

COVID-19: certain documents may be witnessed by audiovisual link in the ACT

Source: [ACT Legislation Register](#)

Date: 18 August 2020

Abstract:

The signing of certain documents may be witnessed by audiovisual link in the ACT during the COVID-19 emergency period (pursuant to section 4 of the *COVID-19 Emergency Response Act 2020* (ACT)(**Act**)(inserted by the *COVID-19 Emergency Response Legislation Amendment Act 2020* (ACT)).

How long does the COVID-19 emergency period last?

The COVID-19 emergency period:

- began on 14 May 2020; and
- ends at the end of a 3-month period during which no COVID-19 emergency has been in force in the ACT (the current COVID-19 emergency period in the ACT expires on 21 August 2020, but may be extended – see the [ACT government website](#)).

What documents can be witnessed by audio visual link?

The Act applies to:

- an affidavit,
- a will,
- a health direction (under *Medical Treatment (Health Directions) Act 2006* (ACT)); and
- a general power of attorney or an enduring power of attorney under the *Powers of Attorney Act 2006* (ACT) (“**Documents**”).

What is an audiovisual link?

The Act defines an audiovisual link as being a system of 2-way communication linking different places so that a person at any of them can be seen and heard at the other places.

What can be witnessed by audiovisual link?

A signature in a Document which must be witnessed under ACT law may be witnessed by audiovisual link.

What are the requirements for witnessing by audiovisual link?

A person witnessing another person signing a Document by audiovisual link must:

- observe the signatory signing the Document in real time;
- confirm the signature was witnessed by signing the Document or a copy of the Document. For example, by:
 - signing a counterpart of the Document as soon as practicable after witnessing the signing of the Document; or
 - if the signatory scans and emails the witness a copy of the signed Document – countersigning the Document as soon as practicable after witnessing the signing of the Document;
- be reasonably satisfied that the Document that the witness signs is the same Document, or a copy of the Document, signed by the signatory; and

- endorse the Document, or the copy of the Document, with a statement:
 - of the method used to witness the signature of the signatory; and
 - that the Document was witnessed in accordance with section 4 of the *COVID-19 Emergency Response Act 2020* (ACT).

Example of a witness' statement

A witness' statement (above the name and signature of the witness) could read as follows:

I, [name of witness], confirm that this [name of document] was signed by [name of signatory] and witnessed by me over audiovisual link using [name of audiovisual platform, eg Microsoft Teams] in accordance with section 4 of the COVID-19 Emergency Response Act 2020 (ACT) on [date].

Do the signatory and the witness have to be in the ACT during the audio visual link?

No. The Act only applies to Documents which need to be signed before a witness under ACT law.

Key takeaway

During the COVID-19 emergency period in the ACT, the signing of affidavits, wills, health directions and powers of attorney may be witnessed by audiovisual link.