

## BULLETIN 5

### **STATUTORY DECLARATIONS: PURPOSE AND PRACTICAL APPLICATION**

2025

*The purpose of this bulletin is to explain the CCDC 9A and 9B Statutory Declaration forms and to review their purpose and practical application.*

#### **What is a Statutory Declaration?**

A Statutory Declaration of Progress Payment Distribution is a sworn declaration made before a commissioner for oaths, notary public or justice of the peace, whereby a Contractor (on CCDC 9A) or Subcontractor (on CCDC 9B) declares that all amounts payable by them as a result of their receipt of a specified progress payment have been paid, subject to the three exceptions which are identified on the forms.

#### **When are Statutory Declarations to be used?**

CCDC 2 – 2020 requires Contractors to provide a Statutory Declaration with each application for payment after the first payment has been made. However, payment of the immediately preceding application may not have been made to the Contractor when the current application is submitted and may need to be provided at a later time in such instances. The wording on the CCDC 9A and 9B forms states that these Statutory Declaration forms are to be provided as a condition of payment, but not necessarily at the same time as the application. As the declaration only covers money received by the Contractor, requiring a second Statutory Declaration be provided before the next payment has been made is redundant, as the Contractor would be making the same declaration as done previously.

#### **How to complete a Statutory Declaration**

As they are sworn declarations, it is important that they are filled out correctly. In the top right corner, the form asks for information about the last application for payment that the Contractor has received payment for. It is intended that the Contractor completes this line with the sequential number of the last application for payment (e.g. “2” if the second application has been paid). This forms the basis of the declaration, as it specifies the amount that the Contractor is declaring has been distributed.

The declaration must be signed by an individual with knowledge of the facts at hand (i.e. that the progress payments have been distributed) and authority to sign on behalf of the company. Commissioning services are offered by most local construction associations.

### **Use of non-standard statutory declarations**

Like all CCDC documents, the CCDC 9A and 9B reflect fair, balanced, and industry-approved wording and practices. Use of non-standard declarations opens both parties to the risk that there are unanticipated differences compared to the standard CCDC 9 forms. For Owners, this may mean potential lien claims. For Contractors, this could result in false declarations being inadvertently made. With a properly sealed CCDC 9 form, the parties can rest assured that the declaration is authentic without having to review it in detail each time.

### **False declarations**

As noted on the forms themselves, the CCDC 9s are sworn declarations made with the same force and effect as if made under oath. The making of a false or fraudulent declaration is a contravention of the Criminal Code of Canada, and could carry, upon conviction, penalties including fines or imprisonment.

### **Copyright**

CCDC 9A and 9B are copyrighted documents. As indicated by the box in the lower right hand corner of the new documents, a CCDC 9 copyright seal is required to be applied to each and every completed form. Failure to apply a CCDC 9 copyright seal or repurposing the copyrighted wording on custom forms is an infringement of CCDC's copyright and subject to prosecution under applicable laws. The use of a CCDC 9 copyright seal demonstrates that it is an authentic, unamended version of CCDC 9A or 9B. All parties receiving Statutory Declarations should accept only those which are properly sealed. Please see CCDC's 'The Proper Use of CCDC Copyright Seals' bulletin for more information on copyright.

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