



WAIVERS & FORMS

What are waivers and declaration forms?

According to [Sport Law & Strategy Group](#):

A **waiver** is a legal contract signed by an adult participant who, in exchange for the opportunity to participate, gives up their right to seek legal recourse in the event of an injury. An assumption of risk agreement is an acknowledgement of risk signed by a parent/guardian of a minor participant.

A **declaration** form should state that the individual pledges that they have not been exposed to COVID-19 in the past 14 days and are taking reasonable steps to avoid being exposed. The declaration should also say that your organization reserves the right to remove the participant from the facility or from your programming for any reason.

In other words, waivers, assumption of risk agreements and forms are used to protect your club and its directors from legal recourse by having participants waive their rights (in the waiver), acknowledge risks in an assumption of risk agreement and declare they have not been exposed to COVID-19 (in the declaration).

Do minors need to sign waivers and declarations?

A minor cannot sign a contract that does not benefit them, and therefore cannot sign a waiver. Furthermore, a parent cannot restrict their minor child's rights either (a waiver limits their right to sue). This means that a minor should not be given a waiver, and a parent cannot sign a waiver on behalf of a minor either.

Instead of a waiver, you should have an "Assumption of Risk" form that describes the risks (physical and legal), but that does not limit the minor's right to sue. A parent/guardian can sign this form and indicate their consent.

For the declaration form, as long as the individual understands what they are declaring, they should fill out the form on their own, regardless of age.

To further simplify, here is a minimum of what you should have:

1. Waiver (adults only)
2. Assumption of Risk (minors only)
3. Declaration form (both adults and minors)

How often do waivers and declarations need to be signed?

For waivers, it is best practice to have a waiver signed for each specific event, however it is possible to have a "one and done" for the entire season. Given that a waiver is used for a participant to waive their right to legal recourse, it is possible to only have this done once for the season, provided the proper wording is used.

For declarations, these **MUST** be done each time someone comes to the club, as the individual's health can change daily; it is not possible to sign a declaration saying you will be healthy for the entire season. Declarations must be signed **every time** someone arrives at the

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club, as they are declaring that they are healthy and do not have COVID-19 at that specific point in time. Signing a declaration on July 1 does not guarantee that the individual is still healthy or has not been exposed to COVID in the last 24 hours on July 2, let alone a month or more later. These declarations contribute to the safety of ALL members accessing the club.

Do we need to create our own waivers, assumption of risk and declaration forms?

A template waiver, declaration and assumption of risk form have been prepared by Bowls Canada's legal advisor (for provinces and territories under the common law system which excludes Quebec) and shared with each Provincial Bowls Association for distribution to clubs. It is recommended that clubs use these forms as they contain up to date wording to address the current situation. Please contact your Provincial Bowls Association for more information.

Do you need a witness?

As long as the form is properly filled out, and has a unique signature, you do not need a witness. If a witness can be ascertained, it is a good practice.

Can we have the forms filled out online?

For the declaration forms, yes, typing your name clicking that you declare something should be sufficient, although it is good practice to collect a unique signature the first time this is done. There should be a unique signature for the waiver and assumption of risk form as it is not enough to simply click "agree" online. Whether this is a digital signature, an online signature with a mouse or finger, or a signed paper copy is up to you. To allow for unique signatures online, consider using a service such as [SmartWaiver.com](https://www.smartwaiver.com).

It is also recommended that clubs take the time to go through these forms with their members the first time they are presented to ensure clarity and understanding. This could be done through a virtual meeting using Zoom, Google Meet or other free platform.

What if someone can't access our online forms?

You should still offer paper copies for those who cannot access your online forms. Be sure to have a proper filing system so that you can keep both electronic and paper copies stored safely and securely.

What do we do with the forms once they are signed?

You should have someone confirm that the forms are filled out properly prior to allowing anyone access to your greens. If someone is feeling unwell or has tested positive for COVID-19 in the past 14 days, you should not allow them to participate.

You should store your forms in a safe location for a minimum of two years, maybe longer pending your provincial statute of limitations. Who can access the forms, and where they are stored, is up to each club to decide. Make sure that you are following any applicable policies, such as a Privacy Policy or a Confidentiality Policy, if your club has them.

Do we need to share the forms with our Provincial Association or BCB?

For regular club usage (club games, club practice, club access, etc.), you do not need to share your forms with BCB. You should contact your Provincial Sport Organization (PSO) to confirm whether or not they require copies of your forms.

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What if someone doesn't sign a form or waiver?

It is up to the club to decide whether or not to allow participants to participate without signing the proper forms. For the sake of liability and the safety of other club members, no should be allowed to participate without signing the appropriate forms first.

Source: Sport Law & Strategy Group ([link](#))