



Action Point Checklist: NSW COVID-19 Remote Witnessing of Documents

This checklist has been authored for LexisNexis by *LexisNexis Legal Writer team*

Introductory note:

NSW Parliament has passed the Electronic Transactions Amendment (COVID-19 Witnessing of Documents) Regulation 2020 (NSW) ("the regulation") to allow witnessing and attestation of documents to take place by audio visual link

How to use this checklist:

If a client wishes to make or change their Will during the COVID-19 restrictions, the legal requirements of remote witnessing must be adhered to in order to guarantee the validity of the document

Links to related content:

<https://legislation.nsw.gov.au/regulations/2020-169>



Action Point Checklist: NSW COVID-19 Remote Witnessing of Document

The regulation allows witnessing and attestation of documents governed by NSW law to take place by audio visual link

For remote witnessing of wills take care to comply with both the regulations and the [Succession Act 2006](#)

Remote Witnessing		✓
➤	Verify the testator's identity, assess their testamentary capacity, and undertake checks for fraud and undue influence	
➤	Obtain the testators consent If you want to record the meeting.	
➤	Ensure that the document being signed by the testator is the same as the document (or copy of the document) to be signed by the witness	
➤	Ensure the witness can view both the face and the signing hand of the testator as the witness must observe the testator sign the document in real time.	
➤	The witness signs the document (either as a counterpart or a scanned copy of the original) as soon as practicable after witnessing the testator sign the document	
➤	Section 6(1)(c) of the Succession Act 2006 requires that the testator observe each witness signing the counterpart or copy document in real time.	
➤	As the process of remote witnessing results in several otherwise identical documents to prove the signatures were properly witnessed ensure that all documents are stored together	
➤	Make a file note of the meeting including the reason for remote witnessing by audio visual link.	

