

Notice

To Lodging Parties

7 September 2021 No 247

Statutes Amendment (*COVID-19 Permanent Measures*) Act 2021

Background

In response to the COVID-19 pandemic the Government of South Australia introduced the:

- [COVID-19 Emergency Response Act 2020](#) (COVID-19 Emergency Response Act), and the
- [COVID-19 Emergency Response \(Section 16\) Regulations 2020](#)

to make various temporary amendments to the law of the State, including the

- [Real Property Act 1886](#) (RPA).

These temporary amendments included (as detailed in previous NTLPs [230](#), [237](#), [239](#), [241](#) and [246](#)):

- An expansion of persons/classes of people who may witness a statutory declaration,
- An allowance of the use of audio-visual technology for face-to-face meetings as part of the Verification of Identity (VOI) Standard,
- A suspension of the requirement for a mortgagee to execute a corresponding mortgage,
- A clarification of the requirements regarding the need to witness the signing of an instrument under sections 128, 153A and 267 of the RPA.

Permanent Changes

To assist in modernising practices in South Australia, two of the amendments to the RPA will be permanently enacted under the [Statutes Amendment \(COVID-19 Permanent Measures\) Act 2021](#) (COVID-19 Permanent Measures Act), which commences on 9 September 2021.

These being:

- The requirement for a mortgagee to execute a corresponding mortgage
Under the COVID-19 Permanent Measures Act the requirement for a mortgagee to execute a corresponding mortgage has now been permanently removed.
- Witnessing requirements under section 128 and 153A of the RPA
The COVID-19 Permanent Measures Act makes clear that the execution of an instrument under sections 128 and 153A of the RPA does not require witnessing.

Repealed Changes

The temporary suspension of the requirement to witness signing of an instrument under 267 of the RPA, as per the COVID-19 Emergency Response Act, has been repealed. To provide time to comply with the return to the pre-COVID requirement and to allow for in flight transactions (predominantly division instruments) a transition period of one month (until 17 October 2021) will apply.

Temporary Changes

At this time, the following temporary measures remain in place:

- The expansion of persons/classes of people who may witness statutory declarations; and
- The allowance of the use of audio-visual technology for face-to-face meetings as part of the VOI Standard.

A reminder of the temporary changes to the Verification of Identity Standard

A partial waiver was issued on 9 April 2020 to allow for the use of audio-visual technology for the purpose of applying the VOI Standard in lieu of an in-person, face-to-face interview, this will expire with the COVID-19 Emergency Response Act, unless revoked earlier.

Practitioners are reminded that this is a temporary modification for the duration of the COVID-19 Emergency Response Act and all other requirements in the VOI Standard still apply.

The partial waivers to enable these temporary changes to the use of audio-visual technology in the VOI Standard for both Industry and Electronic Lodgement Network Operators (ELNOs) provide further detail and can be found here:

- [South Australian Operating Requirement Waiver OR 1/2020 –verification of identity \(use of audio visual\)](#)
- [South Australian Participation Rule Waiver PR 1/2020 – verification of identity \(use of audio visual\)](#)

Please ensure that you are using the updated versions of the South Australian:

- [Operating Requirements](#),
- [Participation Rules](#) and,
- [Registrar-General's Verification of Identity Requirements](#)

as each has been updated since the original advice on this matter was issued.

For further information please contact the Office of the Registrar-General via DIT.RegistrarGeneral@sa.gov.au.



Jenny Cottnam
REGISTRAR-GENERAL