

**JPs ARE NOT AUTHORISED TO  
SIGN OR WITNESS THE FOLLOWING DOCUMENTS**

<b>DOCUMENT</b>	<b>REASON/COMMENT</b>
<p>General Power of Attorney or an Enduring Power of Attorney.</p>	<p>NSW law does not authorise a NSW JP to witness these documents. NSW JPs must not witness these documents relating to any other state or territory, even if a JP for that state or territory is authorised to do so. See section 4.2.3 on page 55 of the JP Handbook. Solicitors and Court Registrars can sign these documents.</p>
<p>Documents for use overseas and documents in a foreign language.</p>	<p>See attached JP Factsheet dated September 2019. Public Notaries can witness overseas documents.</p>
<p>Overseas Proof of Life documents.</p>	<p>See attached JP Factsheet dated September 2019. Can be signed by Centrelink International Services branch Phone 131 673</p>
<p>Certify that a photo is a true likeness of a person.</p>	<p>See the last sentence in the attached article from page 15 of NSWJA Journal December 2020.</p>
<p>Wills and private letters.</p>	<p>Can be signed as a citizen, but not as a JP. See third last paragraph on page 4 of the JP Handbook.</p>

<p>Certify a copy of a laminated Australian Citizenship Certificate.</p>	<p>Client can sign a Statutory Declaration stating that the Annexure marked with the letter "A" is a true and accurate copy of the original Citizenship Certificate.</p>
<p>Cannot give legal advice.</p>	<p>A JP is not a qualified solicitor or barrister. See paragraph 4.3.3 on page 56 of the JP Handbook.</p>
<p>What functions can a JP perform?</p>	<p>From Page 54 of the JP Handbook The only functions that a JP can exercise when acting as a JP are those set out in section 8 of the NSW Justices of the Peace Act 2002, the Oaths Act 1900 (NSW) or any other NSW Act.  See third last paragraph on page 4 of the JP Handbook. See page 40 of the JP Handbook.</p>

*John Chandler*  
*May 2022*

## Witnessing overseas and interstate documents

The Department of Communities and Justice regularly receives inquiries as to whether NSW Justices of the Peace (JPs) can witness interstate or overseas documents. Recent changes to the law now permit NSW JPs to witness the execution of interstate documents. This factsheet updates previous advice to JPs published by the Department.

### What interstate documents can NSW JPs witness?

NSW JPs are authorised under NSW law to take **statutory declarations** and **affidavits** for use in relation to other States and Territories and the Commonwealth.

JPs can also **certify copies of documents** from other States, Territories and the Commonwealth.

Following changes to the *Oaths Act 1900* made by the NSW Government, NSW JPs are authorised to witness the **execution of other interstate documents**, such as land titles documents from another State or Territory, where this is also permitted by the law of the other state or territory.

### Can NSW JPs witness documents for use overseas?

NSW JPs are not authorised under NSW law to witness the execution of documents for use overseas, including “proof of life” forms for the purposes of claiming overseas pensions. NSW JPs can certify copies of original documents from overseas.

### What prevents NSW JPs from witnessing documents from overseas?

NSW JPs can only perform a task in their capacity as a JP if that function is conferred by a NSW Act or Regulation. If a NSW JP performs any other task, they are not doing so in their capacity as a NSW JP. There have been no recent changes to the functions of NSW JPs with regard to witnessing the execution of documents for use overseas.

### What if overseas governments will accept other documents I have witnessed?

Overseas government agencies may advise that a NSW JP can witness the execution of their document. However, in the absence of any authority under NSW law, any NSW JP who witnesses an overseas document does not do so in their capacity as a NSW JP.

### Who can witness overseas documents?

In Australia, public notaries are able to witness signatures on overseas documents. Public notaries are appointed by the Supreme Court and must:

- Be a solicitor or barrister with at least five years’ standing;
- Have completed the prescribed Notarial Practice Course, which includes the implications of witnessing, certifying and authorising foreign legal documents;
- Have applied through the Legal Profession Admission Board.

Public notaries are held to the same standard of conduct as other Australian legal practitioners, have additional conduct requirements applicable to the office of public notary, and must have indemnity insurance to protect clients’ interests.

### Is there anyone else that can witness ‘Proof of Life’ documents?

The International Services Branch of Centrelink provides assistance to people seeking to claim a pension from a number of countries which Australia has reciprocal aged pension agreements with. JPs can refer people who ask them to witness proof of life documents to the International Services Branch phone line on 131 673 or website at:

<https://www.humanservices.gov.au/individuals/services/centrelink/international-services>

# Certifying documents for AHPRA

## (Australian Health Practitioner Regulation Agency and other Documents requiring the certification of a photo as a true likeness)

**JPs should exercise care when presented with documents to be certified for AHPRA  
– you might break the law.**

JPs are authorised to certify copies of original documents by s8a the Justices of the Peace Act 2002 No. 20 which states:

### **8A Justices of the peace may certify copies**

- (1) A justice of the peace may certify a document to be a true and accurate copy if the justice of the peace has both the original document and the copy in his or her possession at the time of certifying.
- (2) A justice of the peace who certifies a document under this section must cause to be printed on the copy of the original document the following words or words substantially the same as the following—

*I certify this to be a true and accurate copy of the document reported to me to be the original document.*

AHPRA requires the following certifications

I certify that this is a true copy of the original and the photograph is a true likeness of the person

Name, date, contact phone number, occupation or profession and (if applicable) profession number

The certification required by Act is:

*I certify this to be a true and accurate copy of the document reported to me to be the original document (or substantially the same)*

The essential part of this certification from the JP's perspective is "the document reported to me to be the original document" because it places the onus on the individual presenting the documents, to declare which is the original. The Justice of the Peace Handbook states:

You must use the certification words specified in this procedure (or words substantially the same). This is required by law, and also helps to clarify that you are not certifying the original document is authentic. All JPs need to be aware of this distinction. Secondly, s8 of the act allows a JP to certify a copy of an original document (paper or electronic), but it does not authorise a JP to compare a face with a photo of these two counts, a JP cannot certify an AHPRA document nor any photos as a true likeness of a person in any situation.

**Peter Enderby**



*The Editor unreservedly apologies for the undermentioned errors contained in the September 2020 Journal.*

### **Apologies to David**

Branch and Support Group News – Lower North Shore Branch September 2020 Journal p29. The two photos referred to the President of LNS as David Cerebro. It should be David Perabo, and I extend my apologies to David for this error.

### **Apologies to Mardi**

We recorded the wrong email address for new Director Mardi Kent (benefits@nswja.org.au). It should be **mardi.kent@nswja.org.au**

### **Apologies to Everyone!**

The Advisory Meeting on 19 September 2020 held at Club Burwood RSL should have read **Guildford Leagues Club.**

### **Apologies to Bocsar**