up to scrutiny and are persuasive today. The Law Institute recommends that:

1. The requirements to give a sworn statement on occasions upon which their sole purpose is to reinforce the veracity of statements required in out-of-court situations pursuant to a provision in a provincial enactment be repealed and replaced with a requirement to give a signed statement without the formalities embodied by a sworn statement. These occasions are listed in Appendices L and M.

D. Offence Provision

Many of the enactments that contain requirements for sworn statements that we are recommending to repeal also contain adequate offence provisions covering the giving of

69. *Criminal Code*, supra note 9, section 403. See also *Criminal Code*, section 380 (fraud); section 362 (false pretence or false statement), which may also be relevant to certain cases involving falsified identity.

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false information. Other enactments do not. Simply repealing the requirement to give a sworn statement in these cases will leave a significant gap in the government's enforcement powers. An offence provision must be provided, to apply to these enactments.

The Law Reform Commission addressed this problem in its 1976 report by calling for the enactment of an offence provision that had the following general features: a *mens rea* requirement similar to the *Criminal Code* perjury provision;⁷⁰ no requirement for corroboration in order to obtain a conviction;⁷¹ and, no standard penalty.⁷² These features were offered more as general guidelines than as the final form of an offence provision.

We have decided to build on the Commission's recommendations. We began by noting that the *Offence Act*⁷³ already contains the following general provisions relating to offences:

General penalty

- 4 Unless otherwise specifically provided in an enactment, a person who is convicted of an offence is liable to a fine of not more than \$2 000 or to imprisonment for not more than 6 months, or to both.

General offence

- 5 A person who contravenes an enactment by doing an act that it forbids, or omitting to do an act that it requires to be done, commits an offence against the enactment.

We concluded that this approach could be taken to the problem of falsifying information in a signed statement. The requirements to provide a signed statement will be distributed across a wide range of enactments, but the basic issue of falsifying information is relatively stable. A provision in the following form could be added to the *Offence Act* to deal with the problem:

False information in a signed statement

- 5.1 (1) If an enactment requires or permits information to be given by a signed statement, a person who provides material information in the signed statement knowing it to be untrue, or reckless as to its untruth, commits an offence.

70. See *Report on Extra-Judicial Use of Sworn Statements*, *supra* note 1 at 28–30. See also *Criminal Code*, *ibid.*, section 131. The mental element for perjury is subjective. See *Criminal Code*, section 131 (1) (“ . . . every one commits perjury who, with intent to mislead, makes . . . a false statement under oath . . . knowing that the statement is false”).

71. See *Report on Extra-Judicial Uses of Sworn Statements*, *ibid.* at 30–32. See also *Criminal Code*, *ibid.*, section 133.

72. See *Report on Extra-Judicial Uses of Sworn Statements*, *ibid.* at 32.

73. R.S.B.C. 1996, c. 338.

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- (2) If an enactment requires or permits information to be given by a signed statement, a person who produces or relies upon a signed statement given by another, knowing it to be untrue with respect to material information, commits an offence.

This provision is modelled, to an extent, on the general offence in section 5. The mental element under this proposed section is twofold. In subsection (1), proof of subjective *mens rea* or recklessness would be required to convict a person of providing false information in a signed statement. In subsection (2), proof of subjective *mens rea* is required to convict a person of the offence of producing or relying on a signed statement falsified by another. The penalty is supplied by section 4. It should be noted that section 4 applies as a default penalty; the provisions listed in Appendix L, with their specific penalties, are not affected by it. By equal measure, new specific offences could be created in any of the statutes or regulations listed in Appendix M, if a responsible ministry decides that a specially tailored offence provision is warranted in a certain case.

The Law Institute recommends that:

2. The Offence Act be amended by the addition of a general offence provision for providing false information in a signed statement, substantially in the form set out on page 17 as suggested section 5.1.

3. Those provisions in provincial enactments which now:

- (a) contain a requirement to give a sworn statement that would be repealed and replaced with a requirement to give an informal signed statement by virtue of recommendation 1; and*
- (b) are located in statutes or regulations that do not contain an offence provision that would be applicable to the falsifying of the statement at issue, should only be amended in accordance with recommendation 1 upon the enactment of the general offence provision referred to in recommendation 2. These provisions are listed in Appendix M.*

E. Exceptions

1. INTRODUCTION

The Commission discussed a number of exceptions to its basic recommendation. Three of those exceptions are relevant to this report.

2. INVESTIGATIONS AND HEARINGS

The Commission recommended that the requirements for sworn statements found in the provisions listed in category A—investigations and hearings—not be repealed. It advanced

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three compelling reasons for this position. First, in most cases the person conducting the investigation or hearing has the discretion not to impose any formalities of verification. Second, complying with the formalities does not cause significantly higher levels of inconvenience and expense in this setting. And third, the nature of the requirement in category A enactments is less likely to lead to invalidity if it is inadvertently breached.⁷⁴ The Institute concurs with this reasoning.

The Commission also noted that a fourth reason for maintaining the requirements to provide sworn statements in connection with this category was the close relationship it bears to the formalities of verification in court proceedings, which will not be subject to repeal.⁷⁵ This position is possibly less firm. In our work we noted that some jurisdictions, particularly in the United States,⁷⁶ have abandoned the need for various types of sworn statements used in court proceedings. Perhaps this question should be reconsidered in British Columbia. But it is outside the scope of this report.⁷⁷

The Law Institute recommends that:

4. Recommendation 1 should not apply to the provisions appearing in Appendix A, i.e., those provisions relating to the formalities of verification in hearing and investigative settings.

3. STATEMENTS RELATING TO OFFICE AND STATEMENTS OF ALLEGIANCE

The Commission also recommended that the use of sworn statements for purely ceremonial reasons be preserved. The Commission based this recommendation on the desirability of maintaining well-established traditions, although it did concede that “[o]ur evaluation of these provisions has caused us some difficulty, as we realize that opinions may differ quite markedly on the matter of what value should be accorded to the ceremonial tradition.”⁷⁸ Both statements in category D (statements relating to office) and category H (statements of allegiance) fall into this exception.

We have included in category D a number of provisions that require an office-holder to take what is variously called an oath of secrecy or an oath of confidentiality. As this point was

74. *Ibid.* at 33.

75. *Ibid.*

76. *See, e.g.,* Wash. Ct. G.R. 13.

77. *See, e.g., Report on Affidavits: Alternatives to Oaths, supra* note 8 (recommending the creation of an affidavit by solemn certification for use in certain situations in court proceedings in British Columbia).

78. *Report on Extra-Judicial Use of Sworn Statements, supra* note 1 at 38.

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not addressed in the 1976 report, this decision requires further comment. Many of the provisions in category D include an obligation to keep information in confidence as part of the oath of office, along with more expansive and ceremonial obligations, such as those requiring the faithful, impartial, and diligent execution of an office. In a few enactments, however, the oath of confidentiality stands apart from any other obligation. A good illustration of this phenomenon is found in section 9 of the *Ombudsman Act*.⁷⁹

- 9 (1) Before beginning to perform the duties of the office, the Ombudsman must take an oath before the Clerk of the Legislative Assembly
 - (a) to faithfully and impartially exercise the powers and perform the duties of the office, and
 - (b) not to divulge any information received under this Act, except if permitted by this Act.
- (2) A person on the staff of the Ombudsman must, before beginning to perform duties, take an oath before the Ombudsman not to divulge any information received under this Act except if permitted by this Act.

The oath that the ombudsman is required to take under section 9 (1) clearly fits within category D as the Commission defined it and as that category has been continued in this report. The oath that the Ombudsman's staff must take under section 9 (2) is harder to classify.⁸⁰ Although there may be a ceremonial aspect to this oath that makes it similar to other oaths of office, its overriding purpose is functional—it creates an obligation to hold information in confidence and raises the possibility of criminal liability if that obligation is breached. In view of the fact that the provisions in category D are excepted from our basic recommendation primarily because they are largely ceremonial in nature, an argument could be advanced that oaths of confidentiality, such as the one found in section 9 (2), should be classified differently than oaths of office, such as that found in section 9 (1). A logical place for freestanding oaths of confidentiality would be category K—the residual category. Categorizing oaths of confidentiality in this manner would leave them subject to the basic recommendation of this report.

We have rejected this argument for two reasons. First, accepting it would create an inconsistency. Some people would have to swear an oath of confidentiality because it is part of their oath of office as established by an enactment. Others would be required to give an undertaking or sign a written statement, in essentially the same terms as the oath, pledging to keep certain information in confidence. Second, the considerations of delay,

79. R.S.B.C. 1996, c. 340.

80. There are several other provisions that create a similar freestanding oath of confidentiality. See *Community Charter*, S.B.C. 2003, c. 26, section 276 (4); *School Regulation*, B.C. Reg. 265/89, section 12; Appendix.

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inconvenience, and cost which are the main rationale for recommending that certain requirements to give sworn statements be repealed are of much less concern with respect to these oaths of confidentiality. Many of them operate like section 9 of the *Ombudsman Act*, which authorizes the Ombudsman to administer the oath of confidentiality to his or her staff.⁸¹ Allowing an individual in the deponent's office to administer the oath obviously reduces the cost and inconvenience ordinarily associated with giving a sworn statement. For these reasons, we have decided that freestanding oaths of confidence are analytically similar to oaths of office and should, therefore, be included in category D.

The Law Institute recommends that:

5. The provisions listed in Appendices D and H should be exempted from the effect of recommendation 1.

Earlier, it was noted that a failure to comply with the formal requirements for making a sworn statement can result in any actions taken pursuant to the sworn statement being set aside.⁸² The Law Reform Commission recommended that any possible confusion that could result over the validity of the acts of office-holders who have committed a technical breach of the requirements for giving a sworn statement of office or allegiance should be dispelled by enacting a savings provision in the statutes that contain an obligation to give a sworn statement of office or allegiance.⁸³ We agree with this recommendation.

We have given some thought to the implementation of this recommendation. A savings provision could be enacted where each requirement to swear an oath of office appears. But this approach would have the unfortunate effect of requiring a long series of repetitious provisions to be enacted. In a few cases, one statute contains several discrete oaths of office; under the logic of this approach, the savings provision would have to be repeated in the same statute. The better approach would be to enact one savings provision. Then, the question becomes where to locate this provision. There is no Act that cries out as a home for our savings provision. We have decided that the best place for it is in the *Crown Franchise Act*.⁸⁴ This obscure statute, first enacted in 1897,⁸⁵ is intended (in the language of its former long title) "to provide for the more easy trying and determining the rights to

81. Section 9 (3) of the *Ombudsman Act*, *supra* note 72, provides that the Ombudsman is a commissioner "[f]or the purposes of subsection (2)."

82. *See*, above, at 12–13.

83. *Report on Extra-Judicial Use of Sworn Statements*, *supra* note 1 at 38.

84. R.S.B.C. 1996, c. 88.

85. S.B.C. 1897, c. 9.

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charters, franchises, and offices held from the Crown.” In the 1897 to 1948 editions of the Revised Statutes of British Columbia it was indexed under the words “*quo warranto*,” an allusion to the common law prerogative writ that the Crown could direct against a person who claimed or usurped an office, requiring the person to set out the authority under which the office was held. It is this connection with the right to hold an office that leads us to suggest locating the savings provision in the *Crown Franchise Act*. We suggest a provision in the following form:

Savings for defects in oath of office

- 8
- (1) An act, proceeding or matter is not invalid solely because of an irregularity, omission or defect in the form of any oath or affirmation of office required under an enactment.
 - (2) This section applies to oaths or affirmations of office sworn or affirmed before or after this section comes into force, unless the oath or affirmation of office is the subject of a proceeding that was commenced before this section comes into force.

The proposed amendment is loosely modelled on similar provisions found in the *Evidence Act*⁸⁶ and the *Rules of Court*.⁸⁷ The main difference between the proposed amendment and the *Evidence Act* provision is our use of simpler and more direct language; the main difference between the proposed amendment and provision in the *Rules of Court* is the absence of a requirement for judicial approval of the defective document. It should be noted that the word “omission” in the proposed amendment does double duty: it refers both to omissions in form of the statement of office or allegiance and to a complete omission to provide the statement of office or allegiance at all. Finally, in light of the curative purpose of the proposed amendment, it has been given a retroactive effect, in order to ensure the widest possible application. An exception to this retroactive effect may be provided for court proceedings that are already in progress when the provision comes into force.

The Law Institute recommends that:

6. A savings provision should be enacted in the Crown Franchise Act, which would prevent the invalidation of any act, proceeding, or matter solely on account of irregularities, omissions, or defects in, or the absence of, any of the formalities listed in Appendices D and H.

86. *Supra* note 4, section 67.

87. *Supreme Court Rules*, B.C. Reg. 221/90, Rule 51 (11).

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4. THE FORMALITIES OF VERIFICATION AS A PROTECTION

In addition to recommending that categories A, D, and H be excepted from the basic recommendation, the Commission also recommended excepting provisions that imposed a requirement to give a sworn statement for protective reasons, rather than to provide a guarantee of veracity. This protective function turns on one of the three functions of sworn statements in contemporary law⁸⁸—that is, interposing a disinterested person into a transaction. In circumstances where undue influence is a concern or where one of the parties may reasonably be seen as likely to fail to appreciate the consequences of an act, the disinterested person may serve an important role in warding off these dangers. In the Commission's view, the protective function of certain provisions requiring sworn statements overrides considerations of delay, inconvenience, and cost.⁸⁹ The Institute agrees with this conclusion.

Only one of the provisions identified by the Commission in 1976⁹⁰ is still in force today. It is found in the *Adoption Act*.⁹¹ We recommend that it remain in force as an exception to the basic recommendation. We also add the qualification that the Commission gave in its report⁹² to this recommendation, which is that there may be better means of achieving the protective goal than by the indirect means adopted by requiring a sworn statement. It would be worthwhile for the responsible ministry to explore alternatives to the present arrangement.

The Law Institute recommends that:

7. Section 16 of the Adoption Act should for the time being not be subject to recommendation 1, but consideration should be given to replacing the requirement to give a sworn statement pursuant to that section with a provision that directly addresses the protective goals of the legislation.

88. See, above, at 2.

89. *Report on Extra-Judicial Use of Sworn Statements*, *supra* note 1 at 33–34.

90. The provisions identified by the Commission were: *Adoption Act*, R.S.B.C. 1960, c. 4, section 8 (2); *Unified Family Court Act*, S.B.C. 1974, c. 99, section 2 (2) (b); *Wife's Protection Act*, R.S.B.C. 1960, c. 407, sections 8 (2); 11.

91. R.S.B.C. 1996, c. 5, section 16 (form of consent to adoption). See also *Adoption Regulation*, B.C. Reg. 291/96, section 9.

92. *Supra* note 1 at 36.

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The Commission noted that the same concerns about invalidity due to technical breaches arise for this exception as for the exception made for categories D and H. It recommended that a similar savings provision be enacted in this case. We agree with that recommendation.

The Law Institute recommends that:

8. A savings provision should be enacted in the Adoption Act, which would prevent the invalidation of any act, proceeding, or matter solely on account of irregularities, omissions, or defects in, or the absence of, any of the formalities required in giving a sworn statement under section 16.

F. Land Title Act

The Law Reform Commission singled out the *Land Title Act*⁹³—or the *Land Registry Act*,⁹⁴ as it was known in 1976—for extended consideration. This consideration was merited “[b]ecause of the number and variety of formalities of verification required by the *Land Registry Act*, and because of the importance which is traditionally attached to dealings in land. . . .”⁹⁵ The Commission found that sworn statements under the Act were required in three circumstances: first, in judicial proceedings; second, in order to assist the Registrar of Land Titles in gathering information; and third, in order to obtain registration in the land title office.⁹⁶ The Commission made no recommendations with respect to the first two categories, but it did analyze the third in accordance with its analytical framework and determined that it should be subject to its basic recommendation.⁹⁷ The main reason advanced for this conclusion was that the Commission was “. . . certain that the formalities of verification in each case were designed simply to enhance the likelihood of honesty and accuracy of the information to which they refer.”⁹⁸

The system of registration under the *Land Title Act*⁹⁹ has been altered since the Commission’s report. In 1976, registration in the land title office required the submission of a prescribed form, which included an affidavit of execution. Today, registration requires the

93. *Supra* note 52.

94. *Supra* note 48.

95. *Report on Extra-Judicial Use of Sworn Statements*, *supra* note 1 at 39 [footnote omitted].

96. *Ibid.*

97. *Ibid.* at 39–42.

98. *Ibid.* at 41.

99. *See Land Title Act*, *supra* note 52, Part 5.

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submission of a prescribed form that must be witnessed by an “officer.”¹⁰⁰ In most cases, an officer will be a lawyer or notary public.¹⁰¹ By signing the document, the “officer” certifies certain facts.¹⁰²

In our view, this system of officer certification set out in Part 5 of the *Land Title Act* represents a well thought out approach to formalities. In particular, it shows a concern with confirming the identity of a land transferor: when an officer witnesses the signature of an individual, the officer’s signature certifies that the individual appeared before and acknowledged to the officer that the individual is named in form as the transferor.¹⁰³ For corporations, the signature of the officer certifies that the individual signing the form is an authorized signatory of the corporation, the individual has been specifically authorized to sign this form, and the corporation existed at the time of transfer and is legally entitled to hold and dispose of land in British Columbia.¹⁰⁴ The officer’s certification, then, is directed less at providing a guarantee of the veracity of the information submitted, and more at being an assurance that the party undertaking the transaction has the legal right to do so. This particular approach should not be displaced by our general approach to formalities of verification.

The Law Institute recommends that:

9. Part 5 of the Land Title Act should be excepted from recommendation 1.

Part 5 does impose one requirement to provide a sworn statement. If the signature of a transferor has not been witnessed in accordance with Part 5, the Registrar of Land Titles has the discretion to accept it for registration upon being satisfied of certain matters. One of these matters involves the testimony of the person who does witness the transferor’s signature, which must be contained in an affidavit.¹⁰⁵ This sworn statement can be analyzed in the same terms as the other sworn statements in this report. But we are not recommending its repeal. Section 49 is an integral element of the system created by Part 5. Altering the requirements set out in section 49 may have the effect of undercutting the

100. *Land Title Act, ibid.*, section 42 (1).

101. *Land Title Act, ibid.*, sections 41 (definition of “officer”); 42 (3).

102. *Land Title Act, ibid.*, sections 43–48.

103. *Land Title Act, ibid.*, section 43 (a).

104. *Land Title Act, ibid.*, section 44 (1) (a).

105. *Land Title Act, ibid.*, section 49.

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overriding requirement of Part 5, which is to encourage certification by officers of instruments to be registered in the land title office.

G. Future Enactments and Administrative Discretion

The recommendations of this report will obviously be undercut if the provincial government decides to include new requirements for sworn statements when it enacts new legislation or promulgates new regulations or when it revises existing legislation or regulations. As the Law Reform Commission recommended in 1976,¹⁰⁶ so we recommend that the government bear the conclusions of this report in mind when enacting new legislation, promulgating new regulations, or revising existing legislation or regulations.

The Law Institute recommends that:

10. In future legislation and regulations, requirements for out-of-court sworn statements should be restricted to situations involving investigations and hearings or to ceremonial occasions.

It was noted above¹⁰⁷ that a number of statutory provisions give administrative agencies and government officials the freedom to approve whether a form of document is acceptable for the purposes set out in the legislation. It would be desirable if the administrative agency or government official in these cases made their choices in these cases in accordance with the recommendations made in this report.

The Law Institute recommends that:

11. Where an enactment grants the authority to an administrative agency or government official to choose whether or not to approve the form of document for the enactment's purposes, that choice should be made so as not to require a sworn statement.

V. CONCLUSION

A. List of Recommendations

The Law Institute recommends that:

1. The requirements to give a sworn statement on occasions upon which their sole purpose is to reinforce the veracity of statements required in out-of-court situations pursuant to a provision in a provincial enactment be repealed and replaced with a

106. *Report on Extra-Judicial Use of Sworn Statements*, *supra* note 1 at 47.

107. *Supra* note 52.

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requirement to give a signed statement without the formalities embodied by a sworn statement. These occasions are listed in Appendices L and M.

2. The Offence Act be amended by the addition of a general offence provision for providing false information in a signed statement, substantially in the form set out on page 17 as suggested section 5.1.

3. Those provisions in provincial enactments which now:

- (a) contain a requirement to give a sworn statement that would be repealed and replaced with a requirement to give an informal signed statement by virtue of recommendation 1; and*
- (b) are located in statutes or regulations that do not contain an offence provision that would be applicable to the falsifying of the statement at issue,*

should only be amended in accordance with recommendation 1 upon the enactment of the general offence provision referred to in recommendation 2. These provisions are listed in Appendix M.

4. Recommendation 1 should not apply to the provisions appearing in Appendix A, i.e., those provisions relating to the formalities of verification in hearing and investigative settings.

5. The provisions listed in Appendices D and H should be exempted from the effect of recommendation 1.

6. A savings provision should be enacted in the Crown Franchise Act, which would prevent the invalidation of any act, proceeding, or matter solely on account of irregularities, omissions, or defects in, or the absence of, any of the formalities listed in Appendices D and H.

7. Section 16 of the Adoption Act should for the time being not be subject to recommendation 1, but consideration should be given to replacing the requirement to give a sworn statement pursuant to that section with a provision that directly addresses the protective goals of the legislation.

8. A savings provision should be enacted in the Adoption Act, which would prevent the invalidation of any act, proceeding, or matter solely on account of irregularities, omissions, or defects in, or the absence of, any of the formalities required in giving a sworn statement under section 16.

9. Part 5 of the Land Title Act should be excepted from recommendation 1.

Report on Unnecessary Requirements for Sworn Statements

10. In future legislation and regulations, requirements for out-of-court sworn statements should be restricted to situations involving investigations and hearings or to ceremonial occasions.

11. Where an enactment grants the authority to an administrative agency or government official to choose whether or not to approve the form of document for the enactment's purposes, that choice should be made so as not to require a sworn statement.

B. Draft Legislation

We have cast our recommendations in the form of draft legislation, which is set out in Appendix N. The Law Reform Commission pointed out a number of difficulties concerning implementation of its recommendations at the end of the 1976 report. Our draft statute is offered as an illustration of how the recommendations in this report may be implemented. It does not represent the only approach to implementation that may be taken.

As the 1976 report foresaw, the statute that results from implementing our recommendations for reform runs to an intimidating length. But its main points can be grasped quickly and briefly summarized.

The vast majority of the draft statute's provisions simply replace an existing requirement to provide an affidavit, a statement on oath or affirmation, a solemn declaration, or a statutory declaration, with a requirement to provide a "signed statement." There is no logical or legal necessity that compels the use of the term "signed statement" here; indeed, it is easy to imagine other formulations that could have been used. For our purposes, "signed statement" is used in the draft legislation because it embraces two important qualities. First, it indicates that the document must be in writing.¹⁰⁸ Second, it imposes a minimum of formalities—only the signature of the person giving the statement is required; no witness is required. It is important to observe here that we have deliberately created a low-level default provision. This low level of formalities could be altered in appropriate cases, where it is thought to be necessary to require the person giving the signed statement to provide other information, such as an address, a telephone number, or a job title.

108. This is necessary because the provisions that are being amended required sworn statements in writing.

Report on Unnecessary Requirements for Sworn Statements

Next, there are specific amendments to three statutes—the *Offence Act*,¹⁰⁹ the *Crown Franchise Act*,¹¹⁰ and the *Adoption Act*.¹¹¹ These amendments were discussed above.¹¹² They are intended to implement our recommendations 2, 6, and 8.

Finally, in preparing this draft statute we noticed a number of provisions that do not impose a requirement to give a sworn statement but that nevertheless in some way amplify, explain, or are dependent on a provision noted in our appendices as requiring a sworn statement. In the main, these provisions fall into one of three categories: they refer to a requirement to give a sworn statement in a provision that we have identified; they describe the contents of a sworn statement that is to be given; or they authorize an official to act as a commissioner for the purposes of taking a sworn statement required by another provision in the legislation. We have dealt with these provisions as consequential amendments that are spread throughout our draft statute, and have made a note of these amendments in the commentary to the draft legislation.

C. Acknowledgments

The Law Institute wishes to acknowledge Kevin Zakreski, a staff lawyer, who was responsible for the research upon which this report is based, and for drafting the report. We also wish to thank Nadja Rence and Grace Loh, research assistants to the Institute, who both contributed to the research required in the preparation of this report.

109. *Supra* note 73.

110. *Supra* note 84.

111. *Supra* note 90.

112. *See, above*, at 16–18 (*Offence Act*); 21–22 (*Crown Franchise Act*); 23–24 (*Adoption Act*).

APPENDIX A

Formalities of Verification in Hearings and Investigatory Proceedings

Accountants (Certified General) Act, R.S.B.C. 1996, c. 2, section 23 (5) (b)
Accountants (Chartered) Act, R.S.B.C. 1996, c. 3, section 24 (7) (b)
Accountants (Management) Act, R.S.B.C. 1996, c. 4, section 21 (2) (b)
Administrative Tribunals Act, S.B.C. 2004, c. 45, sections 11 (2) (c); 34 (1) (a); 34 (3) (a)
Agrologists Act, S.B.C. 2003, c. 13, section 25 (3) (a)
Architects Act, R.S.B.C. 1996, c. 17, section 48 (2); 48 (4)
Assessment Act, R.S.B.C. 1996, c. 20, section 39 (1)
Auditor General Act, S.B.C. 2003, c. 2, section 17 (1) (b)
Building Officials Association Act, S.B.C. 1997, c. 16, section 13 (5) (b)
Business Corporations Act, S.B.C. 2002, c. 57, sections 50 (2) (b); 251 (2)
Business Practices and Consumer Protection Act, S.B.C. 2004, c. 2, section 151 (1) (b)
College of Applied Biology Act, S.B.C. 2002, c. 68, section 28 (3) (a)
Commercial Arbitration Act, R.S.B.C. 1996, c. 55, sections 6 (1) (a); 8 (1)
Community Charter, S.B.C. 2003, c. 26, section 134 (1) (a)
Constitution Act, R.S.B.C. 1996, c. 66, sections 52; 54 (1) (b); 55
Coroners Act, R.S.B.C. 1996, c. 72, sections 31 (1); 34 (1); 38 (4); 42 (5)
Credit Union Incorporation Act, R.S.B.C. 1996, c. 82, section 97 (1)
Crime Victim Assistance Act, S.B.C. 2001, c. 38, section 6.1 (2) (b)
Criminal Injury Compensation Act, R.S.B.C. 1996, c. 85, sections 21 (1); 22 (8)
Criminal Records Review Act, R.S.B.C. 1996, c. 86, section 5 (4)
Debtor Assistance Act, R.S.B.C. 1996, c. 93, section 6 (a)
Dentists Act, R.S.B.C. 1996, c. 94, sections 47 (3); 53
Drainage, Ditch and Dike Act, R.S.B.C. 1996, c. 102, section 164 (4)
Employee Investment Act, R.S.B.C. 1996, c. 112, section 38 (1) (b)
Employment Standards Act, R.S.B.C. 1996, c. 113, sections 85 (1) (e); 109 (1) (g)
Engineers and Geoscientists Act, R.S.B.C. 1996, c. 116, sections 32 (5); 38
Environmental Appeal Board Procedure Regulation, B.C. Reg. 1/82, section 9 (2); 9 (3)
[*Environmental Management Act*]
Financial Administration Act, R.S.B.C. 1996, c. 138, section 8 (1) (d)
Financial Institutions Act, R.S.B.C. 1996, c. 141, sections 216 (2) (b); 232.1 (1) (b); 240 (1) (b); 242.2 (10) (b) (i)
Fisheries Act, R.S.B.C. 1996, c. 149, section 18 (2) (a)
Forest Act, R.S.B.C. 1996, c. 157, section 148.4 (b)
Forest and Range Practices Act, S.B.C. 2002, c. 69, section 125 (6) (a)
Forest Practices Code of British Columbia Act, R.S.B.C. 1996, c. 159, sections 135 (b); 137 (1)

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Health Act, R.S.B.C. 1996, c. 179, sections 15 (2); 61 (4) (h)
Health Professions Act, R.S.B.C. 1996, c. 183, section 38 (4) (a)
Hearing Aid Act, R.S.B.C. 1996, c. 186, section 16 (1) (b)
Human Rights Code, R.S.B.C. 1996, c. 210, sections 27.2 (1); 27.3 (2) (b)
Inquiry Act, R.S.B.C. 1996, c. 224, sections 5 (2) (a); 5 (3); 15 (2)
Labour Relations Code, R.S.B.C. 1996, c. 244, sections 93 (1); 125; 140 (a)
Land Act, R.S.B.C. 1996, c. 245, sections 63 (3) (b); 87 (1) (b)
Land Surveyors Act, R.S.B.C. 1996, c. 248, sections 62 (2); 63 (2)
Land Title Act, R.S.B.C. 1996, c. 250, sections 347 (1); 382 (1) (d) (i)
Legal Profession Act, S.B.C. 1998, c. 9, section 41 (2) (a)
Liquor Control and Licensing Act, R.S.B.C. 1996, c. 267, section 20 (4.2)
Local Government Act, R.S.B.C. 1996, c. 323, section 1006 (6) (a); 1006 (6) (c)
Locomotive Regulations, B.C. Reg. 454/59, sections 85; 133 (4); 164 (2) [*Railway Act*]
Locomotive Cranes Regulation, B.C. Reg. 460/59, sections 69; 119 (1)
Logging Tax Act, R.S.B.C. 1996, c. 277, section 10 (4)
Medical Practitioners Act, R.S.B.C. 1996, c. 285, section 68 (3); 68 (5); 68 (7)
Medicare Protection Act, R.S.B.C. 1996, c. 286, sections 5 (1) (q.1) (iv); 51 (2) (b.1) (v)
Mental Health Act, R.S.B.C. 1996, c. 288, section 24.3 (1) (a)
Mineral Rights Compensation Regulation, B.C. Reg. 19/99, section 19 (2) [*Mineral Tenure Act*]
Mortgage Brokers Act, R.S.B.C. 1996, c. 313, section 6 (3)
Motor Dealer Act, R.S.B.C. 1996, c. 316, section 18 (a)
Natural Products Marketing (BC) Act, R.S.B.C. 1996, c. 330, section 7.1 (3) (b)
Nisga'a Final Agreement Act, S.B.C. 1999, c. 2, Schedule, Chapter 20, section 21 (b); Appendix M-6, section 82
Nurses (Registered) Act, R.S.B.C. 1996, c. 335, section 41 (2) (a)
Office for Children and Youth Act, S.B.C. 2002, c. 50, section 7 (1) (b)
Ombudsman Act, R.S.B.C. 1996, c. 340, section 15 (2) (d)
Optometrists Act, R.S.B.C. 1996, c. 342, section 30 (7)
Passenger Transportation Act, S.B.C. 2004, c. 39, section 12 (2) (a)
Petroleum and Natural Gas Act, R.S.B.C. 1996, c. 361, section 16 (2) (a); 16 (2) (b)
Pharmacists, Pharmacy Operations and Drug Scheduling Act, R.S.B.C. 1996, c. 363, section 53 (4) (a)
Podiatrists Act, R.S.B.C. 1996, c. 366, section 27 (5)
Power Cars and Rail Cars Regulation, B.C. Reg. 456/59, section 49 [*Railway Act*]
Private Career Training Institutions Act, S.B.C. 2003, c. 79, section 16 (2) (a)
Private Managed Forest Land Act, S.B.C. 2003, c. 80, section 33 (12) (b)
Securities Act, R.S.B.C. 1996, c. 418, sections 13 (2); 141 (3); 144 (1) (b); 184 (2) (e) (iv)
Small Business Venture Capital Act, R.S.B.C. 1996, c. 429, section 32 (1) (b)
Society Act, R.S.B.C. 1996, c. 433, sections 84 (2) (a); 95.1 (2) (b)
Strata Property Act, S.B.C. 1998, c. 43, section 184 (5)
Vancouver Charter, S.B.C. 1953, c. 55, section 156

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Veterinarians Act, R.S.B.C. 1996, c. 476, section 21 (3)

Workers Compensation Act, R.S.B.C. 1996, c. 492, sections 87 (1); 88 (4); 179 (3) (h); 246 (2) (f); 247 (1) (a)

Workers Compensation Act (Review Board) Regulation, B.C. Reg. 32/86, section 6 (3)
[*Workers Compensation Act*]

Youth Justice Act, S.B.C. 2003, c. 85, section 37 (3) (d) (i)

APPENDIX B

Applications to Practise Professions

Engineers and Geoscientists Act, R.S.B.C. 1996, c. 116, section 17 (2)

Election Act, R.S.B.C. 1996, c. 106, sections 54 (3) (c); 57 (3) (b)

Francophone Educational Authorities Regulation, B.C. Reg. 212/99, sections 7 (3); 16 (3) (b) [*School Act*]

Local Government Act, R.S.B.C. 1996, c. 323, section 72 (2) (b); 72 (2) (c) (i)

Mortgage Brokers Act Regulations, B.C. Reg. 100/73, Forms 1–4 [*Mortgage Brokers Act*]

Optometrists Act, R.S.B.C. 1996, c. 342, section 22 (1) (c)

Podiatrists Act, R.S.B.C. 1996, c. 366, section 6 (1)

Securities Act, R.S.B.C. 1996, c. 418, section 38 (b)

Vancouver Charter, S.B.C. 1953, c. 55, section 44 (2) (b); 44 (2) (c) (i)

Veterinarians Act, R.S.B.C. 1996, c. 476, section 11 (6) (b)

APPENDIX C

Applications to Obtain Permits, Licences, Leases, Consents, Etc.

Adoption Regulation, B.C. Reg. 291/96, section 20 (a) [*Adoption Act*]
Bare Land Strata Regulations, B.C. Reg. 75/78, section 8 (2) [*Strata Property Act*]
Business Corporations Act, S.B.C. 2002, c. 57, sections 39 (4); 275 (2) (a) (ii); 277 (1); 284 (7); 316 (1)
Cooperative Association Act, S.B.C. 1999, c. 28, sections 184 (1) (c); 197 (2)
Credit Union Incorporation Act, R.S.B.C. 1996, c. 82, section 15.1 (2) (b)
Election Act, R.S.B.C. 1996, c. 106, sections 109 (5) (a); 109 (5) (b); 111 (3) (b); 112 (2) (b)
Financial Institutions Act, R.S.B.C. 1996, c. 141, section 23 (2) (b)
Geothermal Resources Administrative Regulation, B.C. Reg. 132/83, section 12 (1) (c) (i); 12 (1) (c) (ii) [*Geothermal Resources Act*]
Health Act, R.S.B.C. 1996, c. 179, section 13 (a)
Homeowner Protection Act Regulation, B.C. Reg. 29/99, Schedule 4 [*Homeowner Protection Act*]
Hospital Act, R.S.B.C. 1996, c. 200, section 7 (3)
Land Title Act, R.S.B.C. 1996, c. 250, sections 76 (4); 193 (1)
Liquor Distribution Act, R.S.B.C. 1996, c. 268, sections 11.2 (1) (b); 11.3 (1) (a) (ii)
Marriage Act, R.S.B.C. 1996, c. 282, sections 16 (1); 19 (2) (a); 19 (2) (b); 19 (3)
Mineral Tenure Act Regulation, B.C. Reg. 529/2004, section 18 (1) (b) (iii) [*Mineral Tenure Act*]
Motor Vehicle Act, R.S.B.C. 1996, c. 318, sections 32; 94.4 (1) (c); 97.1 (4); 104.1 (4) (a); 104.5 (6) (b) (i); 105.1 (4) (a); 105.4 (6) (b) (i); 243 (4) (a)
Motor Vehicle Act Regulations, B.C. Reg. 26/58, Form 2; Form 5; Form 6 [*Motor Vehicle Act*]
Pension Benefits Standards Act, R.S.B.C. 1996, c. 352, section 65 (2)
Permit Regulation, B.C. Reg. 253/2000, section 18 (1) [*Wildlife Act*]
Petroleum and Natural Gas Act, R.S.B.C. 1996, c. 361, sections 47 (3) (a); 47 (3) (b); 48
Pound Districts Regulation, B.C. Reg. 66/81, section 2 (3) (c) [*Livestock Act*]
Railway Act, R.S.B.C. 1996, c. 395, section 35 (2) (b)
Recall and Initiative Act, R.S.B.C. 1996, c. 398, sections 3 (2) (c); 19 (2) (d)

APPENDIX D

Statements Relating to Office

Auditor General Act, S.B.C. 2003, c. 2, section 3
Bylaw Notice Enforcement Regulation, B.C. Reg. 175/2004, section 8; Schedule 2 [*Local Government Bylaw Enforcement Regulation*]
Community Charter, S.B.C. 2003, c. 26, sections 120; 276 (4)
Coroners Act, R.S.B.C. 1996, c. 72, section 32
Court of Appeal Act, R.S.B.C. 1996, c. 77, section 3
Court Order Enforcement Act, R.S.B.C. 1996, c. 78, section 77
Election Act, R.S.B.C. 1996, c. 106, sections 5 (1); 20; 72 (2); 93 (4)
Fish Inspection Act, R.S.B.C. 1996, c. 148, section 3 (2)
Forest and Range Practices Act, S.B.C. 2002, c. 69, section 109 (2)
Form of Oath Regulation, B.C. Reg. 223/93 [*Land Surveyors Act*]
Form of Oath Regulation, B.C. Reg. 233/93 [*Fish Inspection Act*]
Francophone Educational Authorities Regulation, B.C. Reg. 212/99, section 22; Schedule C [*School Act*]
Inquiry Act, R.S.B.C. 1996, c. 224, sections 2; 10
Islands Trust Act, R.S.B.C. 1996, c. 239, section 6 (6)
Labour Relations Code, R.S.B.C. 1996, c. 244, section 129
Land Surveyors Act, R.S.B.C. 1996, c. 248, section 46 (1)
Local Government Act, R.S.B.C. 1996, c. 323, sections 41 (8); 201; 210; 1002 (5)
Local Government Bylaw Notice Enforcement Act, S.B.C. 2003, c. 60, section 15 (1) (a) (ii)
Local Government Elections Regulation, B.C. Reg. 315/98, section 1 [*Local Government Act*]
Local Government Officers Oath Regulation, B.C. Reg. 315/98 [*Local Government Act*]
Notaries Act, R.S.B.C. 1996, c. 334, section 11 (1)
Notaries Regulation, B.C. Reg. 229/2004, section 6 (1); Form 1 [*Notaries Act*]
Oath of Office for BC College of Teachers Council Regulation, B.C. Reg. 239/2004 [*Teaching Profession Act*]
Ombudsman Act, R.S.B.C. 1996, c. 340, section 9 (1); 9 (2)
Parole Act, R.S.B.C. 1996, c. 346, section 3 (2)
Parole Act Regulation, B.C. Reg. 61/93, section 3
Police Act, R.S.B.C. 1996, c. 367, section 70
Police Oath/Solemn Affirmation Regulation, B.C. Reg. 136/2002, section 1 [*Police Act*]
Provincial Court Act, R.S.B.C. 1996, c. 379, sections 6 (4); 30 (2)
Public Service Act, R.S.B.C. 1996, c. 385, section 21
Public Service Oath Regulation, B.C. Reg. 51/87 [*Public Service Act*]
Railway Act, R.S.B.C. 1996, c. 395, section 255 (2)

Report on Unnecessary Requirements for Sworn Statements

School Act, R.S.B.C. 1996, c. 412, sections 50; 166.19 (1); 170 (3)

School Regulation, B.C. Reg. 265/89, section 12; Appendix [*School Act*]

School Trustee Oath of Office Regulation, B.C. Reg. 382/93, section 1 [*School Act*]

Statistics Act, R.S.B.C. 1996, c. 439, section 4

Teaching Profession Act, R.S.B.C. 1996, c. 449, section 9.1 (1)

Vancouver Charter, S.B.C. 1953, c. 55, sections 14 (8); 140; 486 (3)

Workers Compensation Act, R.S.B.C. 1996, c. 492, section 232 (8)

Workers Compensation Act Appeal Regulation, B.C. Reg. 321/2002, section 3 [*Workers Compensation Act*]

APPENDIX E

Financial Statements, Accounts, and Returns

- Election Act*, R.S.B.C. 1996, c. 106, section 206 (2)
Health Act, R.S.B.C. 1996, c. 179, section 52 (1)
Hospital Insurance Act, R.S.B.C. 1996, c. 204, section 7 (1)
Hotel Room Tax Act, R.S.B.C. 1996, c. 207, section 16.1 (2) (c)
Insurance Act, R.S.B.C. 1996, c. 226, section 180 (2); 180 (3)
Insurance Premium Tax Act, R.S.B.C. 1996, c. 232, section 9
Labour Relations Code, R.S.B.C. 1996, c. 244, sections 149 (1) (a); 149 (2) (a); 150 (1)
Land Act, R.S.B.C. 1996, c. 245, section 37
Local Government Act, R.S.B.C. 1996, c. 323, sections 90 (6); 90.1 (3)
Mineral Rights Compensation Regulation, B.C. Reg. 19/99, section 2 (2) [*Mineral Tenure Act*]
Motor Fuel Tax Act, R.S.B.C. 1996, c. 317, section 63.1 (2) (c)
Patients Property Act Rules, B.C. Reg. 311/76, Rule 5 (1) [*Court Rules Act*]
Recall and Initiative Act, R.S.B.C. 1996, c. 398, sections 49 (2); 50 (4); 75 (2); 86 (4); 124 (2); 125 (4); 135 (4)
Social Service Tax Act, R.S.B.C. 1996, c. 431, section 3.1 (2) (c)
Tobacco Tax Act, R.S.B.C. 1996, c. 452, section 12.1 (2) (c)
Vancouver Charter, S.B.C. 1953, c. 55, sections 62 (6); 62.1 (3)

APPENDIX F

Statements Between Private Parties

Business Corporations Act, S.B.C. 2002, c. 57, sections 47 (1) (a); 49 (2) (a); 93 (1)
Cooperative Association Act, S.B.C. 1999, c. 28, section 133 (2) (a)
Court Order Enforcement Act, R.S.B.C. 1996, c. 78, Schedule 3, Form D
Estate Administration Act, R.S.B.C. 1996, c. 122, section 123
Insurance Act, R.S.B.C. 1996, c. 226, sections 66 (1); 106 (1); 126 (statutory conditions 6 (1) (b); 6 (1) (d)); 138 (statutory conditions 3 (1) (b); 4 (1) (c); 4 (4))
Manufactured Home Park Tenancy Regulation, B.C. Reg. 481/2003, section 39 (7);
Appendix [*Manufactured Home Park Tenancy Act*]
Rent Distress Act, R.S.B.C. 1996, c. 403, section 3 (6) (a)
Trustee Act, R.S.B.C. 1996, c. 464, section 14 (6)

APPENDIX G

Statements by Public Officials

Legislative Assembly Allowances and Pension Act, R.S.B.C. 1996, c. 257, section 12 (1)

Local Government Act, R.S.B.C. 1996, c. 323, section 26 (3) (d); 26 (3) (f); 26 (3) (g); 26 (3) (k)

Vital Statistics Act, R.S.B.C. 1996, c. 479, section 8 (2) (a); 8 (2) (b)

Weed Control Act, R.S.B.C. 1996, c. 487, section 7 (2)

APPENDIX H

Statements of Allegiance

Constitution Act, R.S.B.C. 1996, c. 66, section 24

Coroners Act, R.S.B.C. 1996, c. 72, section 2

APPENDIX I

Statements to Obtain Registration

Bare Land Strata Plan Cancellation Regulation, B.C. Reg. 556/82, section 2 (3) (d) [*Strata Property Act*]

Election Act, R.S.B.C. 1996, c. 106, sections 41 (3) (b); 50 (2) (a); 155 (3) (m); 155 (3) (n); 157 (3) (l); 240 (3) (b)

Gaming Control Act, S.B.C. 2002, c. 14, sections 62 (1) (b); 65 (1) (d); 66 (1) (b); 67 (1) (c)

Land (Spouse Protection) Act, R.S.B.C. 1996, c. 246, section 2 (1) (b)

Land Title Act, R.S.B.C. 1996, c. 250, sections 49 (d); 123 (1) (d); 203 (6); 286 (2)

Local Government Act, R.S.B.C. 1996, c. 323, section 57 (2) (b); 426 (6)

Name Act, R.S.B.C. 1996, c. 328, section 7 (1) (b)

Personal Property Security Act, R.S.B.C. 1996, c. 359, section 49 (13)

Railway Act, R.S.B.C. 1996, c. 395, section 51

Recall and Initiative Act, R.S.B.C. 1996, c. 398, sections 97 (3) (b); 144 (3) (b)

Vancouver Charter, S.B.C. 1953, c. 55, sections 30 (2) (b); 37 (2) (a)

Vital Statistics Act, R.S.B.C. 1996, c. 479, sections 3 (3); 3 (7); 7 (b); 10 (2) (a); 16; 29 (4)

Vital Statistics Act Regulation, B.C. Reg. 69/82, section 4 (2) (a); 4 (2) (b) (ii) [*Vital Statistics Act*]

Water Act, R.S.B.C. 1996, c. 483, section 28 (2) (b) (iii)

APPENDIX J

Statements to Initiate Investigatory Proceedings

Mortgage Brokers Act, R.S.B.C. 1996, c. 318, section 5

APPENDIX K

Verified Statements on Miscellaneous Occasions

College Pension Plan Regulation, B.C. Reg. 95/2000, section 78 (3) [*Public Sector Pension Plans Act*]

Compensation and Disaster Financial Assistance Regulation, B.C. Reg. 124/95, section 19 (7) [*Emergency Program Act*]

Consumer Protection Act, R.S.B.C. 1996, c. 69, section 77 (1) (h)

Election Act, R.S.B.C. 1996, c. 106, sections 229 (4); 269 (4)

Elevating Devices Safety Regulation, B.C. Reg. 101/2004, sections 23 (2) (b); 35 (6) [*Safety Standards Act*]

Family Maintenance Enforcement Act, R.S.B.C. 1996, c. 127, section 51 (2) (s)

Health Professions Act, R.S.B.C. 1996, c. 183, section 54 (2)

Land Title Act, R.S.B.C. 1996, c. 250, section 316

Local Government Act, R.S.B.C. 1996, c. 323, sections 48 (3); 79 (2); 79 (6) (a) (ii); 110 (5); 116 (3) (b); 117 (2) (b); 121 (3) (b); 121 (3) (c)

Marriage Act, R.S.B.C. 1996, c. 282, section 11 (1)

Railway Act, R.S.B.C. 1996, c. 395, section 52 (2)

Rent Distress Act, R.S.B.C. 1996, c. 403, section 7 (2)

Revised Regulation (1984) Under the Insurance (Motor Vehicle) Act, B.C. Reg. 447/83, sections 137 (1); 148 (5) (b); Schedule 4 (statutory declaration) [*Insurance (Motor Vehicle) Act*]

Safety Standards Act, S.B.C. 2003, c. 39, section 18 (1) (n); 18 (2)

Vancouver Charter, S.B.C. 1953, c. 55, sections 21 (3); 51 (2); 51 (6) (a) (ii); 82 (5); 88 (3) (b); 89 (2) (b); 93 (3) (b); 93 (3) (c); 451 (1)

Vital Statistics Act, R.S.B.C. 1996, c. 479, section 54 (2) (b)

Wildfire Act, S.B.C. 2004, c. 492, section 62 (2)

Wills Act, R.S.B.C. 1996, c. 489, section 36 (2)

APPENDIX L

Provisions Containing Unnecessary Requirements for Sworn Statements to Be Repealed and Replaced with Requirements for Informal Signed Statements

- Adoption Regulation*, B.C. Reg. 291/96, section 20 (a) [*Adoption Act*]
Business Corporations Act, S.B.C. 2002, c. 57, sections 39 (4); 47 (1) (a); 49 (2) (a); 93 (1); 275 (2) (a) (ii); 277 (1); 284 (7); 316 (1)
Consumer Protection Act, R.S.B.C. 1996, c. 69, section 77 (1) (h)
Cooperative Association Act, S.B.C. 1999, c. 28, sections 133 (2) (a); 184 (1) (c); 197 (2)
Credit Union Incorporation Act, R.S.B.C. 1996, c. 82, section 15.1 (2) (b)
Election Act, R.S.B.C. 1996, c. 106, sections 41 (3) (b); 50 (2) (a); 54 (3) (c); 57 (3) (b); 109 (5) (a); 109 (5) (b); 111 (3) (b); 112 (2) (b); 155 (3) (m); 155 (3) (n); 157 (3) (l); 206 (2); 229 (4); 240 (3) (b); 269 (4)
Elevating Devices Safety Regulation, B.C. Reg. 101/2004, sections 23 (2) (b); 35 (6) [*Safety Standards Act*]
Engineers and Geoscientists Act, R.S.B.C. 1996, c. 116, section 17 (2)
Family Maintenance Enforcement Act, R.S.B.C. 1996, c. 127, section 51 (2) (s)
Financial Institutions Act, R.S.B.C. 1996, c. 141, section 23 (2) (b)
Gaming Control Act, S.B.C. 2002, c. 14, sections 62 (1) (b); 65 (1) (d); 66 (1) (b); 67 (1) (c)
Homeowner Protection Act Regulation, B.C. 29/99, Schedule 4 [*Homeowner Protection Act*]
Hospital Insurance Act, R.S.B.C. 1996, c. 204, section 7 (1)
Hotel Room Tax Act, R.S.B.C. 1996, c. 207, section 16.1 (2) (c)
Insurance Premium Tax Act, R.S.B.C. 1996, c. 232, section 9
Land Title Act, R.S.B.C. 1996, c. 250, sections 76 (4); 123 (1) (d); 193 (1); 203 (6); 286 (2); 316
Local Government Act, R.S.B.C. 1996, c. 323, sections 48 (3); 57 (2) (b); 72 (2) (b); 72 (2) (c) (i); 79 (2); 79 (6) (a) (ii); 90 (6); 90.1 (3); 110 (5); 116 (3) (b); 117 (2) (b); 121 (3) (b); 121 (3) (c)
Mineral Rights Compensation Regulation, B.C. Reg. 19/99, section 2 (2) [*Mineral Tenure Act*]
Mineral Tenure Act Regulation, B.C. Reg. 529/2004, section 18 (1) (b) (iii) [*Mineral Tenure Act*]
Mortgage Brokers Act, R.S.B.C. 1996, c. 318, section 5
Motor Fuel Tax Act, R.S.B.C. 1996, c. 317, section 63.1 (2) (c)
Motor Vehicle Act, R.S.B.C. 1996, c. 318, sections 32; 94.4 (1) (c); 97.1 (4); 104.1 (4) (a); 104.5 (6) (b) (i); 105.1 (4) (a); 105.4 (6) (b) (i); 243 (4) (a)

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Motor Vehicle Act Regulations, B.C. Reg. 26/58, Form 2; Form 5; Form 6 [*Motor Vehicle Act*]

Name Act, R.S.B.C. 1996, c. 328, section 7 (1) (b)

Pension Benefits Standards Act, R.S.B.C. 1996, c. 352, section 65 (2)

Permit Regulation, B.C. Reg. 253/2000, section 18 (1) [*Wildlife Act*]

Petroleum and Natural Gas Act, R.S.B.C. 1996, c. 361, sections 47 (3) (a); 47 (3) (b); 48

Podiatrists Act, R.S.B.C. 1996, c. 366, section 6 (1)

Recall and Initiative Act, R.S.B.C. 1996, c. 398, sections 3 (2) (c); 19 (2) (d); 49 (2); 50 (4); 75 (2); 86 (4); 97 (3) (b); 124 (2); 125 (4); 135 (4); 144 (3) (b)

Revised Regulation (1984) Under the Insurance (Motor Vehicle) Act, B.C. Reg. 447/83, sections 137 (1); 148 (5) (b); Schedule 4 (statutory declaration) [*Insurance (Motor Vehicle) Act*]

Safety Standards Act, S.B.C. 2003, c. 39, section 18 (1) (n); 18 (2)

Securities Act, R.S.B.C. 1996, c. 418, section 38 (b)

Social Service Tax Act, R.S.B.C. 1996, c. 431, section 3.1 (2) (c)

Tobacco Tax Act, R.S.B.C. 1996, c. 452, section 12.1 (2) (c)

Vancouver Charter, S.B.C. 1953, c. 55, sections 21 (3); 30 (2) (b); 37 (2) (a); 44 (2) (b); 44 (2) (c) (i); 51 (2); 51 (6) (a) (ii); 62 (6); 62.1 (3); 82 (5); 88 (3) (b); 89 (2) (b); 93 (3) (b); 93 (3) (c)

Water Act, R.S.B.C. 1996, c. 483, section 28 (2) (b) (iii)

Wildfire Act, S.B.C. 2004, c. 492, section 62 (2)

APPENDIX M

Provisions Containing Unnecessary Requirements for Sworn Statements to Be Repealed and Replaced with Requirements for Informal Signed Statements Upon Enactment of a General Offence Provision

- Bare Land Strata Plan Cancellation Regulation*, B.C. Reg. 556/82, section 2 (3) (d) [*Strata Property Act*]
- Bare Land Strata Regulations*, B.C. Reg. 75/78, section 8 (2) [*Strata Property Act*]
- College Pension Plan Regulation*, B.C. Reg. 95/2000, section 78 (3) [*Public Sector Pension Plans Act*]
- Compensation and Disaster Financial Assistance Regulation*, B.C. Reg. 124/95, section 19 (7) [*Emergency Program Act*]
- Court Order Enforcement Act*, R.S.B.C. 1996, c. 78, Schedule 3, Form D
- Estate Administration Act*, R.S.B.C. 1996, c. 122, section 123
- Francophone Educational Authorities Regulation*, B.C. Reg. 212/99, sections 7 (3); 16 (3) (b) [*School Act*]
- Geothermal Resources Administrative Regulation*, B.C. Reg. 132/83, section 12 (1) (c) (i); 12 (1) (c) (ii) [*Geothermal Resources Act*]
- Health Act*, R.S.B.C. 1996, c. 179, sections 13 (a); 52 (1)
- Health Professions Act*, R.S.B.C. 1996, c. 183, section 54 (2)
- Hospital Act*, R.S.B.C. 1996, c. 200, section 7 (3)
- Insurance Act*, R.S.B.C. 1996, c. 226, sections 66 (1); 106 (1); 126 (statutory conditions 6 (1) (b); 6 (1) (d); 138 (statutory conditions 3 (1) (b); 4 (1) (c); 4 (4)); 180 (2); 180 (3)
- Labour Relations Code*, R.S.B.C. 1996, c. 244, sections 149 (1) (a); 149 (2) (a); 150 (1)
- Land Act*, R.S.B.C. 1996, c. 245, section 37
- Land (Spouse Protection) Act*, R.S.B.C. 1996, c. 246, section 2 (1) (b)
- Legislative Assembly Allowances and Pension Act*, R.S.B.C. 1996, c. 257, section 12 (1)
- Liquor Distribution Act*, R.S.B.C. 1996, c. 268, sections 11.2 (1) (b); 11.3 (1) (a) (ii)
- Local Government Act*, R.S.B.C. 1996, c. 323, section 26 (3) (d); 26 (3) (f); 26 (3) (g); 26 (3) (k); 426 (6)
- Manufactured Home Park Tenancy Regulation*, B.C. Reg. 481/2003, section 39 (7); Appendix [*Manufactured Home Park Tenancy Act*]
- Marriage Act*, R.S.B.C. 1996, c. 282, sections 11 (1); 16 (1); 19 (2) (a); 19 (2) (b); 19 (3)
- Mortgage Brokers Act Regulations*, B.C. Reg. 100/73, Forms 1–4 [*Mortgage Brokers Act*]
- Optometrists Act*, R.S.B.C. 1996, c. 342, section 22 (1) (c)
- Patients Property Act Rules*, B.C. 311/76, Rule 5 (1) [*Court Rules Act*]
- Personal Property Security Act*, R.S.B.C. 1996, c. 359, section 49 (13)
- Pound Districts Regulation*, B.C. Reg. 66/81, section 2 (3) (c) [*Livestock Act*]
- Railway Act*, R.S.B.C. 1996, c. 395, sections 35 (2) (b); 51; 52 (2)

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Rent Distress Act, R.S.B.C. 1996, c. 403, sections 3 (6) (a); 7 (2)

Trustee Act, R.S.B.C. 1996, c. 464, section 14 (6)

Vancouver Charter, S.B.C. 1953, c. 55, section 451 (1)

Veterinarians Act, R.S.B.C. 1996, c. 476, section 11 (6) (b)

Vital Statistics Act, R.S.B.C. 1996, c. 479, sections 3 (3); 3 (7); 7 (b); 8 (2) (a); 8 (2) (b); 10 (2) (a); 16; 29 (4); 54 (2) (b)

Vital Statistics Regulation, B.C. Reg. 69/82, section 4 (2) (a); 4 (2) (b) (ii) [*Vital Statistics Act*]

Weed Control Act, R.S.B.C. 1996, c. 487, section 7 (2)

Wills Act, R.S.B.C. 1996, c. 489, section 36 (2)

APPENDIX N

Draft Legislation

MISCELLANEOUS STATUTES AMENDMENT (REPEAL OF UNNECESSARY REQUIREMENTS FOR SWORN STATEMENTS) ACT, 2006

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Adoption Act

1 The Adoption Act, R.S.B.C. 1996, c. 5, is amended by adding the following section:

Savings for defects in form of consent

- 16.1** (1) An act, proceeding or matter is not invalid solely because of an irregularity, omission or defect in the form of consent to an adoption required under section 16.
- (2) This section applies to forms of consent made before or after this section comes into force, unless the form of consent is the subject of a proceeding that was commenced before this section comes into force.

Comment: This proposed amendment implements our recommendation 8, which is discussed above at pages 23–24.

Adoption Regulation

2 Section 20 (a) of the Adoption Regulation, B.C. Reg. 291/96, is amended by striking out “an affidavit” and substituting “a signed statement”.

Bare Land Strata Cancellation Regulation

- 3 *Section 2 (3) (d) of the Bare Land Strata Cancellation Regulation, B.C. Reg. 556/82, is amended by striking out “an affidavit” and substituting “a signed statement”.*

Bare Land Strata Regulations

- 4 *Section 8 (2) of the Bare Land Strata Regulations, B.C. Reg. 75/78, is amended by striking out “an affidavit” and substituting “a signed statement”.*

Business Corporations Act

- 5 *Section 39 (4) of the Business Corporations Act, S.B.C. 2002, c. 57, is amended by striking out “an affidavit” and substituting “a signed statement”.*
- 6 *Section 42 (1) (c) (iv) is amended by striking out “affidavit” and substituting “signed statement”.*

Comment: The proposed amendment to section 42 (1) (c) (iv) is a consequential amendment, made to ensure that section 42 corresponds to our proposed amendments to sections 277 (1), 284 (7) (a), and 316 (1) (a).

- 7 *Section 47 (1) (a) is amended by striking out “an affidavit” and substituting “a signed statement”.*
- 8 *Section 49 (2) (a) is amended by striking out “an affidavit” and substituting “a signed statement”.*
- 9 *Section 93 is amended*
- (a) *in subsection (1) by striking out “an affidavit” and substituting “a signed statement” and by striking out “the affidavit” and substituting “the signed statement”, and*
 - (b) *in subsection (2) by striking out “affidavit” and substituting “signed statement”.*

Comment: Section 93 (2) sets out who can swear the affidavit required by section 93 (1) and what that affidavit must contain. The proposed amendment to section 93 (2) is a consequential amendment.

Report on Unnecessary Requirements for Sworn Statements

10 *Section 275 (2) (a) (ii) is amended by striking out “affidavits” and substituting “signed statements” and by striking out “affidavit” and substituting “signed statement”.*

11 *Section 277 is amended*

(a) *in subsection (1) by striking out “an affidavit” and substituting “a signed statement”,*

(b) *in subsection (2) by striking out “affidavit” and substituting “signed statement”,*

(c) *in paragraph (2) (a) by striking out “affidavit” and substituting “signed statement”, and*

(d) *in subsection (3) by striking out “affidavit” and substituting “signed statement”.*

Comment: Section 277 (2) and (3) set out information that must be included in the affidavit required by section 277 (1). The proposed amendments to those subsections are consequential amendments.

12 *Section 278 (1) is amended by striking out “an affidavit” and substituting “a signed statement”.*

Comment: The proposed amendment to section 278 (1) is a consequential amendment, made to ensure that section 278 (1) corresponds to our proposed amendment to section 277 (3).

13 *Section 284 (7) is amended*

(a) *in paragraph (a) by striking out “an affidavit” and substituting “a signed statement”, and*

(b) *in paragraph (b) by striking out “affidavit” and substituting “signed statement”.*

14 *Section 316 is amended*

(a) *in paragraph (1) (a) by striking out “an affidavit” and substituting “a signed statement”,*

(b) *in paragraph (1) (b) by striking out “affidavit” and substituting “signed statement”, and*

(c) *in subsection (2) by striking out “An affidavit” and substituting “A signed statement”.*

Comment: Section 377 (2) lists several requirements applicable to the affidavit mandated by section 377 (1). The proposed amendment to section 377 (2) is a consequential amendment.

College Pension Plan Regulation

- 15 *Section 78 (3) of the College Pension Plan Regulation, B.C. Reg. 95/2000, is amended by striking out “by way of affidavit or declaration or”.*

Compensation and Disaster Financial Assistance Regulation

- 16 *Section 19 (7) of the Compensation and Disaster Financial Assistance Regulation, B.C. Reg. 124/95, is amended by striking out “statutory declaration” and substituting “signed statement”.*

Consumer Protection Act

- 17 *Section 77 (1) (h) of the Consumer Protection Act, R.S.B.C. 1996, c. 69, is amended by striking out “statutory declaration” and substituting “signed statement”.*

Cooperative Association Act

- 18 *Section 133 (2) (a) of the Cooperative Association Act, S.B.C. 1999, c. 28, is amended by striking out “an affidavit” and substituting “a signed statement” and by striking out “the affidavit” and substituting “the signed statement”.*
- 19 *Section 184 (1) (c) is amended by striking out “an affidavit” and substituting “a signed statement”.*
- 20 *Section 197 (2) is amended by striking out “an affidavit” and substituting “a signed statement”.*

Court Order Enforcement Act

- 21 *Schedule 3, Form D of the Court Order Enforcement Act, R.S.B.C. 1996, c. 78, is amended by striking out “I,, of, make oath and say that I am [in my own right, or as the attorney or agent of, of, or that, and myself are] entitled to give the above written certificate. Sworn before me, [month, day, year].” and substituting “..... [Signature] [Date]”.*

Report on Unnecessary Requirements for Sworn Statements

Credit Union Incorporation Act

- 22 *Section 15.1 (2) (b) of the Credit Union Incorporation Act, R.S.B.C. 1996, c. 82, is amended by striking out “an affidavit” and substituting “a signed statement”.*

Crown Franchise Act

- 23 *The Crown Franchise Act, R.S.B.C. 1996, c. 88, is amended by adding the following section:*

Savings for defects in oath of office

- 8 (1) An act, proceeding or matter is not invalid solely because of an irregularity, omission or defect in the form of any oath or affirmation of office required under an enactment.
- (2) This section applies to oaths or affirmations of office sworn or affirmed before or after this section comes into force, unless the oath or affirmation of office is the subject of a proceeding that was commenced before this section comes into force.

Comment: This proposed amendment implements our recommendation 6, which is discussed above at pages 21–22.

Election Act

- 24 *Section 41 (3) (b) of the Election Act, R.S.B.C. 1996, c. 106, is amended by striking out “make a solemn declaration as to” and substituting “provide a signed statement setting out”.*
- 25 *Section 50 is amended*
- (a) *in paragraph (2) (a) by striking out “makes a solemn declaration” and substituting “provides a signed statement”,*
- (b) *in paragraph (2) (b) by striking out “or make a solemn declaration” and substituting “or provide a signed statement”.*

Comment: The proposed amendment to section 50 (2) (b) is a consequential amendment, made to ensure that section 50 (2) (b) corresponds to our proposed amendment to section 50 (2) (a).

- 26 *Section 54 is amended*

Report on Unnecessary Requirements for Sworn Statements

- (a) *in paragraph (3) (c) by striking out “solemn declaration” and substituting “signed statement”, and*
- (b) *by repealing subsection (4).*

Comment: The proposed repeal of subsection (4) is a consequential amendment. Subsection (4) is concerned with the mechanics of taking and delivering a statutory declaration.

27 *Section 57 (3) (b) is amended by striking out “solemn declaration” and substituting “signed statement”.*

28 *Section 109 is amended*

- (a) *in paragraph (5) (a) by striking out “make a solemn declaration” and substituting “provide a signed statement”, and*
- (b) *in paragraph (5) (b) by striking out “make a solemn declaration” and substituting “provide a signed statement”.*

29 *Section 111 is amended*

- (a) *in paragraph (3) (b) by striking out “make a solemn declaration before” and substituting “provide a signed statement to”, and*
- (b) *in subsection (4) by striking out “solemn declaration” and substituting “signed statement”.*

Comment: The proposed amendment to section 111 (4) is a consequential amendment, made to ensure that section 111 (4) corresponds with our proposed amendment to section 111 (3) (b).

30 *Section 112 (2) (b) is amended by striking out “make a solemn declaration” and substituting “provide a signed statement”.*

31 *Section 155 is amended*

- (a) *in paragraph (3) (m) by striking out “solemn declaration” and substituting “signed statement”, and*
- (b) *in paragraph (3) (n) by striking out “solemn declaration” and substituting “signed statement”.*

32 *Section 157 (3) (l) is amended by striking out “solemn declaration” and substituting “signed statement”.*

33 *Section 206 (2) is amended by striking out “solemn declaration” and substituting “signed statement.”*

34 *Section 229 (4) is amended by striking out “solemn declaration” and substituting “signed statement”.*

Report on Unnecessary Requirements for Sworn Statements

35 *Section 240 (3) (b) is amended by striking out “solemn declaration” and substituting “signed statement”.*

36 *Section 268 is repealed.*

Comment: Section 268 deals with the mechanics of making a solemn declaration under the *Election Act*. It may be repealed as a consequential amendment.

37 *Section 269 is amended*

(a) *in subsection (4) by striking out “make a solemn declaration” and substituting “provide a signed statement”, and*

(b) *in subsection (6) by striking out “make the solemn declaration” and substituting “provide the signed statement”.*

Comment: The proposed amendment to section 269 (6) is a consequential amendment.

Elevating Devices Safety Regulation

38 *Section 23 (2) (b) of the Elevating Devices Safety Regulation, B.C. Reg. 101/2004, is amended by striking out “an affidavit” and substituting “a signed statement”.*

39 *Section 35 (6) is amended by striking out “affidavit” and substituting “a signed statement”.*

Engineers and Geoscientists Act

40 *Section 17 (2) of the Engineers and Geoscientists Act, R.S.B.C. 1996, c. 116, is amended by striking out “attest, by oath or affidavit” and substituting “verify, by providing a signed statement”.*

Estate Administration Act

41 *Section 123 of the Estate Administration Act, R.S.B.C. 1996, c. 122, is amended by striking out “an affidavit, sworn before a person authorized under the Evidence Act to administer an oath,” and substituting “a signed statement”.*

42 *Section 125 is amended by striking out “an affidavit” and substituting “a signed statement”.*

Comment: The proposed amendment to section 125 is a consequential amendment, made to ensure that section 125 corresponds to our proposed amendment to section 123.

Family Maintenance Enforcement Act

- 43 *Section 51 (2) (s) of the Family Maintenance Enforcement Act, R.S.B.C. 1996, c. 127, is amended by striking out “affidavit” and substituting “signed statement”.*

Financial Institutions Act

- 44 *Section 23 (2) (b) of the Financial Institutions Act, R.S.B.C. 1996, c. 141, is amended by striking out “an affidavit” and substituting “a signed statement”.*

Francophone Educational Authorities Regulation

- 45 *Section 7 of the Francophone Educational Authorities Regulation, B.C. Reg. 212/99, is amended*
- (a) *in subsection (3) by striking out “solemn declaration” and substituting “signed statement”; and*
 - (b) *by repealing subsection (4).*

Comment: The proposed repeal of section 7 (4) is a consequential amendment. Section 7 (4) sets out the mechanics of making a statutory declaration under subsection (3). It is not necessary to retain this provision if subsection (3) is amended as proposed.

- 46 *Section 16 (3) (b) is amended by striking out “solemn declaration” and substituting “signed statement” and by striking out “and (4)”.*

Gaming Control Act

- 47 *Section 62 (1) (b) of the Gaming Control Act, S.B.C. 2002, c. 14, is amended by striking out “, affidavits”.*
- 48 *Section 65 (1) (d) is amended by striking out “, affidavits”.*
- 49 *Section 66 (1) (b) is amended by striking out “, affidavits”.*
- 50 *Section 67 (1) (c) is amended by striking out “, affidavits”.*

Comment: Each of these provisions authorizes the General Manager of the Gaming Control Branch to request additional information from an applicant. Our proposed amendments do not impair the General Manager’s ability to request additional “information and documents”; they merely do away with the option to require an applicant to provide a sworn statement.

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Geothermal Resources Act

51 *Section 21 of the Geothermal Resources Act, R.S.B.C. 1996, c. 171, is repealed.*

Comment: Section 21 provides that an affidavit required under the regulations may be sworn before a person authorized under the *Evidence Act* or before the Oil and Gas Commissioner. Our proposed amendments to the *Geothermal Resources Administrative Regulation* will repeal the only requirement to provide a sworn statement in any regulation made pursuant to the *Geothermal Resources Act*. As this provision will therefore serve no purpose, it may be repealed.

Geothermal Resources Administrative Regulation

52 *Section 12 of the Geothermal Resources Administrative Regulation, B.C. Reg. 132/83, is amended*

- (a) *in subparagraph (1) (c) (i) by striking out “an affidavit of” and substituting “a signed statement setting out”; and*
- (b) *in subparagraph (1) (c) (ii) by striking out “an affidavit of” and substituting “a signed statement setting out”.*

Health Act

53 *Section 13 (a) of the Health Act, R.S.B.C. 1996, c. 13, is amended by striking out “makes an affidavit before a Provincial Court judge or any other person authorized to take declarations under the Election Act” and substituting “provides a signed statement”.*

Comment: Section 13 of the *Health Act* is framed in somewhat unusual terms. The section expressly refers to making an affidavit before a Provincial Court judge. This seems to be a rather onerous requirement, but it is diluted by the reference to “any other person authorized to take declarations under the *Election Act*” (a class that includes a commissioner for taking oaths). The section deals with exemptions from vaccination. If the intent of this section is to guard against capricious or frivolous exemptions, then that policy could be better addressed by having a decision-maker examine the substantive reasons that an applicant puts forward in support of the application for an exemption.

54 *Section 13 (b) is repealed.*

Comment: Section 13 (b) sets out a procedural requirement relating to a certificate to be provided by a person who takes an affidavit under section 13 (a). In light of our proposed amendment to section 13 (a), section 13 (b) may be repealed as a consequential amendment.

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55 *Section 52 is amended*

- (a) *in subsection (1) by striking out “make affidavit” and substituting “provide a signed statement”, and*
- (b) *in subsection (3) by striking out “make the affidavit” and substituting “provide the signed statement”.*

Comment: The proposed amendment to section 52 (3) is a consequential amendment. It is made to ensure that the reference to subsection (1) is in accord with our proposed amendment to that provision.

Health Professions Act

- 56** *Section 54 (2) of the Health Professions Act, R.S.B.C. 1996, c. 183, is amended by striking out “affidavit” and substituting “a signed statement”.*

Homeowner Protection Act Regulation

- 57** *Schedule 4 of the Homeowner Protection Act Regulation, B.C. Reg. 29/99, is amended by striking out “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 and by virtue of the Evidence Act (Canada).” and the jurat and by substituting “..... [Signature of Owner Builder]”.*

Comment: This proposed amendment preserves the substance of the declaration currently included in the form—which reads, “I, (Owner Builder) have read and understood the relevant provisions of the *Homeowner Protection Act* and related regulations and declare that with respect to this new home, I am not a residential builder, nor am I contracting with a residential builder to construct this new home”—and simply does away with the formality of declaring it before a commissioner for taking affidavits or notary public.

Hospital Act

- 58** *Section 7 (3) of the Hospital Act, R.S.B.C. 1996, c. 200, is amended by striking out “affidavit” and substituting “signed statement”.*

Hospital Insurance Act

- 59** *Section 7 (1) of the Hospital Insurance Act, R.S.B.C. 1996, c. 204, is amended by striking out “an affidavit” and substituting “a signed statement”.*

Hotel Room Tax Act

60 *Section 16.1 (2) (c) of the Hotel Room Tax Act, R.S.B.C. 1996, c. 207, is repealed.*

Insurance Act

61 *Section 66 (1) of the Insurance Act, R.S.B.C. 1996, c. 226, is amended by striking out “statutory declaration” and substituting “a signed statement”.*

62 *Section 106 (1) is amended by striking out “statutory declaration” and substituting “a signed statement”.*

63 *Section 126 is amended*

(a) *in statutory condition 6 (1) (b) by striking out “statutory declaration” and substituting “signed statement”,*

(b) *in statutory condition 6 (1) (d) by striking out “statutory declaration” and substituting “signed statement”, and*

(c) *in statutory condition 7 by striking out “statutory declaration” and substituting “signed statement” and by striking out “declaration” and substituting “signed statement”.*

Comment: The proposed amendment to statutory condition 7 is a consequential amendment.

64 *Section 138 is amended*

(a) *in statutory condition 3 (1) (b) by striking out “statutory declaration” and substituting “signed statement”,*

(b) *in statutory condition 4 (1) (c) by striking out “statutory declaration” and substituting “signed statement”, and*

(c) *in statutory condition 4 (4) by striking out “under oath”.*

65 *Section 180 is amended*

(a) *in subsection (2) by striking out “under oath”, and*

(b) *in subsection (3) by striking out “under oath” and substituting “by a signed statement”.*

Insurance Premium Tax Act

- 66 *Section 9 of the Insurance Premium Tax Act, R.S.B.C. 1996, c. 232, is amended by striking out “affidavit” wherever it appears and substituting “signed statement”.*

Labour Relations Code

- 67 *Section 149 of the Labour Relations Code, R.S.B.C. 1996, c. 244, is amended*
(a) *in paragraph (1) (a) by striking out “an affidavit” and substituting “a statement”, and*
(b) *in paragraph (2) (a) by striking out “an affidavit” and substituting “a statement”.*
- 68 *Section 150 (1) is amended by striking out “statutory declaration” and substituting “signed statement”.*

Land Act

- 69 *Section 37 of the Land Act, R.S.B.C. 1996, c. 245, is amended by striking out “affidavit” and substituting “a signed statement” and by repealing the section heading and substituting “Signed statement may be required”.*
- 70 *Section 104 is repealed.*

Comment: Section 104 of the *Land Act* provides that “[i]n addition to persons authorized by the *Evidence Act*, the deputy minister, an assistant deputy minister, the Surveyor General, a commissioner and a director are commissioners for taking affidavits for British Columbia for an affidavit required under this Act.” Section 37 is the only provision in this Act that requires an affidavit, so section 104 may be repealed as a consequential amendment.

Land (Spouse Protection) Act

- 71 *Section 2 (1) (b) of the Land (Spouse Protection) Act, R.S.B.C. 1996, c. 246, is amended by striking out “an affidavit” and substituting “a signed statement”.*

Land Title Act

- 72 *Section 76 (4) of the Land Title Act, R.S.B.C. 1996, c. 250, is amended by striking out “an affidavit” and substituting “a signed statement”.*

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- 73 *Section 123 (1) (d) is amended by striking out “affidavit” and substituting “a signed statement”.*
- 74 *Section 193 (1) is amended by striking out “affidavit” and substituting “a signed statement”.*
- 75 *Section 203 (6) is amended by striking out “sworn declaration” and substituting “signed statement”.*
- 76 *Section 286 (2) is amended by striking out “affidavit” and substituting “signed statement”.*
- 77 *Section 316 is amended by striking out “affidavit” and substituting “a signed statement”.*

Legislative Assembly Allowances and Pension Act

- 78 *Section 12 (1) of the Legislative Assembly Allowances and Pension Act, R.S.B.C. 1996, c. 257, is amended by striking out “, signed before the Clerk, or a commissioner for taking affidavits for British Columbia,”.*

Liquor Distribution Act

- 79 *Section 11.2 (1) (b) of the Liquor Distribution Act, R.S.B.C. 1996, c. 268, is amended by striking out “, affidavits”.*
- 80 *Section 11.3 (1) (a) (ii) is amended by striking out “, affidavits”.*
- 81 *Section 33 is repealed.*

Comment: Section 33 of the *Liquor Distribution Act* provides that “[t]he general manager, a store manager and an official authorized by the general manager to issue permits and licences under this Act or the *Liquor Control and Licensing Act* may administer an oath and take an affidavit required under this Act or the regulations.” If the proposed amendments to sections 11.2 and 11.3 are made, section 33 will serve no apparent purpose and should therefore be repealed as a consequential amendment.

Local Government Act

- 82 *Section 26 of the Local Government Act, R.S.B.C. 1996, c. 323, is amended*
(a) in paragraph (3) (d) by striking out “an affidavit” and substituting “a signed statement” and by striking out “attesting to” and substituting “confirming”,

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- (b) *in paragraph (3) (f) by striking out “an affidavit” and substituting “a signed statement” and by striking out “attesting to” and substituting “confirming”,*
- (c) *in paragraph (3) (g) by striking out “an affidavit” and substituting “a signed statement” and by striking out “attesting to” and substituting “confirming”, and*
- (d) *in paragraph (3) (k) by striking out “statement under oath” and substituting “signed statement”.*

83 *Section 33 is amended by repealing the definition of “solemn declaration”.*

Comment: The proposed amendment to section 33 is a consequential amendment.

84 *Section 42 (2) (b) is repealed.*

Comment: Section 42 (2) (b) authorizes the chief election officer to “take solemn declarations where these are required by this Part.” Our proposed amendments will repeal all the requirements in this Part that require the giving of a solemn declaration and replace them with requirements to provide a signed statement. As a result, section 42 (2) (b) may be repealed as a consequential amendment.

85 *Section 45 is repealed.*

Comment: Section 45 deals with the mechanics of providing a solemn declaration under this Part of the *Local Government Act*. It may be repealed as a consequential amendment.

86 *Section 48 is amended*

- (a) *in subsection (3) by striking out “to make a solemn declaration or” and by striking out “makes a solemn declaration” and substituting “provides a signed statement setting out”, and*
- (b) *in subsection (4) by striking out “to make a solemn declaration” where it first appears and by striking out “to make a solemn declaration” where it second appears and substituting “to provide a signed statement”.*

Comment: The proposed amendment to section 48 (4) is a consequential amendment.

87 *Section 57 (2) (b) is amended by striking out “make a solemn declaration” and substituting “provide a signed statement”.*

88 *Section 72 is amended*

- (a) *in paragraph (2) (b) by striking out “make a solemn declaration” and substituting “provide a signed statement”, by striking out “made” and*

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substituting “provided” *and by striking out* “taken by the chief election officer”, *and*

(b) *in subparagraph (2) (c) (i) by striking out* “solemn declaration” *and substituting* “signed statement”.

89 *Section 79 is amended*

(a) *in paragraph (1) (a) by striking out* “solemn declaration” *and substituting* “signed statement” *by striking out* “made” *and substituting* “provided”,

(b) *in subsection (2) by striking out* “make the solemn declaration” *and substituting* “provided the signed statement”,

(c) *in subsection (3) by striking out* “solemn declaration” *and substituting* “signed statement”,

(d) *in subparagraph (3) (a) (iii) by striking out* “make the solemn declaration” *and substituting* “provide the signed statement”,

(e) *in subsection (5) by striking out* “solemn declaration” *and substituting* “signed statement”, *and*

(f) *in subparagraph (6) (a) (ii) by striking out* “solemn declaration” *and substituting* “signed statement”.

Comment: The proposed amendments to section 79 (1) (a), (3) (3) (a) (iii), and (5) are consequential amendments.

90 *Section 90 (6) is amended by striking out* “solemn declarations” *and substituting* “signed statements”.

91 *Section 90.1 (3) is amended by striking out* “solemn declarations” *and substituting* “signed statements”.

92 *Section 92.2 (3) is amended by striking out* “solemn declaration” *and substituting* “signed statement”.

Comment: The proposed amendment to section 92.2 (3) is a consequential amendment, made to ensure that section 92.2 (3) corresponds with our proposed amendment to section 79 (2).

93 *Section 93 (1) is amended by striking out* “declarations” *wherever it appears and substituting* “statements”.

Comment: The proposed amendment to section 93 (1) is a consequential amendment, made to ensure that section 93 (1) corresponds to our proposed amendment to sections 90 and 90.1.

94 *Section 110 (5) is amended by striking out* “make a solemn declaration” *and substituting* “provide a signed statement undertaking”.

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95 *Section 116 is amended*

- (a) *in paragraph (3) (b) by striking out “make a solemn declaration before” and substituting “provide a signed statement to”, and*
- (b) *in subsection (4) by striking out “solemn declaration” and substituting “signed statement”.*

Comment: The proposed amendment to section 116 (4) is a consequential amendment. Subsection (4) describes what the document described in subsection (3) must contain, and therefore must be amended to be in accord with subsection (3).

96 *Section 117 (2) (b) is amended by striking out “make a solemn declaration” and substituting “provide the signed statement”.*

97 *Section 121 is amended*

- (a) *in paragraph (3) (b) by striking out “make a solemn declaration before” and substituting “provide a signed statement to”, and*
- (b) *in paragraph (3) (c) by striking out “make a solemn declaration” and substituting “provide a signed statement”.*

98 *Section 133 (1) (g) is amended by striking out “any solemn declarations taken and” and be striking out “written”.*

Comment: The proposed amendment to section 133 (1) (g) is a consequential amendment.

99 *Section 150 is amended*

- (a) *in paragraph (3) (e) by striking out “any solemn declarations taken and” and be striking out “written”, and*
- (b) *in paragraph (6) (f) by striking out “any solemn declarations taken and” and be striking out “written”*

Comment: The proposed amendments to section 150 (3) (e) and (6) (f) are consequential amendments.

100 *Section 156 (2) (d) is amended by striking out “solemn declaration” and substituting “signed statement”.*

Comment: The proposed amendment to section 156 (2) (d) is a consequential amendment, made to ensure that section 156 (2) (d) corresponds to our proposed amendments to section 79.

101 *Section 426 (6) is amended by striking out “an affidavit” and substituting “a signed statement.”*

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Comment: Section 198 (d) provides that a Regional District Officer has authority with respect to “administering oaths and taking affirmations, declarations and affidavits required to be taken under this or any other Act relating to regional districts.” This provision should be investigated in light of our proposed amendments. If it no longer serves any purpose, it should be repealed.

Manufactured Home Park Tenancy Regulation

- 102** *Section 39 (7) of the Manufactured Home Park Tenancy Regulation, B.C. Reg. 481/2003, is amended by striking out “an affidavit” and substituting “a signed statement”.*
- 103** *The Appendix is amended by striking out “Affidavit of” and substituting “Signed Statement—”, by striking out “MAKE OATH AND SAY AS FOLLOWS” and substituting “hereby certify that”, in paragraph 5 by striking out “affidavit” and substituting “signed statement” and by striking out the jurat.*

Marriage Act

- 104** *Section 11 (1) of the Marriage Act, R.S.B.C. 1996, c. 282, is amended by striking out “an affidavit” and substituting “a signed statement”.*
- 105** *Section 16 is amended*
- (a) in subsection (1) by striking out “an affidavit” and substituting “a signed statement”,*
 - (b) by repealing subsection (2),*
 - (c) in subsection (3) is amended by striking out “affidavit” and substituting “signed statement”, and*
 - (d) in subsection (4) by striking out “affidavits” where it first appears and substituting “signed statements” and by striking out “affidavits or other”.*

Comment: The proposed amendments to section 16 (2)–(4) are consequential amendments.

- 106** *Section 19 is amended*
- (a) in paragraph (2) (a) by striking out “an affidavit” and substituting “a signed statement”,*
 - (b) in paragraph (2) (b) by striking out “an affidavit” and substituting “a signed statement”, and*
 - (c) in subsection (3) by striking out “affidavits” and substituting “signed statements”.*

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107 *Section 31 is amended by striking out “receive and take affidavits” and substituting “administer an oath”.*

Comment: Section 31 of the *Marriage Act* authorizes the Minister of Health to “. . . appoint a suitable person to be an issuer of marriage licences, with authority to receive and take affidavits for this Act.” Our proposed amendments will repeal the requirements to give an affidavit under the *Marriage Act*. But we are proposing that an issuer of marriage licences retain the power to examine a person under oath, in order to fulfil an investigative function under section 16 (5) (b). The proposed consequential amendment to section 31 will make the provision better reflect the actual task that may be carried out by an issuer of marriage licences.

Mineral Rights Compensation Regulation

108 *Section 2 (2) of the Mineral Rights Compensation Regulation, B.C. Reg. 19/99, is amended by striking out “an affidavit” and substituting “a signed statement”.*

Mineral Tenure Act Regulation

109 *Section 18 (1) (b) (iii) of the Mineral Tenure Act Regulation, B.C. Reg. 529/2004, is amended by striking out “statutory declaration” and substituting “signed statement”.*

Mortgage Brokers Act

110 *Section 5 of the Mortgage Brokers Act, R.S.B.C. 1996, c. 318, is amended by striking out “sworn” and substituting “signed”.*

111 *Section 22 (1) (d) is amended by adding “or the regulations” between “Act” and “that”.*

Comment: The proposed amendment to section 22 (1) (d) makes it clear that the offence created by that provision applies both to false statements provided pursuant to the *Mortgage Brokers Act* and to the *Mortgage Brokers Act Regulations*.

Mortgage Brokers Act Regulations

112 *Form 1 of the Mortgage Brokers Act Regulations, B.C. Reg. 100/73, is amended by adding “I hereby certify the foregoing information is complete and true” between paragraph 20 and “Dated at” and by striking out the part of the form labelled “Affidavit”.*

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- 113** *Form 2 is amended by adding “I hereby certify the foregoing information is complete and true” between paragraph 10 and “Dated at” and by striking out the part of the form labelled “Affidavit”.*
- 114** *Form 3 is amended by adding “I hereby certify the foregoing information is complete and true” between paragraph 4 and “..... [Name of applicant]” and by striking out the part of the form labelled “Affidavit”.*
- 115** *Form 4 is amended by adding “I hereby certify the foregoing information is complete and true” between paragraph 3 and “..... [Signature of applicant]” and by striking out the part of the form labelled “Affidavit”.*

Comment: These proposed amendments replace the affidavits appended to Forms 1–4 with certifications. The language of the certification is drawn from Form 5.

Motor Fuel Tax Act

- 116** *Section 63.1 (2) (c) of the Motor Fuel Tax Act, R.S.B.C. 1996, c. 317, is repealed.*

Motor Vehicle Act

- 117** *Section 32 of the Motor Vehicle Act, R.S.B.C. 1996, c. 318, is amended by striking out “affidavit” and substituting “a signed statement”.*
- 118** *Section 66 is repealed.*

Comment: Section 66 of the *Motor Vehicle Act* authorizes certain persons “to take the affidavits required or authorized to be made under this Act.” As a result of our proposed amendments to this Act, this section may be repealed as a consequential amendment.

- 119** *Section 94.4 (1) (c) is amended by striking out “statutory declaration” and substituting “signed statement”.*
- 120** *Section 97.1 (4) is amended by striking out “makes” and substituting “gives” and by striking out “statutory declaration” wherever it appears and substituting “signed statement”.*
- 121** *Section 104.1 (4) (a) is amended by striking out “statutory declaration” and substituting “signed statement”.*
- 122** *Section 104.5 (6) (b) (i) is amended by striking out “statutory declaration declaring” and substituting “signed statement that sets out that”.*
- 123** *Section 105.1 (4) (a) is amended by striking out “statutory declaration” and substituting “signed statement”.*

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- 124** *Section 105.4 (6) (b) (i) is amended by striking out “statutory declaration declaring” and substituting “signed statement setting out”.*
- 125** *Section 243 (4) (a) is amended by striking out “completes a statutory declaration” and substituting “provides a signed statement”.*

Motor Vehicle Act Regulations

- 126** *Form 2 of the Motor Vehicle Act Regulations, B.C. Reg. 26/58, is amended by striking out the title “Statutory Declaration” and by striking out “I make this solemn declaration conscientiously, believing it to be true, and knowing that it is of the same legal force and effect as if made under oath”, the jurat and the Warning and substituting “..... [Signature]”.*
- 127** *Form 5 is amended by striking out the title “Statutory Declaration” and by striking out “I make this solemn declaration conscientiously, believing it to be true, and knowing that it is of the same legal force and effect as if made under oath”, the jurat and the Warning and substituting “..... [Signature]”.*
- 128** *Form 6 is amended by striking out the title “Statutory Declaration” and by striking out “I make this solemn declaration conscientiously, believing it to be true, and knowing that it is of the same legal force and effect as if made under oath”, the jurat and the Warning and substituting “..... [Signature]”.*

Comment: These three forms are currently statutory declarations. The proposed amendment simply refashions the forms as signed statements. An alternative approach would be to repeal the forms entirely, and leave the substance of the signed statement to be determined in each case by the appropriate administrative authority.

Name Act

- 129** *Section 7 (1) (b) of the Name Act, R.S.B.C. 1996, c. 328, is amended by striking out “an affidavit” and substituting “a signed statement”.*
- 130** *Section 8 is repealed.*

Comment: Section 8 provides that “[t]he chief executive officer, an inspector of vital statistics or a vital statistics registrar has the powers of a commissioner for taking affidavits for British Columbia for the purposes of this Act.” In light of our proposed amendment to section 7 (1) (b), section 8 may be repealed as a consequential amendment.

Offence Act

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131 *The Offence Act, R.S.B.C. 1996, c. 338, is amended by adding the following section:*

False information in a signed statement

- 5.1** (1) If an enactment requires or permits information to be given by a signed statement, a person who provides material information in the signed statement knowing it to be untrue, or reckless as to its untruth, commits an offence.
- (2) If an enactment requires or permits information to be given by a signed statement, a person who produces or relies on a signed statement given by another, knowing it to be untrue with respect to material information, commits an offence.

Comment: This proposed amendment implements our recommendation 2, which is discussed above at pages 16–18.

Optometrists Act

132 *Section 22 (1) (c) of the Optometrists Act, R.S.B.C. 1996, is amended by striking out “affidavit” and substituting “a signed statement”.*

Patients Property Act Rules

133 *Rule 5 (1) of the Patients Property Act Rules, B.C. Reg. 311/76, is amended by striking out “affidavit” and replacing it with “a signed statement” and by repealing the heading and substituting “Verified by signed statement”.*

Comment: Rule 5 deals with accounts. It provides that accounts may be “presented to the Public Trustee or to a registrar [of the Supreme Court].” Depending on the circumstances, the sworn statement required under Rule 5 (1) may be characterized as being used in court or out of court. The proposed amendment focusses on the document presented—which is the same in each case—and repeals the requirement to provide a sworn statement. Another approach that could be taken would be to repeal the requirement only in connection with accounts presented to the Public Trustee and to preserve it for accounts presented to a registrar.

Pension Benefits Standards Act

134 *Section 65 (2) of the Pension Benefits Standards Act, R.S.B.C. 1996, c. 352, is amended by striking out “affidavit, declaration or”.*

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Permit Regulation

- 135** *Section 18 of the Permit Regulation, B.C. Reg. 253/2000, is amended*
- (a) *in subsection (1) by striking out “statutory declaration or swears an affidavit” and substituting “signed statement”, and*
 - (b) *in subsection (2) by striking out “statutory declaration” and substituting “signed statement”.*
- 136** *Schedule 3 is amended by striking out “statutory declaration” and substituting “signed statement”.*

Comment: The amendments to section 18 (2) and Schedule 3 are consequential amendments. The provisions deal with the setting of fees.

Personal Property Security Act

- 137** *Section 49 (13) of the Personal Property Security Act, R.S.B.C. 1996, c. 359, is amended by striking out “an affidavit” and substituting “a signed statement”.*

Petroleum and Natural Gas Act

- 138** *Section 47 of the Petroleum and Natural Gas Act, R.S.B.C. 1996, c. 361, is amended*
- (a) *in paragraph (3) (a) by striking out “an affidavit of expenditure” and substituting “a signed statement setting out expenditures”, by striking out “exhibits” and substituting “attachments” and by striking out “affidavit” and substituting “signed statement”, and*
 - (b) *in paragraph (3) (b) by striking out “an affidavit of estimated expenditure” and substituting “a signed statement setting out estimated expenditures” and by striking out “exhibits” and substituting “attachments”.*
- 139** *Section 48 is amended by striking out “an affidavit” and substituting “a signed statement”.*
- 140** *Section 113 is repealed.*

Comment: Section 113 provides that an affidavit required under the *Petroleum and Natural Gas Act* may be sworn before a person authorized under the *Evidence Act* or before the Oil and Gas Commissioner. Our proposed amendments to the Act will repeal all such requirements to give a sworn statement. As this provision will therefore serve no purpose, it may be repealed.

Podiatrists Act

- 141 *Section 6 (1) of the Podiatrists Act, R.S.B.C. 1996, c. 366, is amended by striking out “affidavit” and substituting “signed statement”.*

Pound Districts Regulation

- 142 *Section 2 (3) (c) of the Pound Districts Regulation, B.C. Reg. 66/81, is amended by striking out “statutory declaration” and substituting “signed statement”.*

Railway Act

- 143 *Section 35 (2) (b) of the Railway Act, R.S.B.C. 1996, c. 395, is amended by striking out “affidavits of” and substituting “signed statements confirming”.*
- 144 *Section 51 is amended by striking out “affidavit” and substituting “signed statement”.*
- 145 *Section 52 (2) is amended by striking out “affidavit” and substituting “signed statement” and by striking out “an affidavit” and substituting “a signed statement”.*

Recall and Initiative Act

- 146 *Section 3 (2) (c) of the Recall and Initiative Act, R.S.B.C. 1996, c. 398, is amended by striking out “solemn declaration” and substituting “signed statement”.*
- 147 *Section 19 (2) (d) is amended by striking out “solemn declaration” and substituting “signed statement”.*
- 148 *Section 49 (2) is amended by striking out “solemn declaration” and substituting “signed statement”.*
- 149 *Section 50 (4) is amended by striking out “solemn declaration” and substituting “signed statement”.*
- 150 *Section 75 (2) is amended by striking out “solemn declaration” and substituting “signed statement setting out”.*
- 151 *Section 86 (4) is amended by striking out “solemn declaration” and substituting “signed statement setting out”.*
- 152 *Section 97 (3) (b) is amended by striking out “solemn declaration” and substituting “signed statement”.*

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- 153 *Section 124 (2) is amended by striking out “solemn declaration” and substituting “signed statement setting out”.*
- 154 *Section 125 (4) is amended by striking out “solemn declaration” and substituting “signed statement”.*
- 155 *Section 135 (4) is amended by striking out “solemn declaration” and substituting “signed statement setting out”.*
- 156 *Section 144 (3) (b) is amended by striking out “solemn declaration” and substituting “signed statement”.*

Rent Distress Act

- 157 *Section 3 of the Rent Distress Act, R.S.B.C. 1996, c. 403, is amended*
- (a) *in paragraph (6) (a) by striking out “statutory declaration” and substituting “signed statement”,*
 - (b) *in paragraph (6) (b) by striking out “declaration” and substituting “signed statement”, and*
 - (c) *in paragraph (6) (c) by striking out “declaration” and substituting “signed statement”.*

Comment: The proposed amendments to paragraphs (6) (b) and (6) (c) are consequential amendments.

- 158 *Section 7 (2) is amended by striking out “, who must be sworn before a justice or commissioner for taking affidavits”.*

Revised Regulation (1984) Under the Insurance (Motor Vehicle) Act

- 159 *Section 137 of the Revised Regulation (1984) Under the Insurance (Motor Vehicle) Act, B.C. Reg. 447/83, is amended*
- (a) *in subsection (1) by striking out “statutory declaration” and substituting “signed statement”; and*
 - (b) *in subsection (2) by striking out “statutory declaration” and substituting “signed statement”.*

Comment: The proposed amendment to subsection (2) is a consequential amendment. As such, it preserves the substance of the section, which authorizes the Insurance Corporation of British Columbia to conduct an examination of an insured person under oath. Strictly speaking, this provision does not require a sworn statement; it simply gives the Insurance Corporation of British

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Columbia the authority to require one. If such an examination is required, it would be closer to the requirements in category A, which are not subject to the basic recommendation that they be repealed and replaced with more informal requirements.

160 *Section 148 (5) (b) is amended by inserting “signed” between “a” and “statement” and by striking out “under oath”.*

161 *Schedule 4 (Form CL-42) is amended*

(a) *in the title by striking out “Statutory Declaration”,*

(b) *in the opening unnumbered paragraph by striking out “solemnly declare” and replacing it with “hereby certify”, and*

(c) *by striking out the jurat.*

Safety Standards Act

162 *Section 18 of the Safety Standards Act, S.B.C. 2003, c. 39, is amended*

(a) *in paragraph (1) (n) by striking out “or affidavit” wherever it appears, and*

(b) *in subsection (2) by striking out “, in writing or by an affidavit” and substituting “or in writing”.*

Securities Act

163 *Section 38 (b) of the Securities Act, R.S.B.C. 1996, c. 418, is amended by striking out “by affidavit or otherwise”.*

Social Service Tax Act

164 *Section 3.1 (2) (c) of the Social Service Tax Act, R.S.B.C. 1996, c. 431, is repealed.*

Tobacco Tax Act

165 *Section 12.1 (2) (c) of the Tobacco Tax Act, R.S.B.C. 1996, c. 452, is repealed.*

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Trustee Act

166 *Section 14 (6) of the Trustee Act, R.S.B.C. 1996, c. 464, is amended by striking out “An affidavit” and substituting “A signed statement”.*

Comment: This provision covers both in-court and out-of-court situations. It will be necessary to enact a new section if the requirement to provide an affidavit is to be preserved for court applications.

Vancouver Charter

167 *Section 15 (2) (b) of the Vancouver Charter, S.B.C. 1953, c. 55, is repealed.*

168 *Section 16 (2) (a) is repealed.*

Comment: Section 15 (2) (b) authorizes the chief election officer to “take solemn declarations where these are required by this Part.” Section 16 (2) (a) authorizes the presiding election official to “take solemn declarations where these are required by this Part in relation to the election proceedings for which the presiding election official is responsible.” These sections may be repealed as consequential amendments.

169 *Section 18 is repealed.*

Comment: Section 18 sets out the mechanics for taking solemn declarations. It may be repealed as a consequential amendment.

170 *Section 21 is amended*

(a) *in subsection (3) by striking out “to make a solemn declaration or” and substituting “provide a signed statement” and by striking out “makes a solemn declaration” and substituting “provides a signed statement setting out”, and*

(b) *in subsection (4) by striking out “make the solemn declaration” wherever it appears and substituting “provide the signed statement”.*

Comment: The proposed amendment to section 21 (4) is a consequential amendment.

171 *Section 30 (2) (b) is amended by striking out “make a solemn declaration” and substituting “provide a signed statement”.*

172 *Section 37 is amended*

(a) *in paragraph (2) (a) by striking out “makes a solemn declaration” and substituting “provides a signed statement”, and*

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- (b) *in paragraph (2) (b) by striking out “make a solemn declaration” and substituting “provide a signed statement”.*

Comment: The proposed amendment to section 37 (2) (b) is a consequential amendment.

173 *Section 44 is amended*

- (a) *in paragraph (2) (b) by striking out “solemn declaration” and substituting “signed statement”, and*
- (b) *in subparagraph (2) (c) (i) by striking out “solemn declaration” and substituting “signed statement”.*

174 *Section 51 is amended*

- (a) *in subsection (1) (a) by striking out “solemn declaration” and substituting “signed statement”,*
- (b) *in subsection(2) by striking out “solemn declaration” and substituting “signed statement”,*
- (c) *in subsection (3) by striking out “solemn declaration” and substituting “signed statement”,*
- (d) *in subsection (5) by striking out “solemn declaration” and substituting “signed statement”, and*
- (e) *in subparagraph (6) (a) (ii) by striking out “solemn declaration” and substituting “signed statement”.*

Comment: The proposed amendments to section 51 (1) (a), (3), and (5) are consequential amendments.

175 *Section 62 (6) is amended by striking out “solemn declarations” and substituting “signed statements” and by striking out “declaration” and substituting “signed statement”.*

176 *Section 62.1 (3) is amended by striking out “solemn declarations” and substituting “signed statements” and by striking out “declaration” and substituting “signed statement”.*

177 *Section 64.2 (3) is amended by striking out “solemn declaration” and substituting “signed statement”.*

Comment: The proposed amendment to section 64.2 (3) is a consequential amendment. The provision refers to section 51 (2) and, therefore, must be amended to correspond to our proposed amendments to that section.

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178 *Section 65 (1) is amended by striking out “declarations” wherever it appears and substituting “statements”.*

Comment: The proposed amendment to section 65 (1) is a consequential amendment, made to ensure that section 65 (1) corresponds to our proposed amendments to sections 62 and 62.1.

179 *Section 82 (5) is amended by striking out “make a solemn declaration” and substituting “provide a signed statement undertaking”.*

180 *Section 88 is amended*

(a) *in paragraph (3) (b) by striking out “make a solemn declaration before” and substituting “provide a signed statement to”, and*

(b) *in subsection (4) by striking out “solemn declaration” and substituting “signed statement”.*

Comment: The proposed amendment to section 88 (4) is a consequential amendment. Subsection (4) describes what the document described in subsection (3) must contain, and therefore must be amended to be in accord with subsection (3).

181 *Section 89 (2) (b) is amended by striking out “solemn declaration” and substituting “signed statement”.*

182 *Section 93 is amended*

(a) *in paragraph (3) (b) by striking out “make a solemn declaration before” and substituting “provide a signed statement to”, and*

(b) *in paragraph (3) (c) by striking out “solemn declaration” and substituting “signed statement”.*

183 *Section 105 (1) (g) is amended by striking out “any solemn declarations taken and” and by striking out “written”.*

Comment: The proposed amendment to section 105 (1) (g) is a consequential amendment.

184 *Section 122 is amended*

(a) *in paragraph (3) (e) by striking out “any solemn declarations taken and” and by striking out “written”, and*

(b) *in paragraph (6) (f) by striking out “any solemn declarations and” and by striking out “written” and substituting “signed”.*

Comment: The proposed amendments to section 122 (3) (e) and (6) (f) are consequential amendments.

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185 *Section 125 (6) (b) is amended by striking out “or declaration” wherever it appears.*

Comment: The proposed amendment to section 125 (6) (b) is a consequential amendment.

186 *Section 128 (1) (d) is amended by striking out “solemn declaration” and substituting “signed statement”.*

Comment: The proposed amendment to section 128 (1) (d) is a consequential amendment. The provision refers to section 51 and, therefore, must be amended to correspond to our proposed amendments to section 51.

187 *Section 451 (1) is amended by striking out “statutory declaration” and substituting “signed statement”.*

Veterinarians Act

188 *Section 11 (6) (b) of the Veterinarians Act, R.S.B.C., c. 476, is repealed.*

Vital Statistics Act

189 *Section 3 of the Vital Statistics Act, R.S.B.C. 1996, c. 479, is amended*

- (a) in subsection (3) by striking out “make and”, by striking out “an affidavit” and substituting “a signed further statement” and by striking out “declarant” and substituting “person”, and*
- (b) in subsection (7) by striking out “make and” and by striking out “an affidavit” and substituting “a signed statement”.*

190 *Section 7 (b) is amended by striking out “affidavit” and substituting “signed statement”.*

191 *Section 8 is amended*

- (a) in paragraph (2) (a) by striking out “an affidavit” and substituting “a signed statement”,*
- (b) in paragraph (2) (b) by striking out “an affidavit” and substituting “a signed statements”, and*
- (c) in subsection (4) by striking out “affidavits” and substituting “signed statements”.*

Comment: The proposed amendment to section 8 (4) is a consequential amendment.

Report on Unnecessary Requirements for Sworn Statements

192 *Section 10 (2) (a) is amended by striking out “an affidavit” and substituting “a signed statement”.*

193 *Section 16 is amended by striking out “by affidavit”.*

194 *Section 29 (4) is amended by striking out “affidavit” and substituting “a signed statement”.*

Comment: Section 42 provides that “[t]he chief executive officer, inspector and every vital statistics registrar has, for the purposes of this Act only, the powers of a commissioner for taking affidavits for British Columbia.” The need for this provision should be investigated in light of our proposed amendments. If it no longer serves a purpose, it should be repealed.

195 *Section 54 (2) (b) is amended by striking out “oath” and substituting “undertaking”.*

Vital Statistics Act Regulation

196 *Section 4 of the Vital Statistics Act Regulation, B.C. Reg. 69/82, is amended*

(a) in paragraph (2) (a) by striking out “statutory declaration” and substituting “signed statement”,

(b) in paragraph (2) (b) by striking out “statutory declaration” and substituting “signed statement”,

(c) in subparagraph (2) (b) (ii) by striking out “statutory declaration” and substituting “signed statement”.

Comment: The proposed amendment to section 4 (2) (b) is a consequential amendment, made to ensure that section 4 (2) (a) is in accord with our proposed amendment to section 4 (2) (a).

Water Act

197 *Section 28 (2) (b) (iii) of the Water Act, R.S.B.C. 1996, c. 483, is amended by striking out “an affidavit proving” and substituting “a signed statement confirming”.*

Weed Control Act

198 *Section 7 (2) of the Weed Control Act, R.S.B.C. 1996, c. 487, is amended by striking out “affidavit” and substituting “a signed statement”.*

Report on Unnecessary Requirements for Sworn Statements

Wildfire Act

199 *Section 62 (2) of the Wildfire Act, S.B.C. 2004, c. 31, is amended by striking out “take an oath that he or she will not” and substituting “undertake not to”.*

Wills Act

200 *Section 36 (2) of the Wills Act, R.S.B.C. 1996, c. 489, is amended by striking out “statutory declaration” and substituting “signed statement”.*

Commencement

201 This Act comes into force by regulation of the Lieutenant Governor in Council.

Report on Unnecessary Requirements for Sworn Statements

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