

## 4.2 Witnessing statutory declarations

### Definition of statutory declarations

Statutory declarations are written statements declaring something is true and correct. They carry a degree of formal authority that statements with only a signature do not. For matters dealt with by Queensland legislation, they are made under the *Oaths Act 1867*. For Commonwealth matters, they are made under the *Statutory Declarations Act 1959*.

There is no requirement for a statutory declaration to be sworn or affirmed as they are not generally used in a court of law.

Statutory declarations must be correctly worded and standard forms are available online at [www.courts.qld.gov.au](http://www.courts.qld.gov.au) and at courthouses. However, most government department forms and many other forms required by a wide range of statutory authorities and businesses follow the format of a statutory declaration. Others, such as insurance claim forms, include a statutory declaration at the end.

### Why do people make statutory declarations?

A statutory declaration is intended to ensure the statement being made is truthful. It has the effect of putting the signatory—called the declarant—on notice that the information they provide must be, in their conscientious opinion (i.e. to the best of their knowledge and belief), entirely correct. If it is not, they will be liable to a penalty.

Some legislation requires information to be supplied in the form of a statutory declaration. In some cases, people choose to make a statement by way of a statutory declaration—not because there is a legal requirement to do so, but because they believe the statement will carry more weight as a result.

### How do you witness a statutory declaration?

You should follow the general procedure for witnessing signatures, as outlined in the general witnessing chapter 4.1.

For a statutory declaration, however, you should also:

- **Warn the declarant, at the outset, about the penalty for making a false declaration.** Explain that, if the declaration is found to be untruthful, the declarant may be charged under the *Criminal Code* and be liable to penalties including fines or imprisonment.
- **Check the declarant understands the declaration.** Question the declarant closely about the contents of the declaration to ensure they understand it. Warn them again about the penalties for making a false declaration.

If you are satisfied the declarant understands the declaration, ask them:

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*Do you solemnly and sincerely declare that the contents of this declaration are true and correct to the best of your knowledge and belief?*

Instruct the declarant to answer:

*I solemnly and sincerely declare that the contents of this declaration are true and correct to the best of my knowledge and belief.*

Or:

*I do so declare.*

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The declarant then signs the declaration and you witness the signature in the normal manner.

## Things to bear in mind

### Location

Under the *Oaths Act 1867*, you can witness the signing of a statutory declaration anywhere in the world: in Queensland, interstate or overseas. However, a statutory declaration under this Act will apply only to matters covered by Queensland law.

A statutory declaration under Commonwealth law (*Statutory Declarations Act 1959*) may be taken (witnessed) overseas and in Australia. Therefore, neither state nor national borders limit your powers as a witness for Commonwealth documents.

### Use the set format

Statutory declarations (both Queensland and Commonwealth) should be in the correct format. Forms are available in most stationery stores, post offices and from your local Magistrates Court. They can also be downloaded from [www.courts.qld.gov.au](http://www.courts.qld.gov.au).

At times, you may be presented with statutory declarations that may not be in the correct format. If the form is not available, the declarant can prepare the document, provided it is substantially in the following format:

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*I, [name], do solemnly and sincerely declare that [let the declarant declare the facts here] and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1867.*

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If the actual format of the document is not substantially in accordance with the provisions of the *Oaths Act 1867* or another Act or law, then you should decline to witness the document.

### Check over the declaration

This is covered in the general witnessing chapter 4.1 and you should do this as a matter of course. However, it is worth repeating here because you need to check there are no blank spaces, particularly in a document that requires the deponent to answer prepared questions. It is not possible to ‘declare’ a blank or unanswered question.

Remember, you must cross out any spaces the declarant has deliberately left blank, and both you and the declarant must initial these blank spaces and any other alterations made.

**Note:** The following are exceptions to witnessing a document with unanswered questions.

- Victim Assist Queensland (VAQ) financial applications
- domestic and family violence applications
- some family law documents.

## Frequently asked questions

### Do I need to use a Bible?

Bibles are not required for statutory declarations not sworn or affirmed. However, if a declarant wishes to swear a statutory declaration using a Bible, then they could, provided there is one available.

### Is there an age limit of a person making a statutory declaration?

There is nothing in law that precludes someone who is under 18 making a statutory declaration. You would need to be satisfied the person understands the nature and content of the declaration and that they must tell the truth.

### Can more than one person declare and sign on the same statutory declaration?

Sometimes the receiving agency requires more than one person to make a declaration. You can execute such a document, however it must be legible and the appropriate wording used, such as changing 'I' to 'we'. Alternatively, both parties can complete their own statutory declaration.

### What if there are attachments to the statutory declaration?

Attachments must be referred to and described in the body of the declaration. Each attachment should be marked with the following:

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*This is the [type of document] or copy of the [type of document] marked with the letter 'A' referred to in the [name of main document] declared before me on this ..... day of ..... 20 .....*

.....

### Should I keep a record of the statutory declarations I witness?

Yes. You should include information in your logbook such as:

- date
- document witnessed
- deponent's details
- type of identification sighted
- location of signing
- any other relevant details.

## Where can I get more information?

### Copies of statutory declarations

[www.courts.qld.gov.au/forms](http://www.courts.qld.gov.au/forms)

### Queensland legislation

[www.legislation.qld.gov.au](http://www.legislation.qld.gov.au)

### Commonwealth legislation

[www.legislation.gov.au](http://www.legislation.gov.au)

## Forms

### Queensland statutory declaration

[www.publications.qld.gov.au/dataset/statutory-declaration](http://www.publications.qld.gov.au/dataset/statutory-declaration)

### Commonwealth statutory declaration

[www.ag.gov.au/Publications/Pages/Statutorydeclarations.aspx](http://www.ag.gov.au/Publications/Pages/Statutorydeclarations.aspx)

## Sample form

### Queensland Statutory Declaration (page 1 of 1)

**Oaths Act 1867**  
**Statutory Declaration**

**QUEENSLAND  
TO WIT**

I, **Insert full name** of **Insert address**, in the State of Queensland do  
solemnly and sincerely declare that

**Insert matters  
to be declared**

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

**Signature of the person making the declaration**

Declarant

Taken and declared before me at **Town or suburb** this       day of       20 ,  
before me.

**Insert your seal of office or your prescribed mark of office and  
insert your registration number beside or below your signature**

Justice of the Peace/Commissioner for Declarations

## Sample form

### Commonwealth Statutory Declaration (page 1 of 1)

Commonwealth of Australia  
STATUTORY DECLARATION  
*Statutory Declarations Act 1959*

1 *Insert the name, address and occupation of person making the declaration*

I, <sup>1</sup> **Insert full name, address and occupation**

make the following declaration under the *Statutory Declarations Act 1959*:

2 *Set out matter declared to in numbered paragraphs*

<sup>2</sup> **Insert matters to be declared**

SAMPLE

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959*, and I believe that the statements in this declaration are true in every particular.

3 *Signature of person making the declaration*

<sup>3</sup> **Insert signature**

4 *Place*  
5 *Day*  
6 *Month and year*

Declared at <sup>4</sup> **Town or suburb** on <sup>5</sup> **Insert day** of <sup>6</sup> **Insert month and year**

Before me,

7 *Signature of person before whom the declaration is made (see over)*

<sup>7</sup> **Insert your full name, seal of office or your prescribed mark of office and insert your registration number beside or below your signature**

8 *Full name, qualification and address of person before whom the declaration is made (in printed letters)*

<sup>8</sup> **You can use the following address:  
Level 6, 154 Melbourne Street  
South Brisbane QLD 4101**

*Note 1* A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years — see section 11 of the *Statutory Declarations Act 1959*.

*Note 2* Chapter 2 of the *Criminal Code* applies to all offences against the *Statutory Declarations Act 1959* — see section 5A of the *Statutory Declarations Act 1959*.

## Quick guide

### Follow these steps to witness statutory declarations

- ① Warn the declarant about the penalty for making a false declaration.
- ② Check the declarant understands the declaration.
- ③ Ask the declarant to make their declaration.
- ④ You must ensure there are no blank spaces. It is not possible to 'declare' a blank or unanswered question.

### Then follow the general procedure for witnessing documents

- ① Check what type of document it is. Don't witness the document if:
  - a. You don't believe it's lawful.
  - b. You don't have authority to do so.
- ② Check if the document has special requirements e.g. proof of identity, personal knowledge of the signatory.
- ③ Confirm the document is properly formatted e.g. signing as a statutory declaration.
- ④ Check the signatory is the person named in the document.
- ⑤ Ask for proof of identity.
- ⑥ Confirm the date throughout the document is the same as the date on which you're witnessing.
- ⑦ Read through the document for alterations, spaces or omissions.
  - a. Both you and the signatory should initial any changes, including correction fluid or tape.
  - b. Decline to witness material you know to be false.
  - c. Cross out or ask the signatory to complete any unanswered fields, then both of you should initial them.
- ⑧ Number multiple-page documents. You and the signatory should then initial each page.
- ⑨ Warn the signatory they must tell the truth.
- ⑩ Ask the signatory to sign the document in front of you.
- ⑪ Sign the document and insert your registration number wherever a signature is required.
  - a. If the signatory has asked you to not check the document, state this in writing before signing.
- ⑫ Place your seal of office close to wherever you have signed (either beneath or beside, but never over the signature).
- ⑬ Enter all relevant details in your logbook.