

The Making of Affidavits for use in the Industrial Magistrates Court of Western Australia

All affidavits lodged must be in accordance with the Approved Forms of the Industrial Magistrates Court of Western Australia (IMC). Approved Forms are available on the IMC's website at www.imc.wa.gov.au.

Affidavits must be made, and sworn or affirmed by an "authorised witness" in accordance with the *Oaths, Affidavits and Statutory Declarations Act 2005* (WA).

Section 9(6) of the *Oaths, Affidavits and Statutory Declarations Act 2005* prescribes those persons who are deemed to be an **authorised witness, where an affidavit is made at a place within Western Australia:**

- (6) *An authorised witness for an affidavit that is made at a place within Western Australia is —*
 - (a) *a Justice of the Peace;*
 - (b) *an experienced legal practitioner, unless excluded by subsection (7);*
 - (c) *a public notary within the meaning of the Public Notaries Act 1979;*
or
 - (d) *any person referred to in section 6(2).*

The persons referred to in section 6(2) of the *Oaths, Affidavits and Statutory Declarations Act 2005* are:

- (2) *Any registrar or clerk of a court, and any mining registrar appointed under the Mining Act 1978, may administer an oath to or take the affirmation of any person for any purpose.*

It is to be noted however, that an experienced legal practitioner who has participated in any way in preparing an affidavit, or in the proceedings in which an affidavit is intended to be used, cannot also be the authorised witness on that same affidavit (see section 9(7) of the *Oaths, Affidavits and Statutory Declarations Act 2005*).

Section 9(8) of the *Oaths, Affidavits and Statutory Declarations Act 2005* prescribes those persons who are deemed to be an **authorised witness, where an affidavit is made at a place outside of Western Australia:**

- (8) *An authorised witness for an affidavit that is made at a place outside Western Australia is —*
 - (a) *a judge of a court of that place, or a magistrate or justice of the peace of or for that place;*
 - (b) *a notary public;*
 - (c) *a prescribed consular official who is performing official functions at that place; or*
 - (d) *a person who has authority under the law of that place to administer an oath to another person.*

This information is provided as a guide only, for your assistance. Should you require any further clarification of the information provided, it is suggested that independent legal advice be obtained.