

From:
To:
Subject: Witnessing of Documents - Outside Australia - COVID-19 Emergency2
Date:

Witnessing of Documents - Outside Australia - COVID-19 Emergency²

We understand that it may be difficult under the current circumstances for people overseas who are transacting on land in Western Australia to travel to Consular Offices. Where this is the case, one of the other persons authorised under section 145(1) (b) of the [Transfer of Land Act 1893](#) may be used to witness documents.

It is important that the highest levels of vigilance continue during this difficult time to ensure the security and integrity of property transactions remains uncompromised and the security and integrity of our State's land titles system is maintained.

Refer to: [CIB-331 COVID-19 Impacts on requirements for Verification of Identity inside and outside Australia and document witnessing outside of Australia](#)

² Updated to include "Witnessing of Documents - Outside Australia - COVID-19 Emergency 06/04/2020

In some instances, where an instrument is executed but not witnessed in the manner provided in section 145(1) of the TLA, and the genuineness of the signature and handwriting of the person signing is proved to the satisfaction of the Registrar, the instrument may be accepted for registration by virtue of s.145(3) of the TLA. Please refer to SIG-01 – Signing and Witnessing of Documents

TRANSFER OF LAND ACT 1893 - SECT 145

145 . Signatures on documents, witnessing requirements

(1) Subject to subsection (2), an instrument or power of attorney executed after section 87 of the *Transfer of Land Amendment Act 1996* comes into operation shall be deemed to be duly executed if —

(a) in the case of such a document executed in Australia, the Registrar is satisfied that each signature is witnessed by a person —

- (i) who is not a party to the instrument or power of attorney; and
- (ii) who is not a minor and not under any other legal disability; and
- (iii) whose full name, address and occupation are stated on the instrument or power of attorney;

and

(b) in the case of such a document executed outside Australia, the Registrar is satisfied that each signature is witnessed by a person who is not a party to the instrument or power of attorney and who is —

- (i) a notary public; or
- (ii) an Australian consular officer; or
- (iii) an elected member of Parliament or other representative body at the equivalent of State or federal level; or

- (iv) a judge or magistrate; or
- (v) qualified and entitled to practise law; or
- (vi) qualified and entitled to practise as a doctor of medicine; or
- (vii) qualified and entitled to practise as a civil, electrical or mechanical engineer; or
- (viii) qualified as a school teacher; or
- (ix) a university lecturer; or
- (x) the mayor of a town or city; or
- (xi) a person with managerial responsibility in a bank.

(2) If Her Majesty or the State is the registered proprietor of land, an instrument relating to the land shall be deemed to be executed if the Minister signs, and affixes the seal of his office to, the instrument.

(3) If it appears to the Registrar that a signature of a party to an instrument or a power of attorney under this Act has not been witnessed in the manner required by subsection (1), the Registrar may, if he thinks fit, register or file and note the instrument or power of attorney if the genuineness of the signature of the party is proved to his satisfaction by a statutory declaration of a person who knows the party and the party's signature.

(4) In this section *Australian consular officer* means a person appointed to hold or act in any of the following offices (being an office of the Commonwealth) in a country or place outside the Commonwealth, namely, ambassador, high commissioner, minister, head of mission, commissioner, chargé d'affaires, consul or secretary at an embassy, high commissioner's office, legation or other post, consular-general, consul, vice-consul, trade commissioner and consular agent.

[Section 145 inserted: No. 81 of 1996 s. 87; amended: No. 31 of 1997 s. 118.]