

## 4.12 Witnessing international, Commonwealth and interstate documents

### What powers do I have for witnessing international, Commonwealth and interstate documents?

#### International documents

Generally, you have no authority to sign a document intended for use outside Australia. A notary public, consular staff or embassy officials should witness international documents, unless the document specifies otherwise.

#### Commonwealth documents

You may witness Australian (Commonwealth) documents anywhere in the world.

Commonwealth legislation recognises your appointment as a Cdec under state legislation and authorises you as a witness for Commonwealth documents. Therefore, neither state nor national borders limit your powers as a witness for Commonwealth documents.

#### Interstate documents

##### Witnessed outside Queensland

Cdecs do not have authority to witness interstate documents while they are outside Queensland. However, a Cdec can witness Queensland documents anywhere, as long as the document is returning to Queensland.

However, some states have legislation authorising Cdecs from other states to witness certain documents in their particular state. Before agreeing to witness an interstate document while you are outside Queensland, seek advice from the agency responsible for the document in that state.

##### Witnessed in Queensland

In some circumstances, you can witness interstate documents while you are in Queensland. The court or authority where the document is to be lodged determines if you are acceptable as a witness, so you should try to ascertain this prior to witnessing the document.

### Queensland documents witnessed outside Queensland

Your appointment as a Cdec is made under Queensland legislation by virtue of the *Justices of the Peace and Commissioners for Declarations Act 1991*. This means your powers apply to all matters within the State of Queensland.

You may perform your functions as a witness in any state or territory, or indeed internationally, provided the document in question is to be used in Queensland.

The following examples may help to illustrate this limitation of power:

- You are in London, and someone approaches you with a statutory declaration to be witnessed. The document is to be tendered as evidence in a court hearing in Brisbane. You have the authority to witness this document. (If the document were to be used in England or anywhere else apart from Queensland, you would not have the authority to witness it).
- You are in Victoria, and someone approaches you to witness a statutory declaration under that state's legislation. You do not have authority to witness this document.
- You are in Brisbane, and someone approaches you to witness a family law form (a Commonwealth document), which is to be used in Western Australia. You have the authority to witness this document.
- You are still in Brisbane, and someone else approaches you with the same type of Commonwealth document, a family law form, only this time it is to be used in Queensland. You have the authority to witness this document.

- In Queensland, someone asks you to witness a New South Wales document that is to be filed in the Supreme Court of New South Wales. You may witness this document, but you must note beside your signature that you are a Cdec 'for and in the State of Queensland'. It will then be up to the New South Wales court to decide whether or not the document is acceptable.

## **Why are there limits on my powers to witness international and interstate documents?**

As your appointment as a Cdec is made under Queensland legislation, your powers generally relate to Queensland and Commonwealth documents.

Unless a particular document specifically allows it, you do not have the authority to deal with documents coming under the legislation of other states or other countries.

## **Where can I get more information?**

**JP Branch**

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