

STATUTORY DECLARATIONS MADE OUTSIDE OF IRELAND

1. SUMMARY

Notices of termination served under the Residential Tenancies Act 2004 (as amended) for sale or landlord or family member occupation, must be accompanied by a statutory declaration. Where that statutory declaration is signed by the landlord outside of Ireland, there may be additional requirements that must be complied with (e.g. the declaration may require an apostille).

This guidance note explains the RTB's understanding of the additional requirements that apply where landlords sign statutory declarations abroad.

A quick guide in respect of the jurisdictions that arise most frequently, is as follows:

Jurisdiction	Apostille required	Alternative option to sign at Irish Embassy/Consulate
Australia	✓	✓
Canada	✓ ¹	✓
France	✗	✓
New Zealand	✓	✓
United Kingdom	✓	✓
United States	✓	✓

2. WHEN ARE STATUTORY DECLARATIONS REQUIRED?

To terminate a tenancy, a landlord must serve a notice of termination on the tenant. That notice of termination must be accompanied by a statutory declaration, where the landlord is terminating the tenancy because:

- the landlord intends to sell the rented property within 9 months after the termination of the tenancy; or
- the landlord or a family member wants to live in the rented property.

¹ The Hague Convention will come into effect in Canada on 11 January 2024. The Hague Convention requires an apostille.

Sample notices of termination for these grounds of termination and the accompanying statutory declaration can be downloaded from the Residential Tenancies Board's ("RTB's") website [here](#).

Statutory declarations made both in Ireland and abroad must be signed and witnessed correctly.

3. STATUTORY DECLARATIONS MADE IN IRELAND

A statutory declaration made in Ireland can only be signed before certain people:

- a) Practising Solicitor;²
- b) Notary Public;
- c) Commissioner for Oaths;
- d) Peace Commissioner;
- e) Other persons authorised by law to take and receive statutory declarations.³

A fee may be payable to the person before whom the statutory declaration is signed.

4. STATUTORY DECLARATIONS MADE OUTSIDE OF IRELAND

4.1. Overview

Requirements

In certain cases landlords may live outside of Ireland. A statutory declaration can be made abroad, however, specific rules must be followed. As explained at points 4.2 to 4.4 below, these rules vary depending on the country the landlord is in.

Landlords also have the option of signing the statutory declaration at an Irish Embassy/Consulate (see point 4.5 below). In addition, if any of the Irish qualified individuals listed at point 3 above, are present abroad in the same country as the landlord, the statutory declaration may also be made before them.⁴

Fees may be payable. Landlords should enquire with the person before whom the statutory declaration is signed for the fee that applies.

Evidence

In the event that a dispute arises in relation to the termination of the tenancy and the adequacy of the statutory declaration, it is recommended that landlords keep a record of the process followed, and evidence that the relevant requirements have been met, for making the statutory declaration in the particular country concerned.

4.2. EC convention countries - France, Italy, Belgium, Denmark, Estonia and Latvia

Ireland together with France, Italy, Belgium, Denmark, Estonia and Latvia are parties to the EC Convention.⁵ If a landlord is in any of these countries, a statutory declaration can be validly made before any person authorised under the law of that

² Section 72 of the Solicitors (Amendment) Act 1994.

³ Section 1 of the Statutory Declarations Act 1938 (as amended) (the **SD Act**).

⁴ Section 3A(1)(a) of the SD Act (inserted by s.50 of the Civil Law (Miscellaneous Provisions) Act 2008).

⁵ In this guidance note a reference to the “EC Convention” is a reference to the Convention Abolishing the Legalisation of Documents in the Member States of the European Communities of 25 May 1987.

country to administer oaths.⁶ For example, a Notary can administer oaths in France (Notaire) and Italy (Notaio).

No legalisation (e.g. an apostille or official stamp) is required for a statutory declaration where a country is a member of the EC Convention.⁷

The only time further information may be required is if the relevant authority in Ireland, has “serious doubts, with good reason” in relation to the authenticity of the signature, the capacity in which the person signing the document has acted or the identity of the seal or stamp on the document. In these circumstances, the relevant authority in the State where the document is produced, can request relevant information from the central authority where the statutory declaration was made. Requests for information will only be made in exceptional cases and must set out the grounds on which they are based.⁸

4.3. Hague convention countries⁹ - including Australia, New Zealand, United Kingdom and United States¹⁰

Where a country is not a party to the EC Convention but is a party to the Hague Convention, a statutory declaration can be made before any person authorised under the law of that place to administer oaths.¹¹

The only form of legalisation that is required is by way of single certificate, called an "apostille", stamped on or attached to the declaration.¹² The apostille itself is exempt from all certification.¹³

An apostille can be obtained from the designated competent authority for the jurisdiction in question.¹⁴ See [HCCH | #12 - Status table](#) or schedule 2 of this guidance note for a list **Hague Convention countries**. See [HCCH | #12 - Authorities for the designated competent authority](#) for each jurisdiction.

An apostille only verifies the origin of a document. It does so by certifying the authenticity of the signature on the document, the capacity in which the person signing the document acted and, where appropriate, the identity of the seal or stamp which the document bears. The apostille does not in any way relate to the content of the document.¹⁵ Requirements of domestic law still need to be complied.¹⁶

⁶ Section 3A(1)(b) and 3A(4) of the SD Act.

⁷ Article 2 of the EC Convention.

⁸ Article 4 of the EC Convention.

⁹ In this guidance note a reference to the “Hague Convention” is a reference to the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents done at the Hague on 5 October 1961.

¹⁰ Canada has joined the Hague Convention, however, it will not come into effect in that country until 11 January 2024. Until then the process described at point 4.4 below will apply.

¹¹ Section 3A(1)(b) and 3A(5) of the SD Act.

¹² Article 3 and 4 of the Hague Convention. This formality is not required where two or more contracting states have abolished or simplified it, or exempted the document itself from legalisation (Article 3, Hague Convention).

¹³ Article 5, Hague Convention.

¹⁴ Article 3, Hague Convention.

¹⁵ Article 5, Hague Convention. Also, [HCCH | A Handbook on the Practical Operation of the Apostille Convention \(Apostille Handbook\)](#)

¹⁶ Sample statutory declarations required to accompany notices of termination for sale and landlord and family member occupation can be downloaded on the RTB's website [here](#).

4.4. OTHER COUNTRIES (NOT PARTY TO THE EC CONVENTION OR THE HAGUE CONVENTION)

If the process described at point 4.2 and 4.3 above does not apply, a statutory declaration can be validly made outside of Ireland before any person authorised under the law of that place to administer oaths and:

- the signature of the person making the statutory declaration (the ‘declarer’) is authenticated in accordance with the law of that place; and
- to the extent the law of place concerned requires either or both to be authenticated:
 - the capacity in which the declarer has acted in making that declaration;
 - the seal or stamp of the person who has administered the oath.¹⁷

Where a statutory declaration is made outside of Ireland in accordance with the law of that place as described under this heading, a landlord may be required to produce proof before a RTB hearing of the requirements of that law.¹⁸

4.5. Irish Embassies/Consulates

An alternative option to the process described at points 4.2 to 4.4 above, is for landlords to sign the statutory declaration at an Irish Embassy or Consulate. Certain staff at Irish Embassies or Consulates are legally permitted to witness statutory declarations.¹⁹ You must attend at the Embassy/Consulate in person and will usually be required to make an appointment in advance.

A list of Irish Embassies and Consulates around the world can be found here [Irish Embassies and Consulates Abroad | Ireland.ie](#) | [Ireland - this is Ireland](#) or visit the website for the Department of Foreign Affairs here [Ireland - this is Ireland | Ireland.ie](#). A person who wishes to sign the statutory declaration at an Irish Embassy or Consulate, should contact the Embassy/Consulate in advance to confirm the availability of the service, process, etc. Fees will apply. A list of the relevant fees can be found [here](#)

This guidance note contains general information and not legal advice. It sets out the RTB’s understanding of the law that applies.

You should consider whether the guidance in this note applies to your particular circumstances and seek professional advice where necessary. The RTB accepts no liability for any errors or omissions.

¹⁷ Section 3A(3) of the SD Act.

¹⁸ Section 3A(6) of the SD Act.

¹⁹ Diplomatic and Consular Officers (Provision of Services) Act 1993.

SCHEDULE 1

Summary of options for making statutory declarations in certain jurisdictions

A notice of termination served because the landlord wants to sell or because the landlord or family member wants to occupy the rented property, must be accompanied by a statutory declaration. The template notices of termination on the RTB's [website](#) for these grounds, also attach templates of the relevant statutory declaration. Where these statutory declarations are signed by a landlord outside of Ireland, additional requirements apply.

A summary of the alternative options for swearing statutory declarations in some of the jurisdictions that arise most frequently are set out below.

Jurisdiction	Convention	Alternative option of Irish Embassy/Consulate
--------------	------------	---

<p>Australia</p>	<p><u>Hague Convention</u></p> <ol style="list-style-type: none"> 1. The landlord must sign the statutory declaration before a person authorised in Australia to administer oaths. (In Australia a Notary Public witnesses documents for use outside that country). 2. The landlord must obtain a certification called an “apostille” which is attached or stamped onto the statutory declaration. Under the Hague Convention, the designated authority for issuing apostilles in Australia is the <u>Department of Foreign affairs</u>. <p>Further information on how to obtain an apostille in Australia can be found <u>here</u>.</p>	<p>The statutory declaration may also be signed at the Irish Embassy/Consulates in Australia. Contact the Embassy/Consulates in advance to confirm availability of the service, process, etc.</p> <p>Details for contacting the Irish Embassy in Canberra can be found at <u>https://www.dfa.ie/irish-embassy/australia/contact-us/</u></p> <p>Details for contacting Irish Consulates in Sydney and Perth can be found here:</p>
-------------------------	--	--

		<ul style="list-style-type: none"> ▪ Sydney ▪ Perth
<p>Canada</p>	<p><i>Until 10 January 2024²⁰</i></p> <p>A statutory declaration can be validly made in Canada before a person authorised under the law of that country to administer oaths (e.g. a Notary Public) and:</p> <ol style="list-style-type: none"> a) the signature of the person making the statutory declaration (the “declarer”) is authenticated in accordance with the law in Canada; and b) to the extent the law of Canada requires either or both to be authenticated: <ul style="list-style-type: none"> ▪ the capacity in which the declarer has acted in making that declaration; ▪ the seal or stamp of the person who has administered the oath.²¹ <p>Landlords in Canada should enquire locally as to the process that applies in that country.</p> <p><i>Hague Convention - from 11 January 2024</i></p> <ol style="list-style-type: none"> 1. The landlord must sign the statutory declaration before a person authorised in Canada to administer oaths (e.g. a Notary Public). 2. The landlord must obtain a certification called an “apostille” which is attached or stamped onto the statutory declaration. Under the Hague Convention, the designated authorities for issuing apostilles in Canada can be found here. 	<p>The statutory declaration may also be signed at the Irish Embassy/Consulate in Canada. Contact the Embassy/Consulate in advance to confirm availability of the service, process, etc.</p> <p>Details for contacting the Irish Embassy in Ottawa can be found at https://www.dfa.ie/irish-embassy/canada/contact-us/</p> <p>Details for contacting the Irish Consulate in Toronto can be found at https://www.dfa.ie/irish-consulate/toronto/contactus/</p>

²⁰ Canada has joined the Hague Convention, however, it will not come into effect in that country until 11 January 2024.

²¹ Section 3A(3) of the SD Act.

<p>France</p>	<p><i>EC Convention</i></p> <p>The landlord must sign the statutory declaration before a person authorised under the law of that country to administer oaths. For example a Notaire (a Notary) can administer oaths in France.</p> <p>As France is a member of the EC Convention, no legalisation (e.g. an apostille or official stamp) is required.</p>	<p>The statutory declaration may also be signed at the Irish Embassy in France. Contact the Embassy in advance to confirm availability of the service, process, etc.</p> <p>Details for contacting the Irish Embassy in Paris can be found at https://www.dfa.ie/irish-embassy/france/contact-us/</p>
<p>New Zealand</p>	<p><i>Hague Convention</i></p> <ol style="list-style-type: none"> 1. The landlord must sign the statutory declaration before a person authorised in New Zealand to administer oaths (e.g. a Notary Public). 2. The landlord must obtain a certification called an “apostille” which is attached or stamped onto the statutory declaration. Under the Hague Convention, the designated authority for issuing apostilles in New Zealand is the Department of Internal Affairs, Authentication Unit. <p>For further information on how to obtain an apostille in New Zealand, visit http://www.govt.nz/authentications</p>	<p>The statutory declaration may also be signed at the Irish Embassy in New Zealand. Contact the Embassy in advance to confirm availability of the service, process, etc.</p> <p>Details for contacting the Irish Embassy in Wellington can be found at https://www.dfa.ie/irish-embassy/new-zealand/contact-us/</p>
<p>United Kingdom</p>	<p><i>Hague Convention</i></p> <ol style="list-style-type: none"> 1. The landlord must sign the statutory declaration before a person authorised in the United Kingdom to administer oaths (e.g. a Notary Public). 	<p>The statutory declaration may also be signed at the Irish Embassy in London. Contact the Embassy in advance to confirm availability of the service, process, etc.</p>

	<p>2. The landlord must obtain a certification called an “apostille” which is attached or stamped onto the statutory declaration.</p> <p>Under the Hague Convention, the designated authority for issuing apostilles in the United Kingdom is the Legalisation Office, Foreign, Commonwealth and Development Office.</p> <p>For further information on how to obtain an apostille in the United Kingdom, visit https://www.gov.uk/get-document-legalised</p>	<p>Details for contacting the Irish Embassy in London can be found at https://www.dfa.ie/irish-embassy/great-britain/</p>
<p>United States</p>	<p>Hague Convention</p> <ol style="list-style-type: none"> 1. The landlord must sign the statutory declaration before a person authorised in the United States to administer oaths (e.g. a Notary Public). 2. The landlord must obtain a certification called an “apostille” which is attached or stamped onto the statutory declaration. Under the Hague Convention, details of the designated authorities for issuing apostilles in the United States can be found here. 	<p>The statutory declaration may also be signed at an Irish Embassy/Consulates in the United States. Contact the Embassy/Consulates in advance to confirm availability of the service, process, etc.</p> <p>Details for contacting the Irish Embassy in Washington and Consulates in Atlanta, Austin, Boston, Chicago, Los Angeles, New York and San Francisco, can be found at https://www.dfa.ie/irish-embassy/usa/contact-us/</p>

SCHEDULE 2

List of Hague Convention Countries

For more information on the Hague Convention visit [HCCH | Apostille Section](#). Click on the following links for the most up to date information on:

- [contracting countries to the Hague Convention](#) (also see the table below, up to date as of 12 May 2023);
- [competent authorities](#) in each country, with responsibility for issuing apostilles.

Contracting countries to the Hague Convention - 12 May 2023				
Albania	Andorra	Antigua and Barbuda	Argentina	Armenia
Australia	Austria	Azerbaijan	Bahamas	Bahrain
Barbados	Belarus	Belgium*	Belize	Bolivia (Plurinational State of)
Bosnia and Herzegovina	Botswana	Brazil	Brunei Darussalam	Bulgaria
Cabo Verde	Canada	Chile	China	Colombia
Cook Islands	Costa Rica	Croatia	Cyprus	Czech Republic
Denmark*	Dominica	Dominican Republic	Ecuador	El Salvador

RTB Guidance Note

Estonia*	Eswatini	Fiji	Finland	France*
----------	----------	------	---------	---------

Georgia	Germany	Greece	Grenada	Guatemala
Guyana	Honduras	Hungary	Iceland	India
Indonesia	Ireland*	Israel	Italy*	Jamaica
Japan	Kazakhstan	Kosovo	Kyrgyzstan	Latvia*
Lesotho	Liberia	Liechtenstein	Lithuania	Luxembourg
Malawi	Malta	Marshall Islands	Mauritius	Mexico
Monaco	Mongolia	Montenegro	Morocco	Namibia
Netherlands	New Zealand	Nicaragua	Niue	North Macedonia
Norway	Oman	Pakistan	Palau	Panama
Paraguay	Peru	Philippines	Poland	Portugal
Republic of Korea	Republic of Moldova	Romania	Russian Federation	Saint Kitts and Nevis
Saint Lucia	Saint Vincent and the Grenadines	Samoa	San Marino	Sao Tome and Principe
Saudi Arabia	Senegal	Serbia	Seychelles	Singapore
Slovakia	Slovenia	South Africa	Spain	Suriname
Sweden	Switzerland	Tajikistan	Tonga	Trinidad and Tobago

RTB Guidance Note

Tunisia	Türkiye	Ukraine	United Kingdom of Great Britain and Northern Ireland	United States of America
Uruguay	Uzbekistan	Vanuatu	Venezuela (Bolivarian Republic of)	

*These countries are also parties to the EC Convention. This means that it is not necessary to rely on the Hague Convention and the statutory declaration can be signed in these countries in accordance with the EC Convention, which does not require any form of legalisation (e.g. an apostille) (see point 4.2 above).