



Information Fact Sheet 10

Witnessing Queensland Land Titles Forms

What is a Titles Registry Form?

These are approved forms under the Land Act 1994, Land Title Act 1994, and Water Act 2000. They primarily address the ownership and use of real estate property and water allocations in Queensland.

The forms are completed by the parties involved in property transactions. They are used to update land registry records regarding ownership and other interests in land and water allocations in Queensland.

Statutory obligation when witnessing land registry forms

These Acts have specific requirements you must meet when witnessing the forms they cover, particularly regarding ownership transfers.

Section 162 of the *Land Titles Act 1994*

Obligations of witness for individual

162. A person who witnesses an instrument executed by an individual must—

- a) first take reasonable steps to ensure that the individual is the person entitled to sign the instrument, and
- b) have the individual execute the document in the presence of the person and
- c) not be a party to the instrument.

Statutory Obligation A:

Take reasonable steps to ensure that the individual concerned is the person entitled to sign the instrument.

JPs are legally obligated to take reasonable steps to ensure that the person signing the form is entitled to sign the document. "Reasonable steps" could be defined as what an ordinary person would consider prudent.

Witnesses should be satisfied with the identity of the person presenting the form for witnessing. A government-issued photo ID would be the most reliable; however, it is up to the JP to determine the level of proof required. Basing your requests on the 100-point guidelines should provide reliable information for your satisfaction. For example, a current passport and a current driver's licence would satisfy the 100-point ID check.

Before signing, it's prudent to check with the signer to ensure they have read and understood the document. If there is any doubt about their understanding, the JP should decline to sign.

Generally, a person selling or mortgaging a property is the registered proprietor. To prove that they are the registered proprietor and thus entitled to sign, parties should be able to provide at least one of the following:

- a local government rates notice showing ownership of the property
- a recently issued current title search statement showing their name
- a recently issued registration confirmation statement
- a current certificate of title (if one exists).

These documents will include a real description of the property, such as a lot plan or title reference. Compare the details on the document to those listed on the form to be signed to ensure consistency in the property description. Street addresses cannot be relied on.

Where the person requiring witnessing of the document is a purchaser, the above documents will not be available; however, they may be able to provide a copy of the contract of sale as proof of their entitlement sign, alternatively loan documentation or a letter from a solicitor confirming their entitlement to sign.

Statutory Obligation B:

Forms are to be signed in the JPs' presence.

If the form has been pre-signed, the JP should decline to witness the document. The forms contain spaces for each person to sign separately, and each signature is to be witnessed individually in person.

Statutory Obligation C:

Witnesses must not be a party to the instrument.

A JP with a vested interest in the transaction should not be a witness to the document.

Do these obligations apply to other documents presented with the land registry forms?

No. Financial institutions often request an identity certification or details of the JP's personal information. These are not land registry forms and, therefore, do not fall under the witness's legal obligations.

What other obligations apply to the witness?

All parties' signatures must be in their own handwriting, using either dense blue or black ink. Signature stamps are not accepted.

The full name of the JP and the registration number should be recorded next to their signature; initials are unacceptable. A stamp may be used to show your name and registration number.

Are you required to keep records?

Yes. The Registrar of Titles has extensive powers of formal inquiry and may require a JP to produce records relating to land registry forms they have witnessed.

JPs should, therefore, record the details of any relevant information (such as title reference, property description, names of parties, and type of transaction) along with the documentation supplied as proof of identity and evidence of the signatory's entitlement to sign.

These records should be kept for seven years.

It is not necessary to keep a copy of the documents used to support the signatory's identity or the proof of interest in the transaction.

The Land Titles Practice Manual (Queensland) states:

“Where a justice of the peace or commissioner for declarations witnesses an individual's signature on a paper instrument or document inside Australia, it is acceptable for the purposes of s. 162(3) of the Land Title Act 1994 and s. 311(3) of the Land Act 1994 for the justice of the peace or commissioner for declarations to only retain a written record. There is no expectation that a justice of the peace or commissioner for declarations will retain originals or copies of the documents or other evidence.”

Can a Land Registry form be signed outside of Queensland?

Yes. A JP under the law of an Australian state or territory, other than Queensland, is approved by the Registrar to witness the execution of the documents. A Western Australian Commissioned Justice of the Peace is authorised to witness Queensland Registry Forms.

Can I witness more than one copy of a Land Registry form?

Yes. A JP can assist a client and witness more than one copy of a Land Registry form. Some financial institutions may provide their clients with two or more copies of the form for witnessing. One copy will be lodged with the Titles Registry office, and the financial institution will retain the other.

When can I accept electronically downloaded evidence?

You can accept electronically downloaded evidence if the evidence is being used to help verify a person's entitlement to sign a document (e.g., a rates notice or a contract of sale). While the evidence presented this way is equally as valid as the paper format, it is up to you to satisfy yourself as to the validity and reliability of its source before accepting it.

How do you witness land title documents?

A suggested procedure to follow:

1. Ask the signatory for identification, preferably photographic and issued by a government agency (e.g. a current driver's licence and passport).
2. Ensure that the signatory holds the relevant interest in the property, e.g., sight a current rates notice, title search, or sale contract for the land in question.
3. Ask the signatory to confirm that they understand the nature and effect of the form being signed. If you are not satisfied that the signatory has the capacity to sign the form, you should decline to witness it.
4. Ensure the form is fully completed with no blank panels or items. If any items are incomplete, especially Item 2—lot or plan description—do not witness the form. Do not complete or rule through any blank spaces yourself.
5. Ensure that the form is signed in front of you in permanent, dense blue or black ink.
6. Ensure you are not a party to the transaction.
7. Sign the form and print your full name, including your JP Registration number. The execution date should also be completed.
8. Record the details in your logbook. Information that should be entered includes:
 - date
 - document witnessed
 - client's details
 - type of identification sighted
 - location of signing
 - the real property description and/or title reference of the property
 - questions you asked and answers given

References:

- **Land Title Practice Manual (Queensland)** Part 61 – Witnessing and Execution of Instruments or Documents
- ***Land Titles Act 1994***.
- **Titles Qld:** www.titlesqld.com.au

For more information on this Fact Sheet, please refer to the Justice of the Peace Handbook available on www.courts.justice.wa.gov.au. Alternatively, you may contact:

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