

CHAPTER 24:

MISCELLANEOUS DUTIES

What other duties might a JP have to perform?



Not every possible duty of a JP or a C. Dec has been covered in this guide. In your duties, you will encounter a range of other matters. Some of these matters are outlined in this chapter. Although many of these will be rare, it may nevertheless be necessary for you to be aware of what you might encounter. Some of the matters covered in this chapter will include:

- **Change of Name.**
- **Electoral Enrolment and Change of Details Forms**
- **Passport Applications**
- **Assistance for Victims of Crime**
- **White Cards**
- **Dying Declarations**
- **Review of Administrator / Guardianship arrangements**
- **Police Access to Digital Photos**

The Role of the JP



Always remember, when confronted with an unfamiliar document, the advice provided in Chapter 1 regarding duties that you should perform:

“It is advisable to perform only the duties that are outlined in this guide or those where a written document or Act clearly outlines that a particular duty can be performed by a JP or a C.dec.”

Background Information



Change of name.

Before 2004, a JP / C. Dec played a role in changing a person’s name by deed poll. Nowadays, a change of name is enacted by a person filling out an appropriate change of name form and submitting it to the Registrar of Births, Deaths, and Marriages. The form must be witnessed, but any adult can do this; the form does not have to be witnessed by a Justice of the Peace or Commissioner for Declarations.

The only role that a JP or C. Dec now plays with change of name is to certify true copies of original documents that need to be submitted with the application for a change of name.

Electoral Enrolment and Change of Details Forms

These forms can be witnessed by a JP (Qual) or a C. Dec, but the list of eligible witnesses is very broad. If presented with such a form, use the normal witnessing procedures, and follow the form’s instructions.

Passport Applications

Australian Passports

A Justice of the Peace now has no defined role in the Australian Passport application process. The application form does ask for a guarantor to sign the application and certify the likeness in the photograph; however, this can be done by any adult who meets the criteria laid down in the form.

New Zealand Passports

New Zealand citizens usually require only a New Zealand passport holder who has known them for more than 12 months to witness their passport application. If the applicant cannot find a person on the list of eligible witnesses who has known them for more than 12 months, the New Zealand Consulate has stated that it is permissible for an Australian JP to witness the application, provided that the Statutory Declaration is witnessed in the application. The applicant must complete the declaration and state that it was impossible to find a witness from any of the categories listed on the form that has known the person for more than 12 months.

A witness must fill out the details in the New Zealand passport application. On the back of one of the passport photographs supplied, the witness must write the applicant's full name in block letters, then sign and date it. An example of such is:

CERTIFIED LIKENESS OF	
MARY JANE CITIZEN	(Full name of applicant)
J. Smith	(Signature of Witness)
1.10.16	(Date)

Other International Passport Applications

Unless the form states explicitly that a Justice of the Peace in Queensland can sign the document, you should refer the applicant to the nearest consulate or embassy for their country.

Assistance for Victims of Crime

Since 2009 victims of crime in Queensland have been able to apply for financial assistance to cover the cost of goods and services required to assist in their recovery.

This scheme is administered by a new unit called Victim Assist Queensland. Two forms provided by the unit require a Statutory Declaration to be witnessed by a Justice of the Peace, Commissioner for Declarations, Notary Public, or a solicitor. These forms are the Financial Assistance Application (Form 1) and the Funeral Assistance Application (Form 2). The following procedures relate to each form. It must be remembered that, in addition to the sequence listed, you should always keep in mind all the general tips about witnessing documents discussed in Chapter 4.

Financial Assistance Application (Form 1)

1. Check that Sections 1, 15, and 16 of the Financial Assistance Application (Form 1) have been completed as a minimum.
2. Where the deponent completing the Financial Assistance, Application is not the person wanting assistance (victim), check that Section 2 has also been completed.
3. Where sections have been left blank by the deponent, the witnessing officer is entitled to Z through each blank section before witnessing the Statutory Declaration (Section 15).
4. Where the witnessing officer has Z through a blank section of the form, the witnessing officer and the deponent are to initial alongside each Z out section.

Funeral Assistance Application (Form 2):

1. Check that Sections 1 and 6 of the Funeral Assistance Application (Form 2) have been completed as a minimum.
2. Where sections have been left blank by the deponent, the witnessing officer is entitled to Z through each blank section before witnessing the Statutory Declaration (Section 6).

- Where the witnessing officer has Z through a blank section of the form, the witnessing officer and the deponent are to initial alongside each Z out section.

White Cards

A blue card issued under the *Working with Children (Risk Management and Screening Act 2000* (Qld) should not be confused with a general construction industry induction card. The latter is known as a “white card” and is issued to a person who completes training in safety aspects of the construction industry and wishes to work in the construction industry in Queensland.

A Justice of the Peace Declarations has two roles to play in the issue of a white card. These roles are:

- Witnessing a Statutory Declaration applying for a white card. One declaration needs to be made – by the white card applicant, declaring that they have undertaken the relevant training. Often there is an implication made on some of these forms that two declarations are necessary. This is not the case. If presented with a document that appears to require a declaration from the observer, as well as the applicant, you should only witness the applicant’s declaration and place under your signature “Declaration of [name of applicant] only witnessed.”
- Certification of copies of identity documents.

Both procedures should be undertaken as outlined in chapters 5 and 10 of this Guide.

Dying Declarations

People who are close to death sometimes may wish to name their assailant or to make a confession. The assumption is that a dying person is likely to tell the truth, as they will not have to deal with the consequences later. If a dying declaration is heard correctly, the evidence will stand in a court of law as an exception to the “no hearsay evidence rules.” Hearsay evidence is evidence where someone tells the court what another person had previously said. Any person can record a dying declaration. It is not the special responsibility of a JP.

 <i>Steps in taking a Dying Declaration.</i>	
1. You should have a notepad or a tape recorder handy so that points can be recorded.	
2. Ask the person, “Do you believe that you are dying?”	This will give credibility to the declaration.
3. Ask questions that do not influence the response of a dying person. The questions should be clarifying questions, not leading questions.	
4. Listen carefully, record accurately.	

Review of Administrator / Guardianship Arrangements

In certain circumstances, it may be necessary to ask for a review of guardianship and/or administration arrangements that are in place. This is done through submission to QCAT of an “Application for Administration/ Guardianship Appointment or review” form. Any prospective administrators or

guardians are required to make a statutory declaration (found within the application), which can be witnessed by a Justice of the Peace or Commissioner for Declarations. This should be witnessed by following the procedures outlined in Chapter 5.

Police access to digital photos

Under the provisions of the *Transport Operations (Road Use Management) Act 1995* (Qld) and other transport-related Acts, only authorised officers have access to digital photos of individuals that have been taken for licensing purposes. This access is allowed only for licensing transactions and license-related enforcement.

However, from time to time, the police may need to access digital images of individuals stored for licensing purposes to assist in a range of criminal law matters. Access to such images is not automatic. Access to digital photos for criminal law matters, outside the boundaries of enforcing transport laws, are governed by the provisions outlined in sections 195A to 195H of the *Police Powers and Responsibilities Act 2000* (Qld). This Act allows police officers to access digital photos:

- for the purpose of enforcing transport-related offences
- for investigating, prosecuting, and enforcing the criminal law
- in an emergency, if the officer reasonably suspects that there is an actual or imminent serious risk to a person's life or health or public health or safety, and immediate access to the photo is likely to enable a police officer to take action to reduce that risk.

If police officers need to access a digital photo to help investigate, prosecute, or enforce the criminal law, outside licensing and transport enforcement, they must apply for an *Access Approval Order* from a Justice of the Peace (Qualified) or a Justice of the Peace (Magistrate's Court). Under the provisions of section 195B of the *Police Powers and Responsibilities Act 2000*, such an application:

- Must be sworn.
- Must identify the registered digital photo for which the access approval order is sought.
- Must state the purpose for which the access is sought; and
- Must state why the police officer considers it is reasonably necessary to access the registered digital photo for the purpose mentioned.

Under Section 195C (1) of the Act, the Justice may make the access approval order if satisfied it is reasonably necessary for a police officer to access the registered digital photo for which the order is sought for the purpose for which the access is desired.

When reviewing an application and reaching a decision as to whether it is "reasonably necessary" to grant the access Order, a Justice should consider:

- The gravity of the alleged offence.
- The seriousness of the circumstance surrounding the offence.
- The degree of the person's alleged involvement in the commission of the offence.
- Whether there are other legal means of obtaining the photo; and
- Whether the person is in custody for the offence or other offences.

Police can also access digital photos in an emergency. A *Post-Access Approval Order* from a Justice of the Peace (Qualified) or a Justice of the Peace (Magistrate's Court) is required in this case.