

Practice note 13– Apostille Convention Updates

(Reproduced with the kind consent of Dr. Ricky Lee - Director of Studies, Notaries' Society of South Australia).

Canada. On 16 May 2023, Canada announced that it has acceded to the Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents (the “*Apostille Convention*”). One of the principal reasons why Canada had not joined until now is because justice and legal affairs are matters within the power of the provinces and, as such, agreement of all 10 provinces was required. This constitutional arrangement is reflected in the Canadian authorities designated under Article 6 for the issue of apostilles, which will be:

- the Department of Foreign Affairs, Trade, and Development, Canada;
- the Ministry of Justice, Alberta;
- the Ministry of Attorney-General, British Columbia;
- the Ministry of Public and Business Service Delivery, Ontario; and
- the Ministry of Justice and Attorney-General, Saskatchewan.

The Apostille Convention will enter into force for Canada on 11 January 2024. The impact of this on South Australian notaries is likely to be negligible, as Australian notarial acts tend to be accepted in Canada, maybe except Quebec, without need for authentication and legalisation.

China. On 8 March 2023, the People’s Republic of China acceded to the Apostille Convention. The 6-month period for other States Parties to object will end in September, and the Apostille Convention will enter into force for China on 7 November 2023. Until that date, all documents from China or to be used in China continue to require authentication and legalisation.

The accession of China to the Apostille Convention does not affect Hong Kong and Macao in the continuing issue and use of apostilles. The Apostille Convention entered into force in **Hong Kong** on 25 April 1965 and continues in force following the transfer of sovereignty from the United Kingdom to China on 1 July 1997. Similarly, the Apostille Convention entered into force in **Macao** on 4 February 1969 and continues in force following its transfer from Portugal to China on 20 December 1999.

It is important to note that **Taiwan** (officially as the Republic of China) is not party to Apostille Convention.

Pakistan. The Apostille Convention entered into force for the Islamic Republic of Pakistan on 9 March 2023. Since then, Pakistan has accepted apostille certificates issued by Australia and other States Parties (with some exceptions – see below). However, the Pakistan Ministry of Foreign Affairs has advised that necessary legislative and administrative requirements are not yet in place for the issue of apostilles by Pakistan; accordingly, until informed otherwise, notarial documents from Pakistan need to be authenticated and legalised in the usual way.

At the time of accession, Pakistan lodged a reservation to the effect that the Apostille Convention would not enter into force with India. In turn, as Austria, Czechia, Denmark, Finland, Germany, Greece, the Netherlands, and Poland objected to Pakistan’s accession pursuant to Article 12(2), the Apostille Convention would not enter into force between Pakistan and those States.

Senegal. The Apostille Convention entered into force for the Republic of Senegal on 23 March 2023. This is not the case as between Senegal and Austria, Germany, and the Netherlands, as they each have lodged an objection under Article 12(2) of the Apostille Convention.