

VIC temporary regulations allow for electronic signing of deeds and remote witnessing of documents

Source: [VIC legislation](#)

Date: 12 May 2020

Abstract:

The Victorian Government has introduced new temporary regulations, [COVID-19 Omnibus \(Emergency Measures\) \(Electronic Signing and Witnessing\) Regulations 2020 \(Regulations\)](#), made under section 4 of the [COVID-19 Omnibus \(Emergency Measures\) Act 2020](#), which allow for:

- electronic signing of deeds and mortgages;
- remote witnessing for electronic transactions; and
- electronic signing and remote witnessing of powers of attorney, wills and statutory declarations.

Electronic signing of deeds and mortgages

Sections 5 and 6 of the Regulations modify the [Electronic Transactions \(Victoria\) Act 2000 \(Vic ETA\)](#) to permit the electronic signing of deeds and mortgages.

This means that Victorian-law governed deeds and mortgages may be electronically signed by an individual or corporation. Victorian-law governed deeds need not be witnessed.

Electronic split execution of documents

Section 12 of the Regulations modifies the Vic ETA to make it clear that split execution is permitted provided that:

- the requirements set out in section 9(1) of the Vic ETA for electronic signatures (being requirements as to identity, reliability and consent) have been satisfied; and
- each signatory and party to the document receives every copy on which a signature appears.

Remote witnessing

Section 7 of the Regulations modifies the Vic ETA to allow for remote witnessing to be conducted by audio visual link provided that:

- the witness observed the person signing the document by audio visual link;
- the witness writes their signature to signify they have witnessed the person signing; and
- the witness includes a statement accompanying their signature that indicates the witness observed the person signing the document by audio visual link in accordance with the Regulations.

The Regulations do not prescribe any particular form of audio visual link, and instead adopt the definition of “audio visual link” in the [Evidence \(Miscellaneous Provisions\) Act 1958 \(Vic\)](#), being any facilities (including closed-circuit television) that enable audio and visual communication between persons at different places. This would include video conferencing platforms such as Skype, WhatsApp, FaceTime, Microsoft Teams and Zoom.

Electronic signing and remote witnessing of powers of attorney, wills and statutory declarations

The Regulations also provide for the electronic signing and remote witnessing of powers of attorney (Part 4), wills (Part 5) and statutory declarations (see Part 3), including further procedural requirements which a witness to these documents must comply with.



Notably, the effect of section 35(2) of the Regulations is that an attorney may electronically sign documents where the attorney makes a statement on the document indicating that they signed electronically in accordance with the Regulations. This creates some uncertainty as to whether electronic signing by an attorney would be invalid without such a statement. Accordingly, it is prudent to include such a statement in any Victorian-law governed document to be signed by an attorney while the Regulations are in effect.

Temporary effect

These Regulations are temporary and expire on 24 October 2020.