



Guidelines for Authorised Witnesses



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Glossary of Terms

Affidavit	A written document that is sworn on oath or affirmed and made before a person who is authorised to take an oath or affirmation.
Affirmation	A verbal, solemn and formal declaration that may be made in place of an oath, if a person objects to taking an oath or if an oath is contrary to that person's religious beliefs.
Attorney	A person appointed to make financial, legal or medical treatment decisions for another person by a Power of Attorney.
Authorised Person/Witness	A person authorised by Section 107A or 123C of the <i>Evidence (Miscellaneous Provisions) Act 1958</i> (as of 1 January 2010), (previously <i>Evidence Act 1958</i>), to witness statutory declarations and to receive affidavits.
Capacity (or Legal Capacity)	A person, in a Power of Attorney, who has the ability to reason things out. He or she can understand, retain, believe, evaluate (that is, process) and weigh up relevant information.
Declarant	A person who makes a statutory declaration.
Deponent	A person who makes an affidavit.
Donor	A person who gives (donates) decision-making power to another person by a Power of Attorney.
Enduring	In a Power of Attorney, the power continues (endures) even if the person giving it loses the physical or mental capacity to make decisions.
Jurat	The certification at the end of an affidavit stating when and where the affidavit was sworn, and by whom. This is followed by the signature, address and title of the person before whom the affidavit was sworn or affirmed.
Oath	A solemn promise made in the name of God, or to some other revered deity, that statements made are true. The deponent may or may not choose to swear on a religious text, such as a Bible, or other religious book according to the person's religious beliefs.
Power of Attorney	A legal document whereby a person (the donor) appoints another person, (the attorney), to make financial, legal or medical treatment decisions for the donor.
Statutory Declaration	A written statement, signed and solemnly declared to be true and correct in the knowledge that, if the statement is false, the person making the statement is liable to the penalties of perjury.

Affidavits

Affidavits are true statements made in writing. They are mainly used in legal proceedings. Anyone making an affidavit (deponent) must take an oath or affirmation stating that the content of the affidavit is true and correct. This must be done in the presence of an authorised witness (you).

An affidavit commences with the full name and address of the deponent in the following format:

If being sworn:

I,[full name]
of[address]
make oath and say:

[This is the statement the deponent wishes to make].

If being affirmed:

I,[person making affirmation]
of[address of person making affirmation]

do solemnly and sincerely affirm:

[This is the statement the deponent wishes to make].

Before witnessing an affidavit, you should:

- ∇ examine the affidavit quickly to ensure that it is neat and legible and does not contain any blank spaces which could be filled in after swearing. You are not required to read the document in detail; in fact, it could be inappropriate to do so;
- ∇ confirm the deponent understands the content of the affidavit and the nature of the oath/affirmation; and
- ∇ ensure the deponent signs the affidavit before the oath/affirmation is taken.

Oath

It is not necessary that a religious text be used in taking an oath.

However, if a religious text is used, the deponent should hold it in his or her hand and say or recite the following oath:

“I swear (or the person taking the oath may promise) by Almighty God (or the person may name a god recognised by his or her religion) that this is my name and handwriting and that the contents of this, my affidavit, are true and correct in every particular.”

If the Koran is used instead of the bible, the person witnessing the document, if not Muslim should not touch the Koran.

If the affidavit includes exhibits, the oath is modified to:

“I swear (or the person taking the oath may promise) by Almighty God (or the person may name a god recognised by his or her religion) that this is my name and handwriting and that the contents of this, my affidavit, are true and correct in every particular (and these are the exhibits referred to therein).”

An experienced deponent may recite the oath with or without a religious text. There is no need for the authorised witness to administer the oath if they are satisfied the oath has been stated voluntarily and satisfactorily.

Affirmation

A person who is required to take an oath may choose whether to take an oath or to make an affirmation.

The officer administering the oath or affirmation is to inform the person that he or she has this choice, unless the officer is satisfied that the person has already been informed or knows that he or she has the choice.

The officer administering the oath or affirmation may direct the person to make an affirmation if:

- (a) the person refuses to choose whether to take an oath or make an affirmation; or
- (b) it is not reasonably practicable for the person to take an appropriate oath.¹

The affirmation to be recited or repeated by the deponent is:

“I solemnly and sincerely declare and affirm that this is my name and handwriting and that the contents of this, my affidavit, are true and correct in every particular.”

If the affidavit includes exhibits, the affirmation is modified to:

“I solemnly and sincerely declare and affirm that this is my name and handwriting and that the contents of this, my affidavit, are true and correct in every particular (and these are the exhibits referred to therein).”

Multiple Affidavits

Two or more affidavits can be sworn simultaneously. The affidavits are placed side by side and the oath or affirmation varied to:

“I swear (or the person taking the oath may promise) by Almighty God (or the person may name a god recognised by his or her religion) that this is my name and handwriting and that the contents of these, my affidavits, are true and correct in every particular”.

or

“I solemnly and sincerely declare and affirm that this is my name and handwriting and that the contents of these, my affidavits, are true and correct in every particular.”

The Jurat

The jurat is completed at the end of the document. This sets out the place of swearing and the date on which it is sworn.

It usually takes the following form:

¹ *Statute Law Amendment (Evidence Consequential Provisions) Act 2009*, Third Schedule, Part 2

Sworn at . . . [suburb/town]
this . . . day of . . . 20 . . .
before me.
[your signature]
[Name, Address and Title of witness]

If the affidavit is affirmed then the jurat should be amended to:

Affirmed at (place where affirmed),
this (date affirmed) day of (month and year)
before me.
[your signature]
[Name, Address and Title of witness]

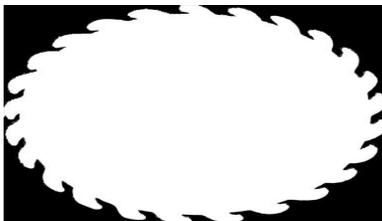
From time to time, the jurat may include both Sworn and Affirmed options. You should delete whichever is inapplicable.

Sworn/Affirmed at . . . [place where affirmed/sworn]
This (date affirmed) day of . . . 20 . . .
before me.
[your signature]
[Name, Address and Title of witness]

You must write, type or stamp your name and address legibly below your signature where it appears on the affidavit. You must endorse your title showing your authority to receive the document

e.g. Justice of the Peace [Reg. No.]
436 Smith Street
Melbourne VIC 3000

An example of a completed jurat is demonstrated below.



Exhibits

Affidavits often refer to exhibits or annexures marked with letters or numbers e.g. “A”, “B” for single page exhibits or annexures or “A1-2”, “A2-2” for multiple page exhibits or annexures. Ensure the exhibits or annexures are properly referenced in the document and then

check the annexed supporting documents, which must be produced, ensuring that they are marked accordingly. The deponent does not need to sign the exhibits or annexures.

Where an exhibit or annexure document is attached to an affidavit, you must endorse it. The usual endorsement is:

This is the exhibit [or annexure] marked “ . . . ”

referred to in the affidavit of . . . [name]

Sworn/Affirmed this . . . day of . . . 20 . . .

before me.

[your signature]

[Name, Address and Title of witness]

Multi-page affidavits

You should sign and number the bottom of each page of the affidavit, e.g. “**p. 1 of 4**”. The deponent is generally not required to sign each page, but may do so if desired.

Alterations to affidavits

In addition to signing each page and exhibit or annexure of the affidavit, you should write your initials next to any alterations or additions. If it is necessary to make an alteration after the swearing of an affidavit, the affidavit must be resworn and a new jurat added.

For example:

Resworn at . . . [suburb/town]

this . . . day of . . . 20 . . .

Before me.

[your signature]

[Name, Address and Title of witness]

Non-English speaking persons

If a deponent does not understand or speak English adequately, he or she may make an oath or affirmation through an interpreter.

First - the Interpreter

The interpreter should swear an oath or affirmation that he or she will well and truly interpret all matters. The following is an example of the oath:

Oath

“I swear (or the person taking the oath may promise) by Almighty God (or the person may name a god recognised by his or her religion) that I will well and truly interpret the content of the affidavit to the deponent [name of person] and also the oath about to be administered to him/her, and all other matters and things that are required of me in connection to this affidavit, according to the best of my skill and ability.”

Affirmation

I solemnly and sincerely declare and affirm that I will well and truly interpret and well and truly understand the English language and the [name of the other] language, and I will well and truly interpret the content of the affidavit to the deponent [name of

person] and also the oath about to be administered to him/her, and all other matters and things that are required of me in connection to this affidavit, according to the best of my skill and ability.”

Then – the Deponent

After the affidavit is read to the deponent by the interpreter, the usual oath is administered to him or her through the interpreter (the deponent repeats the oath in the other language).

Jurat

When an interpreter has been used, it must be noted on the jurat, for example:

Sworn at . . . [suburb/town]

this . . . day of . . . 20 . . .

by the deponent [name] through the interpretation of [name of interpreter], the said interpreter having first been sworn that he or she would truly, distinctly and audibly interpret the contents of the affidavit to the deponent and also the oath that was administered to the said [name of the deponent]

Before me.

[your signature]

[Name, address and Title of Witness]

Hearing-impaired person

Where an affidavit is to be made by a hearing-impaired person who communicates in sign language, an interpreter should be used. In those instances, the normal interpreter’s oath/affirmation is used.

Where an interpreter is not available, or the hearing-impaired person cannot communicate in sign language, you can communicate in writing.

Oath

Once the deponent has signed the affidavit, hand them a piece of paper (with religious text if requested) on which is written: “Is this your name and signature?”

Upon making an affirmative gesture, the person should then be asked in writing: “I swear (or the person taking the oath may promise) by Almighty God (or the person may name a god recognised by his or her religion) that this is my name and handwriting and that the contents of this, my affidavit, are true and correct in every particular.” Again, an affirmative gesture is required.

Affirmation

If the deponent chooses to affirm the affidavit, he or she should follow the instructions above and be shown a piece of paper on which is written: “I solemnly and sincerely declare and affirm that this is my name and handwriting and that the contents of this, my affidavit, are true and correct in every particular”. Again, an affirmative gesture is required from the deponent.

Not speech-impaired

If the deponent is hearing but not speech-impaired, the oath/affirmation may be administered by asking the deponent to read aloud the oath/affirmation, which should be placed before the deponent in writing.

Jurat

The jurat is completed in the usual way, remembering to modify the jurat if an interpreter was used.

Vision-impaired person or person with reading/writing difficulties

You should read the affidavit aloud to the deponent. The oath/affirmation is administered as normal.

Where the affidavit is **read** to the deponent the jurat must be endorsed to state this.

Oath

The content of this affidavit was read to . . . [deponent's name] and
Sworn at. . . [suburb/town]
this . . . day of . . . 20 . . .
before me.
[your signature]
[Name, Address and Title of witness]

Affirmation

The content of this affidavit was read to . . . [deponent's name] and
Affirmed at. . . [suburb/town]
this . . . day of . . . 20 . . .
before me.
[your signature]
[Name, Address and Title of witness]

If the deponent uses a **mark** rather than a signature the jurat is completed the usual way with the deponent placing a mark rather than a signature on the document. The oath or affirmation is then modified to:

Oath

“I swear (or the person taking the oath may promise) by Almighty God (or the person may name a god recognised by his or her religion) that this is my name and mark and that the contents of this, my affidavit, are true and correct in every particular.”

Affirmation

“I solemnly and sincerely declare and affirm that this is my name and mark and that the contents of this, my affidavit, are true and correct in every particular”.

Person with a physical disability

A deponent, who is unable to sign his or her name or make a mark or hold a Bible, may still swear or affirm an affidavit. The jurat should be endorsed to reflect this.

Oath

Without the deponent affixing any mark or signature, he or she being incapable by reason of physical disability, this affidavit was

Sworn at . . .[suburb/town]

this . . . day of . . . 20 . . .

before me.

[your signature]

[Name, Address and Title of witness]

Affirmation

Without the deponent affixing any mark or signature, he or she being incapable by reason of physical disability, this affidavit was

Affirmed at . . . [suburb/town]

this . . . day of . . . 20 . . .

before me.

[your signature]

[Name, Address and Title of witness]

Person under 14 years

A deponent under the age of 14 years may still swear or affirm an affidavit if you are satisfied that:

- ∇ he or she understands the nature of the oath/affirmation; and
- ∇ he or she understands the contents of the affidavit.

Jurat

The jurat should be noted to indicate the age of the deponent and that he or she understands these aspects.

Firms, partnerships, companies and corporations

Only a natural person, not a company, can make an affidavit. However, an officer of a company, body corporate, association or the like can make an affidavit on behalf of the company or body.

The affidavit must state the person's position in the organisation.

Oath

I, . . . [full name] Managing Director of . . . [company etc]

of . . . [address]

Make oath and say: . . .

[This is the statement the deponent wishes to make].

Affirmation

I, . . . [full name] Managing Director of . . . [company etc]
of . . . [address]

do solemnly and sincerely affirm

: . . .

[This is the statement the deponent wishes to make].

Fees

It is an offence to receive or demand a fee for taking an affidavit (section 123C(5) of the *Evidence (Miscellaneous Provisions) Act 1958* (as of 1 January 2010), (previously *Evidence Act 1958*).

Statutory Declarations

Statutory Declarations are made in writing and may be used for a variety of purposes. For example, a statutory declaration may be used to verify insurance claims, proof of age, applications for sick leave or various types of benefits and for many other day to day business and personal matters.

The person making a statutory declaration (declarant) must sign it in the presence of an authorised witness (you) and make a solemn declaration that its contents are true and correct.

Before witnessing a statutory declaration

- ∇ a statutory declaration must contain an acknowledgement that it is true and correct and made in the belief that a person making a false declaration is liable for the penalties of perjury;
- ∇ it is to be signed in your presence by the person making it and the contents must be declared to be truthful; and
- ∇ if the document has been pre-signed, you can ask the declarant to either resign the document in your presence or prepare a fresh statutory declaration (if this is convenient to the declarant).

Declaration

It is usual to have the declarant repeat the following words:

“I solemnly and sincerely declare that the contents of this declaration are true and correct and that this declaration is signed with my true name and signature”.

Important Note: A Bible is not used when making a statutory declaration.

Interpreters

If a declarant does not understand or speak English adequately, he or she may make a declaration through an interpreter.

The interpreter should first declare that he or she will well and truly interpret all matters.

First – the Interpreter

I solemnly and sincerely declare and affirm that I will well and truly understand the English language and the [name of the other] language, and I will well and truly interpret the contents of the statutory declaration to the declarant [name of person] and also the declaration about to be administered to him/her, and all other matters and things that may be required of me in connection to this statutory declaration, according to the best of my skill and ability.”

Then – the Deponent

After the statutory declaration is read to the declarant by the interpreter the usual declaration is administered to him or her through the interpreter (the deponent repeats the declaration in the other language).

Witnessing a Statutory Declaration

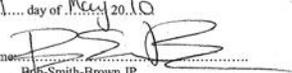
Blank statutory declaration forms are readily available from Courts, Police Stations and the internet. A blank statutory declaration is included in this guide for your reference.

After witnessing the signature of the declarant you must legibly write, type or stamp your name, address and title showing your authority to receive the document, similar to a jurat in an affidavit. Failing to endorse these details could result in you being fined.

An example is demonstrated below:

Declared at Melbourne

this..... day of May 20, 10

Before me: 

Rob Smith-Brown JP
436 Smith Street
Melbourne VIC 3000
JUSTICE OF THE PEACE FOR VICTORIA
REG NO: 98989898

Other Circumstances

When witnessing a statutory declaration which:

- ∇ includes exhibits, multiple pages and/or alterations;
- ∇ is made by persons who are non-English speaking, hearing-impaired, vision-impaired, under the age of 14 years; or
- ∇ who have reading or writing difficulties, a disability, and/or are a firm or company

it is appropriate to adopt the principles of witnessing affidavits, with modifications to reflect that the document is a statutory declaration and is ‘declared’ rather than sworn or affirmed.

Important Notes

Proof of identity:

With the prevalence of identity fraud, it would be a good practice to request identification before witnessing documents, though this is not a legal requirement. This would not be required when certifying true copies.

Risk:

It is not your role to test or be satisfied that the content of an affidavit or statutory declaration is true and correct. Nor is it necessary for the person making the affidavit or statutory declaration to prove the truthfulness of the statements made.

Your role is to administer the oath/affirmation according to law with the assistance of these guidelines. If a false statement is made in an affidavit or statutory declaration, the responsibility lies with the deponent (or declarant), not with the authorised witness.

Certified Copies

As an authorised witness you will be asked to certify whether a copy of an original document is an exact copy.

Before certifying a copy of an original document

- ∇ examine the original to ensure that it is an exact copy; and
- ∇ carefully check that any names and dates have not been changed

Certification

On the copy, write or stamp:

I certify that this document is a true copy of the original having been sighted by me this day
.../.../...

followed by your signature, name, address and title.

When signing and/or stamping the copy it is preferable to use a coloured ink, not black, so that your signature or stamp does not look like a photocopy.

Under no circumstances should you endorse or mark the original document.

Certifying a copy of a copy

Where an original document has been lost or destroyed, the following should be used instead.

I certify that this document is a true copy of another certified true copy having been sighted by me this day .../.../...

followed by your signature, name, address and title.

Documents in languages other than English

If you are bilingual and understand the language contained in the document and are confident that the copy is an exact copy of the original, then certification of the copy can be made.

If you are not fluent in the language contained in the document, you have a number of options:

- ∇ if it is obvious the document is an exact copy of the original, then certification of the copy can be made;
- ∇ you can either copy or observe the copying of the original document to satisfy yourself that the copy has not been altered or tampered with;
- ∇ you can refer the person to the relevant consulate, or contact the Honorary Justice Office to ascertain the whereabouts of a authorised witness with skills in the language contained in the document; or
- ∇ if in doubt about the integrity of the copy, you can refuse to certify the document.

Power of Attorney

About Power of Attorney

A Power of Attorney is a legal document whereby a person (the donor) gives someone else (the attorney) the power to make financial, legal or medical treatment decisions for the donor.

Enduring Power of Attorney means the power continues (endures) even when the donor is unable to make those types of decisions for themselves.

The following types of Power of Attorney need two witnesses, one of whom must be a person who is authorised to witness statutory declarations:

- ∇ enduring Power of Attorney (financial);
- ∇ enduring Power of Attorney (medical treatment); and
- ∇ enduring Power of Attorney guardianship.

If you are asked to witness an Enduring Power of Attorney, you have a responsibility that goes beyond taking a declaration and verifying a signature.

In an Enduring Power of Attorney (**financial**), you must certify that the donor has:

- ∇ signed the form freely and voluntarily in your presence without any undue influence or pressure; and
- ∇ has the capacity to make the Power of Attorney.

In an Enduring Power of Attorney (**medical treatment**), you must confirm that the donor:

- ∇ is of sound mind and understands the import of the document.
- ∇ In an Enduring Power of Attorney (**guardianship**), you must certify that the donor (appointer) has:
 - ∇ signed the form freely and voluntarily in your presence without any undue influence or pressure; and
 - ∇ appeared to understand the effect of the instrument.

Capacity or Legal Capacity

Capacity, or legal capacity, means a person knows what they are doing, they understand the consequences of their actions and can make choices based on their knowledge and understanding.

This means that at the time of appointing an attorney the donor must be able to understand such matters as:

- ∇ the sort of powers the attorney will have
- ∇ the sort of decisions they will have the authority to make
- ∇ when and how they will have the authority to exercise that power
- ∇ the effects that their power could have on the donor
- ∇ how they can cancel the arrangement in the future.

In examining the capacity of a donor, you should respect their privacy. You do not need to know details of their circumstances. Rather, you should make sure that the donor understands that they are giving the attorney the same power that the donor has.

In the future, you may have to give information about the donor's capacity at the time the powers were made. If you have any doubts about the donor's capacity you can make appropriate inquiries, with the donor's consent. For example, you could contact the donor's doctor, or you could ask for a medical certificate confirming the donor's capacity and attach it to the forms.

Where an interpreter is required, it is important that you are satisfied that the form has been explained in a language that the donor understands.

No Capacity or No Legal Capacity

It is strongly recommended that if you have any doubts you make a written record of your concerns and any questions you asked to work out the donor's capacity. If you think that the donor does not understand the nature and effect of the document, you should refuse to sign the form. You should also refuse to sign the form if the donor appears to be signing under duress, undue influence or pressure from another person.

Further Information

If you require further information or advice you can contact the Office of the Public Advocate during business hours on 1300 309 337 or visit www.publicadvocate.vic.gov.au

Births, Deaths and Marriages

In Victoria, it is the policy of the Victorian Registry of Births, Deaths and Marriages to require all certification of photocopied documents or proof of identify to be undertaken only by sworn police members or by staff of the Births, Deaths and Marriages Registry.

The Victorian Registry will not accept documents certified as authentic or true copies by “authorised witnesses” other than Police.

This situation does not apply in relation to the Registries of Births, Deaths and Marriages in the other States and Territories of Australia. A Justice of the Peace may undertake document certification if the documents relate to the interstate registries.

Interstate and Overseas documents

Some Australian states and some countries do not recognise all classes of witnesses under the Victorian *Evidence (Miscellaneous Provisions) Act 1958* (as of 1 January 2010), (previously *Evidence Act 1958*). As a general rule, Justices of the Peace and solicitors are recognised Australia-wide and Notaries Public are recognised overseas.

Some overseas countries also accept Justices of the Peace, but most require the seal of a Notary Public. If in doubt, check with the relevant Consulate in the phone book. Lists of Notaries are kept by the Law Institute; phone (03) 9607 9311. Some Notaries are also listed under “N” in the yellow pages.

Notaries may charge a fee for their services, except for documents witnessed under the Victorian *Evidence (Miscellaneous Provisions) Act 1958* (as of 1 January 2010), (previously *Evidence Act 1958*).

Most organisations will provide instruction or guidelines as to who can witness a document and by what method. Some organisations, such as Land Titles Registry in Queensland, require authorised witnesses to use black pen, or Foreign Affairs requires the signature of the authorised witness to be registered with the Department before it is accepted. If you are unsure about witnessing a document or rules relating to procedure, you or the person requiring the document should enquire directly with the organisation.

Statutory Declaration

I, _____
[full name]
of _____
[address]
_____, do solemnly and sincerely declare that:-
[occupation]

I acknowledge that this declaration is true and correct, and I make it with the understanding and belief that a person who makes a false declaration is liable to the penalties of perjury.

Declared at _____
this _____ day of _____
_____ 20 _____

.....
Signature of person making this declaration
[to be signed in front of an authorised witness]

Before me,
.....

Signature of Authorised Witness

The authorised witness must print or stamp his or her name, address, and title under section 107A of the *Evidence (Miscellaneous Provisions) Act 1958* (as of 1 January 2010), (previously *Evidence Act 1958*),

(eg. Justice of the Peace, Pharmacist, Police Officer, Court Registrar, Bank Manager, Medical Practitioner, Dentist)

Persons who can receive affidavits

Section 123C of the *Evidence (Miscellaneous Provisions) Act 1958* (as of 1 January 2010), (previously *Evidence Act 1958*), reads:

Affidavits in Victoria how sworn and taken

- (1) Affidavits for use in any court or for any purpose or in any way whatsoever authorised by law whether by or under any Act of Parliament or by custom or otherwise may be sworn and taken within Victoria before—
 - (a) any judge or the associate to any judge;
 - (b) a master of the Supreme Court or of the County Court or the secretary of such a master;
 - (c) a justice of the peace or a bail justice;
 - (d) the prothonotary or a deputy prothonotary of the Supreme Court, the registrar or a deputy registrar of the County Court, the principal registrar of the Magistrates' Court or a registrar or deputy registrar of the Magistrates' Court;
 - (da) the registrar of probates or an assistant registrar of probates;
 - (db) a senior member or ordinary member of the Victorian Civil and Administrative Tribunal who, immediately before the commencement of section 8.2.1 of the *Legal Profession Act 2004*, was the registrar or a deputy registrar of the Legal Profession Tribunal;
 - (e) a member or former member of either House of the Parliament of Victoria;
 - (ea) a member or former member of either House of the Parliament of the Commonwealth;
 - (f) a public notary;
 - (g) a legal practitioner;
 - (ga) a member of the police force of or above the rank of sergeant or for the time being in charge of a police station;
 - (gb) a person employed under Part 3 of the *Public Administration Act 2004* with a classification that is prescribed as a classification to which this section applies;
 - (gc) a senior officer of a Council as defined in the *Local Government Act 1989*;
 - (gd) a person registered as a patent attorney under Chapter 20 of the Patents Act 1990 of the Commonwealth;
 - (ge) a fellow of the Institute of Legal Executives (Victoria);
 - (h) any officer or person empowered authorized or permitted by or under any Act of Parliament to take affidavits in relation to the matter in question or in the particular part of Victoria in which the affidavit is sworn and taken.
- (2) All courts and persons acting judicially shall take judicial and official notice of the seal or signature of any of the persons referred to in subsection (1) attached or appended to any affidavit within the meaning of that subsection.
- (3) The person before whom an affidavit is sworn or taken must legibly write, type or stamp his or her name and address below his or her own signature where it appears on the affidavit.

Persons who can witness statutory declarations

Section 107A of the *Evidence (Miscellaneous Provisions) Act 1958* (as of 1 January 2010), (previously *Evidence Act 1958*), reads:

- (1) Any of the following persons may witness the signing of a statutory declaration:
 - (a) a justice of the peace or a bail justice;
 - (b) a notary public;
 - (c) an Australian lawyer (within the meaning of the *Legal Profession Act 2004*);
 - (d) a clerk to an Australian lawyer;
 - (e) the prothonotary or a deputy prothonotary of the Supreme Court, the registrar or a deputy registrar of the County Court, the principal registrar of the Magistrates' Court or a registrar or deputy registrar of the Magistrates' Court;
 - (f) the registrar of probates or an assistant registrar of probates;
 - (g) the associate to a judge of the Supreme Court or of the County Court;
 - (h) the secretary of a master of the Supreme Court or of the County Court;
 - (i) a person registered as a patent attorney under Chapter 20 of the *Patents Act 1990* of the Commonwealth;
 - (j) a member of the police force;
 - (k) the sheriff or a deputy sheriff;
 - (l) a member or former member of either House of the Parliament of Victoria;
 - (m) a member or former member of either House of the Parliament of the Commonwealth;
 - (n) a councillor of a municipality;
 - (o) a senior officer of a Council as defined in the *Local Government Act 1989*;
 - (p) a medical practitioner registered under the *Health Professions Registration Act 2005*;
 - (q) a dentist registered under the *Health Professions Registration Act 2005*;
 - (r) a veterinary practitioner;
 - (s) a pharmacist;
 - (t) a principal in the teaching service;
 - (u) the manager of an authorised deposit-taking institution;
 - (v) a member of the Institute of Chartered Accountants in Australia or the Australian Society of Accountants or the National Institute of Accountants;
 - (w) the secretary of a building society;
 - (x) a minister of religion authorised to celebrate marriages;
 - (y) a person employed under Part 3 of the Public Administration Act 2004 with a classification to which this section applies or who holds office in a statutory authority with such a classification;
 - (z) a fellow of the Institute of Legal Executives (Victoria).
- (2) Despite anything to the contrary in any Act, a person referred to in paragraph (c) or (d) of subsection (1) is not prevented from witnessing the signing of a statutory declaration only because he or she is—
 - (a) acting for any of the parties to the proceeding or matter in respect of which the declaration is made; or
 - (b) a clerk to a person so acting.
- (3) If the signing of a statutory declaration purports to have been witnessed by a person referred to in subsection (1), all persons to whom that declaration comes must take official notice of that declaration and of the qualifications of the person referred to in that subsection to witness that signing.