

False Statement Under Oath s 193

The prosecution must prove that:

1. On an occasion on which the defendant was making a statement touching on any matter which statement was required by law to be made on oath.¹
2. The defendant made a statement touching such matter.
3. The statement contained a material particular which was false.
4. A particular is material if it was of such significance that it was capable of affecting the decision of a person who would be acting on the statement.²
The trial judge should direct as to whether a particular is material or not.
5. The defendant knew it was false at the time.
6. The defendant verified the statement on oath etc.

The defendant cannot be convicted upon the uncorroborated testimony of one witness.³

¹ Or other sanction, affirmation or declaration etc (s 193(1)).

² The prosecution does not have to show that the defendant knew that the particular was material, his or her belief in that regard is irrelevant. It is for the judge to decide that issue: *R v Millward* [1985] QB 519; (1985) 80 Cr App R 280; *R v Traino* (1987) 27 A Crim R 271. But see *R v Davies* (1974) 7 SASR 375, in which case there is discussion as to whether the rule appropriate to perjury applies with respect to this particular offence.

³ Section 195, but see s 195A.