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3.1 COVID-19 Remote Witnessing Provisions³

The COVID-19 Response and Economic Recovery Omnibus Act 2020 (CRERO Act) was enacted to provide for, among other things, assisting in overcoming of problems and impediments arising from the emergency response to the COVID-19 pandemic.

Due to COVID-19 restrictions when a statutory declaration is required to be executed in the presence of a witness, the CRERO Act provides that the witness is present if they and the person executing the document are able to see and hear each other, whether by audio-visual communication (e.g. Skype, Zoom, Microsoft Teams etc) or in person.

3.1.1 Signing a statutory declaration as a witness by audio-visual communication

The witnessing requirements are satisfied if the witness:

- satisfies themselves that the declaration they are about to sign as witness is a copy of the declaration being executed; and
- is satisfied that the declaration is executed as required
- endorses the copy of the declaration with a statement that it was executed in accordance with the relevant section of the CRERO Act which provides for audio-visual communication witnessing.

The witness must sign the declaration while the witness and person executing the declaration are still able to see and hear each other by audio-visual communication. If it is not practicable to do so, as soon as practicable afterwards.

3.1.2 Lodging of Documents witnessed by audio-visual communication

The original signed declaration and the counterpart declaration signed by the witness will need to be lodged jointly as proof of the execution of the declaration.

3.1.3 Expiry

This provision will expire on 31 December 2022⁴ unless extended by proclamation issued by the Governor, on the recommendation of the Minister.

³ COVID-19 Remote Witnessing Provisions added 18/09/2020

⁴ Date changed from 2021 to 2022 on 18/01/2022

An authorised witness for a statutory declaration that is made at a place in Western Australia is:

- any person described in the second column of Schedule 2 of the OASD Act

or

- any person before whom, under the *Commonwealth Statutory Declarations Act 1959*, a statutory declaration may be made.

The informal descriptions of persons described in Schedule 2 of the OASD Act are listed below:

Authorised Witnesses¹

Academic (post-secondary institution)	Engineer	Patent attorney
Accountant	Industrial organisation secretary	Physiotherapist
Architect	Insurance broker	Podiatrist
Australian Consular Officer	Justice of the Peace	Police officer
Australian Diplomatic Officer	Landgate officer	Post office manager
Bailiff	Lawyer	Psychologist
Bank manager	Local government CEO or deputy CEO	Public notary
Chartered secretary, governance adviser or risk manager	Local government councillor	Public servant (Commonwealth)
Chemist	Loss adjuster	Public servant (State)
Chiropractor	Marriage celebrant	Real estate agent
Company auditor or liquidator	Member of Parliament	Settlement agent
Court officer	Midwife	Sheriff or deputy sheriff
Defence force officer	Minister of religion	Surveyor
Dentist	Nurse	Registered teacher
Doctor	Optometrist	Tribunal officer
Electorate officer of a member of State Parliament	Paramedic	Veterinary surgeon

¹[Table updated on 03/04/2020]

Note: For the full formal description of authorised witnesses for statutory declarations refer to Schedule 2 of the Oaths, Affidavits and Statutory Declarations Act 2005.

An authorised witness for a statutory declaration made under the OASD Act is specified in s.12(6) of that Act.

If the statutory declaration is made at a place **outside Western Australia, but within Australia** then an authorised witness is:

- any person who, under the law of that place, has authority to take or receive a statutory, solemn or other declaration;

or

- any person before whom, under the *Commonwealth Statutory Declarations Act 1959*, a statutory declaration may be made.

If the statutory declaration is made outside Australia, then an authorised witness is:

- a prescribed consular official who is performing official functions at that place
- a person who is a justice or notary public under the law of that place

or

- a person who has authority under the law of that place to administer an oath to another person or to take, receive or witness a statutory, solemn or other declaration.

A prescribed consular official means:

- an Australian Consular Officer, or an Australian Diplomatic Officer, within the meaning of the *Commonwealth Consular Fees Act 1955*;
- a British consul or vice consul

or

- an official prescribed by the regulations to be a prescribed consular official.

<https://www0.landgate.wa.gov.au/for-individuals/Land-Transactions-toolkit/land-titles-registration-policy-and-procedure-guides#DOC-04>

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