

Who can witness a statutory declaration or affidavit in Queensland

This information is general in nature and cannot be used as a substitute for appropriate professional legal advice about your particular circumstances.

A statutory declaration or an affidavit under the *Oaths Act 1867* must ordinarily be signed by the person making it (you), and your signature must be witnessed by another person. Who can be a witness depends on how the document is signed (on paper or electronically), and how the document is witnessed (in person or by audio visual link (AV link)).

Signing on paper and witnessing in person

If your statutory declaration or affidavit is signed on paper and witnessed in person, the witness can be:

- » a Justice of the Peace (JP)
- » a Commissioner for Declarations (Cdec)
- » a notary public
- » a lawyer
- » a conveyancer, or another person authorised to administer an oath, under the law of the State, the Commonwealth or another State, or
- » a person that is prescribed by regulation (currently senior police officers¹).

Signing electronically or witnessing over AV link

If your statutory declaration or an affidavit is either signed electronically, or witnessed via AV link, the witness must be a special witness or another person prescribed by regulation (senior police officers²).

A **special witness** can be:

- » an Australian legal practitioner
- » a government legal officer who is an Australian lawyer and witnesses documents as part of their government work
- » a JP or Cdec who has been approved as a special witness
- » if the document was prepared by a law practice – a JP or Cdec employed by the law practice who witnesses documents as part of their employment
- » a notary public, or
- » if the document was prepared by the Public Trustee of Queensland – a JP or Cdec employed by the Public Trustee.

In Australia, there is a difference between a **legal practitioner** and a **lawyer**. A lawyer is a person who is admitted to the legal profession in Queensland or another corresponding jurisdiction. A legal practitioner is a lawyer who also holds a current practising certificate and can engage in legal practice. Under the *Oaths Act 1867*, a legal practitioner can be a special witness.

Find out more information on having a statutory declaration witnessed online by an approved JP or Cdec at www.qld.gov.au/onlinewitnessing.



Relevant forms

Statutory Declaration

There is not one universal form that you must use to make a statutory declaration. Some court and tribunal forms also contain a statutory declaration.

The Department of Justice has approved and published one statutory declaration form for use from 3 February 2025. This form complies with the requirements of the *Oaths Act 1867*.

Please download this form to make a statutory declaration, using the notes in the left-hand margin for guidance. More information about making a statutory declaration can be found at www.qld.gov.au/legaldocuments.

The same form can be used to make any type of statutory declaration whether it is signed physically or electronically, witnessed by someone in person or via AV link, or signed by you or a substitute signatory.

The witness may sign either the original document or an identical copy of it.

This form can be found at www.publications.qld.gov.au/dataset/statutory-declaration-affidavit.

Affidavit

There is not one universal affidavit form that must be used. The form varies depending on the:

- » court or tribunal,
- » type of proceeding,
- » purpose of the affidavit.

Visit www.courts.qld.gov.au/about/forms to find forms used in most courts in Queensland.

Other forms can also be found on the website for the court or tribunal where your affidavit is being filed at www.courts.qld.gov.au/courts.

If you are not sure which form to use, you should contact the relevant court or tribunal or seek legal advice. For help finding a solicitor, law firm or barrister visit qld.gov.au/findlegaladvice.

If you need more help

If you need more help completing a statutory declaration or affidavit, or where there are concerns about personal safety, for example, due to domestic, family or sexual violence you can contact:

- » **Community Legal Centres Queensland** for details of your local community legal centre to find your local community legal centre at www.communitylegalqld.org.au/find-legal-help/, and/or
- » **Queensland Law Society (QLS)** on **1300 367 757**, or access the QLS' Find a solicitor service at www.youandthelaw.com.au/directory.

More information is also available at www.qld.gov.au/legaldocuments.

If you are a JP or Cdec and need help

If you are a JP or Cdec and need help in witnessing a statutory declaration or affidavit in Queensland, you can contact:

- » the **Justices of the Peace Branch** on **1300 301 147** who will be able to provide you with the correct witnessing procedure.

More information is also available at www.qld.gov.au/jps.

Endnotes

- 1 Please note, a police officer can only witness a statutory declaration or affidavit made by a member of the community if they are a JP/Cdec. Only certain police officers can witness statutory declarations or affidavits made by other police officers in certain circumstances.
- 2 As above.