

Legislative reforms in relation to execution of deeds and agreements

UPDATED AS AT 1 MARCH 2022

	No legislative developments
	Addressed by temporary legislation
	Addressed by permanent legislation
**	Legislation in draft form

INDIVIDUALS

COMPANIES

STATUTORY CORPORATIONS AND
FOREIGN CORPORATIONS

	INDIVIDUALS		COMPANIES		STATUTORY CORPORATIONS AND FOREIGN CORPORATIONS		
	Deeds (form and execution)	Remote witnessing	Electronic execution under s127	Deeds (form and execution)	Remote witnessing	Deeds (form and execution)	Remote witnessing
Federal Government ¹	N/A	N/A	Electronic execution and 'split execution' permitted. ² (Electronic execution is also expressly allowed where individual signs as agent for company under s126). ³	Deeds may be in electronic form and signed electronically, under s127 or through authorised agent under s126. ⁴ No witnessing required (except for common seal under s127(2)). ⁵ Appointment of individual agent to sign a deed does not need to be by a deed. ⁶ Deeds do not need to be delivered.	Witnessing of the affixation of a common seal can be done remotely. ⁷ Witnessing is not otherwise required under Corporations Act 2001 (Cth) (but any witnessing not of common seal, if made, would depend on state law).	No changes to existing requirements.	No changes to existing requirements.

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	Deeds (form and execution)	Remote witnessing	Electronic execution under s127	Deeds (form and execution)	Remote witnessing	Deeds (form and execution)	Remote witnessing
New South Wales ⁸	Deeds may be in electronic form and signed electronically. ⁹	Signing may be witnessed by audiovisual link, with a number of procedural requirements. ¹⁰	N/A	Deeds may be in electronic form and signed electronically. ¹¹	Signing may be witnessed by audiovisual link, with a number of procedural requirements, ¹² but note witnessing of execution of deeds by companies is not required by NSW law unless by attorney or common seal (but this is now effectively overruled by federal law so witnessing is only required for a common seal).	Deeds may be in electronic form and signed electronically. ¹³	Signing may be witnessed by audiovisual link, with a number of procedural requirements. ¹⁴
Victoria ¹⁵	Deeds may be in electronic form and signed electronically.	Deeds may be signed without a witness. ¹⁶ Signing may be witnessed by audiovisual link, with some procedural requirements. ¹⁷	N/A	Deeds may be in electronic form and signed electronically. ¹⁸	Deeds may be signed without a witness. ¹⁹ Signing and affixation of seal may be witnessed by audiovisual link, with some procedural requirements. ²⁰	Deeds may be in electronic form and signed electronically. ²¹	Deeds may be signed without a witness. ²² Signing and affixation of seal may be witnessed by audiovisual link, with some procedural requirements. ²³

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	Deeds (form and execution)	Remote witnessing	Electronic execution under s127	Deeds (form and execution)	Remote witnessing	Deeds (form and execution)	Remote witnessing
<p>Queensland²⁴</p> <p>Temporary legislation current until expiry on 30 Apr 2022.²⁵</p> <p>Permanent changes will be made by amendments to the <u>Property Law Act 1974 (Qld)</u> underpart 8 of the <u>Justice and Other Legislation Amendment Act 2021 (Qld)</u> which will operate on proclamation (currently expected to be end of April 2022). The Act will also amend the <u>Oaths Act 1867 (Qld)</u> and the <u>Powers of Attorney Act 1998 (Qld)</u></p>	<p>Deeds may be in electronic form (even without the consent of another signatory or party) and signed electronically.</p> <p>But under the permanent reforms, except in certain circumstances, powers of attorney by individuals in deeds and general powers of attorney must be a physical document and witnessed.²⁶</p> <p>To sign a deed on behalf of an individual, an agent does not need to have been appointed by a deed.</p>	<p>Deeds may be signed without a witness. But under the permanent reforms, except in certain circumstances, powers of attorney by individuals in deeds and general powers of attorney must be a physical document and witnessed.</p> <p>Under the temporary reforms, witnessing can be done by audiovisual link, with significant procedural requirements. Under the permanent reforms this only applies to affidavits and statutory declarations.</p>	N/A	<p>Deeds may be in electronic form (even without the consent of another signatory or party) and signed electronically.</p>	<p>Deeds and general powers of attorney for corporations may be signed without a witness.</p> <p>They may be signed through officers in similar ways to s127, and with split execution.</p> <p>To sign a deed on behalf of a company, an agent does not need to have been appointed by a deed.</p> <p>Under the temporary reforms, witnessing can be done by audiovisual link, with significant procedural requirements. Under the permanent reforms this only applies to affidavits and statutory declarations and witnessing of the affixation of a common seal to a corporation's general power of attorney.</p>	<p>Deeds may be in electronic form and signed electronically.</p> <p>Statutory corporations and foreign corporations may sign deeds through their officers (without a seal) in similar ways to s127, and with split execution.</p> <p>In addition, foreign corporations may sign deeds according to the law of their place of incorporation.</p> <p>To sign a deed on behalf of a corporation, an agent does not need to have been appointed by a deed.</p>	<p>Deeds and general powers of attorney for corporations may be signed without a witness.</p> <p>Under the temporary reforms, witnessing can be done by audiovisual link, with significant procedural requirements. Under the permanent reforms this only applies to affidavits and statutory declarations and witnessing of the affixation of a common seal to a corporation's general power of attorney.</p>

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	Deeds (form and execution)	Remote witnessing	Electronic execution under s127	Deeds (form and execution)	Remote witnessing	Deeds (form and execution)	Remote witnessing
South Australia ²⁷	No changes to existing requirements.	No changes to existing requirements.	N/A	No changes to existing requirements.	No changes to existing requirements.	No changes to existing requirements.	No changes to existing requirements.
Western Australia ²⁸ [Temporary legislation current expiry: 31 Dec 2022]	No changes to existing requirements.	Where a 'relevant enactment' requires or permits signing to be witnessed, can be by audiovisual link, with a number of procedural requirements.	N/A	No changes to existing requirements.	Where a 'relevant enactment' requires or permits signing to be witnessed, can be by audiovisual link, with a number of procedural requirements.	No changes to existing requirements.	Where a 'relevant enactment' requires or permits signing to be witnessed, can be by audiovisual link, with a number of procedural requirements.
Tasmania ²⁹ [Notice current expiry: 1 Apr 2022 (unless revoked sooner)]	No changes to existing requirements.	The signing of documents pursuant to specified legislative provisions may be witnessed by audiovisual link and signed and served electronically.	N/A	No changes to existing requirements.	The signing of documents pursuant to specified legislative provisions may be witnessed by audiovisual link and signed and served electronically.	No changes to existing requirements.	The signing of documents pursuant to specified legislative provisions may be witnessed by audiovisual link and signed and served electronically.
Australian Capital Territory ³⁰ [Temporary legislation current expiry: At the end of a 3-month period during which no 'COVID-19 emergency' has been in force]	No changes to existing requirements.	The signing of affidavits, wills or powers of attorney may be witnessed by audiovisual link, with a number of procedural requirements.	N/A	No changes to existing requirements.	The signing of affidavits, wills or powers of attorney may be witnessed by audiovisual link, with a number of procedural requirements.	No changes to existing requirements.	The signing of affidavits, wills or powers of attorney may be witnessed by audiovisual link, with a number of procedural requirements.

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Northern Territory	No changes to existing requirements.	No changes to existing requirements.	N/A	No changes to existing requirements.	No changes to existing requirements.	No changes to existing requirements.	No changes to existing requirements.

¹ [Corporations Act 2001 \(Cth\)](#) as permanently amended by [Corporations Amendment \(Meetings and Documents\) Act 2022 \(Cth\)](#).

² Section 110A.

³ Section 126(6).

⁴ Sections 110A, 126(6) and 127(3A).

⁵ Section 126(6).

⁶ Section 126(4), 127(3A).

⁷ Section 127(2A).

⁸ Part 2B of the [Electronic Transactions Act 2000 \(NSW\)](#), as inserted by section 1.5 of the [Stronger Communities Legislation Amendment \(Courts and Civil\) Act 2020 \(NSW\)](#).

⁹ Section 38A of the [Conveyancing Act 1919 \(NSW\)](#).

¹⁰ Section 14G to 14I of the [Electronic Transactions Act 2000 \(NSW\)](#) as amended by [Electronic Transactions Amendment \(Remote Witnessing\) Act 2021 \(NSW\)](#).

¹¹ Section 38A of the [Conveyancing Act 1919 \(NSW\)](#) as amended by the [Customer Service Legislation Amendment Act 2021 \(NSW\)](#).

¹² Section 14G to 14I of the [Electronic Transactions Act 2000 \(NSW\)](#) as amended by [Electronic Transactions Amendment \(Remote Witnessing\) Act 2021 \(NSW\)](#).

¹³ Section 38A of the [Conveyancing Act 1919 \(NSW\)](#).

¹⁴ Section 14G to 14I of the [Electronic Transactions Act 2000 \(NSW\)](#) as amended by [Electronic Transactions Amendment \(Remote Witnessing\) Act 2021 \(NSW\)](#).

¹⁵ Permanent amendments made to the [Electronic Transactions \(Victoria\) Act 2000 \(Vic\)](#) by section 67 [Justice Legislation Amendment \(System Enhancements and Other Matters\) Act 2021 \(Vic\)](#).

¹⁶ Witnessing of deeds has never been a requirement of Victorian law except affixation of common seal.

¹⁷ Section 12A of the [Electronic Transactions \(Victoria\) Act 2000 \(Vic\)](#) (as amended).

¹⁸ Section 12A of the [Electronic Transactions \(Victoria\) Act 2000 \(Vic\)](#) (as amended).

¹⁹ Witnessing of deeds has never been a requirement of Victorian law except affixation of common seal.

²⁰ Section 12 of the [Electronic Transactions \(Victoria\) Act 2000 \(Vic\)](#) (as amended).

²¹ Section 12A of the [Electronic Transactions \(Victoria\) Act 2000 \(Vic\)](#) (as amended).

²² Witnessing of deeds has never been a requirement of Victorian law except affixation of common seal.

²³ Section 12 of the [Electronic Transactions \(Victoria\) Act 2000 \(Vic\)](#) (as amended)

²⁴ [Justice Legislation \(COVID-19 Emergency Response – Documents and Oaths\) Regulation 2020 \(Qld\)](#).

²⁵ Section 27 of the [Justice Legislation \(COVID-19\) Emergency Response – Documents and Oaths\) Regulation 2020 \(Qld\)](#) and section 4A of the [COVID-19 Emergency Response Act 2020 \(Qld\)](#).

²⁶ Section 46A of the [Property Law Act 1974 \(Qld\)](#) (as amended).

²⁷ Section 17 of the [COVID-19 Emergency Response Act 2020 \(SA\)](#) (which will be repealed from 9 September 2021 pursuant to Schedule 1 of the [Statutes Amendment \(COVID-19 Permanent Measures\) Act 2021](#), after which time the relevant provisions relating to remote meetings will be made permanent by the [Statutes Amendment \(COVID-19 Permanent Measures\) Act 2021](#)) and regulation 4 of the [COVID-19 Emergency Response \(Section 17\) Regulations 2020 \(SA\)](#).

²⁸ Division 4, Part 2 of the [COVID-19 Response and Economic Recovery Omnibus Act 2020 \(WA\)](#) (the **Act**). Section 25 of the Act states that Division 4 is in addition to, and not in substitution for, the [Electronic Transactions Act 2011 \(WA\)](#) except that regulations 3 and 4 of the [Electronic Transactions Regulations 2012 \(WA\)](#) do not apply in circumstances in which Division 4 applies.

²⁹ Ministerial notice published in the [Tasmanian Government Gazette dated 1 April 2021](#) pursuant to section 17 of the [COVID-19 Disease Emergency \(Miscellaneous Provisions\) Act 2020 \(Tas\)](#).

³⁰ Section 4 of the [COVID-19 Emergency Response Act 2020 \(ACT\)](#), as inserted by Part 1.6 of the [COVID-19 Emergency Response Legislation Amendment Act 2020 \(ACT\)](#).