

Certificate of Identification

These Guidance Notes are of a general nature and are not intended to, and cannot, replace the advice of a Legal Practitioner. If you need more help or information about completing the form, contact us. Please be aware that we do not give legal advice.

BACKGROUND

Most instruments executed by an individual must be witnessed by a person who must sign his name to the instrument as a witness and then complete the certificate of identification on the prescribed forms. The requirement for a witness and a certificate of identification safeguards against forgery and enables the execution of a document to be proved in court by an independent party. A deficiency in meeting the attestation requirements does not invalidate a document which has in fact been signed by the proper person and the Registered Land Act provides that the Registrar may authorize registration of an instrument which has not been properly attested

(a) if he considers that it cannot be obtained or can be obtained only with difficulty and he is otherwise satisfied that the document has been properly executed; or

(b) in cases in which to his knowledge the document has been properly executed.

REGISTRATION PROCEDURE

1. Individuals Not Requiring A Witness And a Certificate of Identification

- a) documents executed by the Governor on behalf of the Crown;
- b) documents executed by the Clerk of Court or any Judge of the Grand Court;
- c) documents executed by a Class A Bank under power of attorney filed with the Registrar of Lands.

2. Documents Not requiring a Witness and Certification of Identity

- a. an order of a court or judge,
- b. Rectification of the Register,
- c. Discharge executed by a Class A Bank or the Credit Union,
- d. a certificate filed under the Strata Registration Act, and
- e. an instrument executed by the Registrar of Lands or by a person authorized by him to execute the instrument.
- f. Deletion on Death Form.

Ineligible Witnesses

Neither a person who is a party to an instrument nor a spouse who consents to the instrument may be a witness. Please note that a relative, including a spouse, is not disqualified from being a witness provided he or she is neither a party to the instrument nor has an interest. The person acting as witness or justice of the peace or notary public in any of the required instruments or declarations or affidavits should not be a party to the instrument.

Certificate of Identification Requirements

1. A full given name is required for the witness. If only initials are given at the beginning of the certificate but the signature discloses a legible given name, it is not necessary to reject.
2. The names of the parties in the certificate of identification need not be identical to the names in the instrument but must be consistent so that it is apparent that they are the same person. This can be achieved by reconciling the name in the certificate by using **"also known as"**.
3. The certificate must state the date when the instrument is signed and how the party was identified must be shown. An instrument which is signed or is sworn to by a person who is illiterate or blind or does not understand the English language must be appropriately modified, such as out below under the Marksman Clause.
4. Any corrections in the body of the instrument or certificate of identity must be initialed by the person before whom the instrument is sworn.

Persons Before Whom Instruments May Be Made within the Cayman Islands –

- Registrar
- Deputy Registrar or Assistant Registrar
- Notary public for Cayman Islands,
- Justice of the Peace, as defined under the Justice of the Peace Act **including ex-officio members by virtue of their office.**

Under the Justice of the Peace Regulations, 2015, the Code of Conduct for Justices of the Peace in the Cayman Islands provides that Justices of the Peace are required to keep a written record of all signatures witnessed including land transfers. The Justice of the Peace shall place his or her seal to each document which must contain the justice of the peace's name and the words "Justice of the Peace" and "Cayman Islands."

A notary public shall place his or her seal to each document which must contain the notary public's name and the words "Notary Public" and "Cayman Islands". A notary public is

required to legibly print or stamp his or her name, expiry date or, in applicable cases, his or her office or status that applies.

Persons Before Whom Instruments May Be Made outside of the Cayman Islands, but in a Commonwealth Jurisdiction

- Judge
- Magistrate
- Justice of the Peace
- Notary Public
- Commissioner for Oaths

Persons Before Whom Instruments May Be Made outside of the Cayman Islands, but in a Foreign Jurisdiction

- British consular officer or pro-consul
- Notary Public

Marksman Affidavit

If the person signing the instrument or statutory declaration is blind or illiterate or for some reason unable to sign their name, you must read the document, or cause it to be read, to the person and then ask the person if he understood what was read to him. You may only administer the oath, affirmation or solemn declaration if you are satisfied that the person has in fact understood what was read to him. In those cases, the ordinary form of certificate of identification must be amended by inserting the following before your signature: "As (name of person) is blind (or illiterate) a) this instrument (or statutory declaration) was read to him in my presence, b) he seemed perfectly to understand it, and c) he made his signature (or mark) in my presence.