

Witnessing legal documents remotely: new COVID-19 regulations

Factsheet – April 2020

To reduce face-to-face contact during the COVID-19 pandemic, the NSW Government has introduced new regulations to temporarily enable legal documents to be witnessed remotely via audio visual link (AVL). The changes are being introduced under Section 17 of the *Electronic Transactions Act*.

What do the changes mean?

- Legal documents can now be witnessed in real time via AVL.
- The categories of people authorised to witness NSW statutory declarations have been expanded to include those who may witness Commonwealth statutory declarations. For example, a range of health professionals can now witness statutory declarations in NSW, making it easier for the public to execute legal documents. For more information on who may witness Commonwealth statutory declarations, see the [Federal Government Guidelines](#).
- The categories of people authorised to witness written oaths, declarations or affidavits under section 26 of the *Oaths Act 1900 (NSW)*, have been expanded to include Australian legal practitioners.
- Witnesses can continue to provide services in person, provided they follow [NSW public health orders and social distancing guidelines](#).
- This temporary regulation will expire on 26 September 2020, subject to any further regulation.

How will witnessing via AVL work?

- The witness must see the signatory signing the document in real time over AVL.
- The witness will sign the document, or an exact copy of the document, as evidence that they witnessed the signature. The witness may sign a hard copy of the document that has been signed by the signatory and then scanned and emailed to the witness, or they may sign a counterpart of the document signed by the signatory.
- The witness must be reasonably satisfied that the document they sign is the same document, or a copy of the document signed by the signatory.
- The witness must endorse the document with a statement that specifies the method used to witness the signature and that it was witnessed in accordance with the new regulation.
- All current tasks that may be associated with witnessing certain documents, for example where a witness is required to confirm the identity of the signatory or to certify that the signatory appeared to understand the effect of the document, can now also be satisfied via AVL.

For more information:

- on these changes, contact the Department of Communities and Justice at policy@justice.nsw.gov.au
- on the department's response to COVID-19: www.coronavirus.dcj.nsw.gov.au/