

Form 1

Oaths Act 1867 (sections 13C, 13E, 14)

Version 2: approved for use from 30 April 2022

Statutory Declaration (Queensland)

This form allows you to make a statutory declaration under the *Oaths Act 1867* in Queensland. A statutory declaration is a written statement that is declared to be true in the presence of an authorised witness.

Making a false statement in a statutory declaration is a criminal offence. If your statutory declaration is based on information or belief, you should state the sources of your information or the grounds for your belief. You can also attach documents to your statutory declaration to support your statement.

At the back of this form, you will find an explanatory guide about who can witness your statutory declaration. In some cases, you may need a **special witness** to witness your statutory declaration.

You can print this document and sign it on paper before any authorised witness. You can **only electronically sign this document if it is witnessed by a special witness or other authorised person. You can only have this document witnessed over audio visual link (e.g. videoconference) if it is witnessed by a special witness.**

Queensland Revenue Office is collecting the information on this for the purposes of administering state revenue. This is authorised by the *Duties Act 2001*. Your personal information will not be disclosed without your consent, except in the circumstances outlined in the *Taxation Administration Act 2001* or as otherwise authorised by law.

Forms and explanatory guides are available at www.publications.qld.gov.au.



Queensland
Government

Form 1
QUEENSLAND

Oaths Act 1867

STATUTORY DECLARATION

Transfer duty exemption—native title claim

I, _____, of
(Full name)

_____, do
(Address)

solemnly and sincerely declare that:

1. As chairperson/director/secretary/trustee¹, I am authorised to make this statutory declaration on behalf of the claimant _____,
(Name of claimant)

2. The claimant is the transferee/grantee of property described as Lot _____
(Lot number)
on Plan _____ in the state of Queensland.
(Plan number)

If there is more than 1 property, attach a separate page with the descriptions of the other properties.

3. The transfer/grant is being undertaken for the sole purpose of giving effect to a registered Indigenous land use agreement (ILUA) between the claimant as transferee/grantee and _____
(Name of transferor/grantor) dated _____.
(Date of transfer)

4. The transfer/grant is expressly contemplated by the ILUA, in settlement of a native title claim registered on the Register of Native Title Claims under the *Native Title Act 1993* (Cwlth).

5. The ILUA is registered on the Register of Indigenous Land Use Agreements under the Native Title Act.

6. **Use requirement:** The land will be used by the claimant solely or almost solely for traditional or residential purposes and not for commercial purposes.

7. **Start of use:** The claimant will start to use the property in accordance with the use requirement no later than 6 months after the claimant becomes entitled to possession of the land.

‘Entitled to possession of the land’ means:

- For transfers of freehold land—the claimant is entitled to possession once the transfer has been registered in the Freehold Land Titles Register.
- For grants of unallocated state land—the claimant is entitled to possession on the date the Deed of Grant is issued by the Governor in Council.

¹ Evidence of appointment as chairperson, director or secretary of the organisation must be supplied.
If the claimant is a trustee, a copy of the trustee deed or trust instrument must accompany this declaration.

8. Duration of use: The land will continue to be used in accordance with the use requirement for at least 12 months from the start date mentioned in item 7.

9. The intended use of the land is:

10. If the land is not used in accordance with the requirements set out in items 6, 7 and 8, I understand that transfer duty is payable in full and the claimant is obliged to:

- a. notify the Commissioner of State Revenue in writing, within 28 days after failing those requirements
- and
- b. pay immediately the amount of transfer duty for which the exemption was provided.

11. I understand that failure to comply with the obligations referred to in item 10(a) and (b) may result in unpaid tax interest and penalties under the Taxation Administration Act 2001, Part 5.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867*.

I declare that the contents of this statutory declaration are true and correct. Where the contents of this declaration are based on information and belief, the contents are true to the best of my knowledge.

I understand that it is a criminal offence to provide a false matter in a declaration, for example, the offence of perjury under the Criminal Code, section 123.

Declared at _____ on _____
(Place where declarant is located) (Date)

(Signature of declarant)

Add this panel if a substitute signatory signs – DELETE IF NOT APPLICABLE

Signed for and at the direction of the declarant by _____ (Full name of substitute signatory)	_____ (Signature of substitute signatory) _____ (Date)
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In the presence of:

(Full name of witness)

(Signature of witness)

(Type of witness)²

(Date)

(Witness's place of employment)^{*3}
*delete if not applicable



WITNESS to complete—Tick as applicable

I am a special witness under the *Oaths Act 1867*.
(see section 12 of the *Oaths Act 1867*)

This statutory declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867*.⁴

I understand the requirements for witnessing a document by audio visual link and have complied with those requirements.

**** IMPORTANT NOTE ****

**COMPLETE THE NEXT PAGE TITLED 'HOW THIS DOCUMENT WAS MADE'.
ATTACH THIS PAGE TO YOUR STATUTORY DECLARATION.**

2. Insert the witness's capacity that makes them eligible to witness the statutory declaration, including as a special witness under section 16C or part 6A of the *Oaths Act 1867*; for example, Australian legal practitioner, lawyer, justice of the peace, commissioner for declarations, notary public, a justice of the peace or commissioner for declarations approved by the Chief Executive under section 12(2) of the *Oaths Act 1867*, government legal officer.
3. For example, the name of the law practice for the Australian legal practitioner, the name of the government department of the government legal officer, the name of the law practice for a justice of the peace who witnesses documents for a law practice.
4. Tick this box if the statutory declaration was made over audio visual link.

HOW THIS DOCUMENT WAS MADE

The declarant and the witness must complete this page by ticking the appropriate boxes below. Attach this page to your statutory declaration.

The signatory or substitute signatory must complete this section.

SIGNATORY OR SUBSTITUTE SIGNATORY to complete	
Who signed this declaration?	
<input type="checkbox"/>	The signatory
<input type="checkbox"/>	A substitute signatory
How did the signatory or substitute signatory sign?	
<input type="checkbox"/>	On paper
<input type="checkbox"/>	Electronically
How was this declaration witnessed?	
<input type="checkbox"/>	In person
<input type="checkbox"/>	Over audio visual link

The witness must complete this section.

WITNESS to complete	
How did you (the witness) sign this document?	
<input type="checkbox"/>	On paper
<input type="checkbox"/>	Electronically
What document did you (the witness) sign?	
<input type="checkbox"/>	The same physical (paper) document that was signed in the presence of the signatory or substitute signatory
<input type="checkbox"/>	A copy of the document that was signed by the signatory/substitute signatory (e.g a scanned copy of a paper signed document, a photocopy or printout)
<input type="checkbox"/>	A counterpart of the document (a copy of the document without the signature of the signatory or substitute signatory)
What form of document did you (the witness) sign?	
<input type="checkbox"/>	Paper
<input type="checkbox"/>	Electronic (tick this if you electronically signed the document or if you physically signed a copy of the document signed by the signatory or substitute signatory and then sent a scanned copy of that document to the signatory or other person)
How was the substitute signatory directed to sign (if applicable)?	
<input type="checkbox"/>	In person by the signatory
<input type="checkbox"/>	Over audio visual link by the signatory

WHO CAN WITNESS A STATUTORY DECLARATION IN QUEENSLAND

A statutory declaration under the *Oaths Act 1867* in Queensland must be signed in the presence of an eligible witness. Who can witness a statutory declaration depends on how the document is signed (whether on paper or electronically), and whether the witness is present in person or by audio visual link.

Signing in the physical presence of witness

If the statutory declaration is to be signed on paper and in person, the witness can be:

- a justice of the peace (JP)
- a commissioner for declarations (Cdec)
- a notary public
- a lawyer
- a licensed conveyancer in another state or territory
- any person who is authorised by law to administer an oath in another state or territory
- another person prescribed by regulation.

Signing electronically or witnessing over audio visual link

The witness must be a **special witness** if the statutory declaration is to be:

- signed electronically (whether witnessed in person or by audio visual link)
- or
- witnessed over audio visual link (whether signed on paper or electronically).

A **special witness** is:

- an Australian legal practitioner
- a government legal officer who is an Australian lawyer and who witnesses documents in the course of the government work engaged in by the officer
- an **approved** JP
- an **approved** Cdec
- a JP or Cdec who is employed by the law practice and who witnesses documents in the course of that employment—if the document was prepared by a law practice
- a notary public
- a JP or Cdec who is an employee of the Public Trustee of Queensland—if the document was prepared by the Public Trustee
- another person prescribed by regulation.

WHO CAN SIGN A STATUTORY DECLARATION AS A SUBSTITUTE SIGNATORY

A substitute signatory is a person directed by the signatory to sign the statutory declaration on their behalf. The person who witnesses the statutory declaration must also observe the signatory giving the direction to the substitute signatory—this may occur in person or by audio visual link.

Who can't be a substitute signatory

- A person who is another party to the proceeding, or a relation of a person who is another party to the proceeding—if the statutory declaration is to be used in a court or tribunal proceeding
- The person who witnesses the statutory declaration
- A person excluded under any other law from signing the document as a substitute signatory

Who can be a substitute signatory

- Any adult with capacity can be a substitute signatory, except for those persons excluded above.
- However, if the signatory directs the substitute signatory over audio visual link to sign the document (i.e. they are not physically in each other's presence when the direction is given), then the substitute signatory must be:
 - any Australian legal practitioner
 - a government legal officer who is an Australian lawyer and who witnesses documents in the course of the government work engaged in by the officer
 - an employee of the Public Trustee of Queensland.

Note that whenever audio visual links are used to make a document (regardless of whether the witness or substitute signatory are present by audio visual link), the document must be witnessed by a **special witness** (refer above).