

# SIG-07 Signing and Witnessing of Documents by a Person Overseas

Version 2 - 01/10/2018

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## 1 Overview

Where a land transaction document is required to be executed and witnessed outside of Australia, there are two categories of witnesses that apply:

- for a land transaction document that is not subject to the Verification of Identity (VOI) Practice, the witness must be within the meaning of Section 145(1)(b) of the Transfer of Land Act 1893 (TLA):

Signatures on documents, witnessing requirements

(b) in the case of such a document executed outside Australia, the Registrar is satisfied that each signature is witnessed by a person who is not a party to the instrument or power of attorney and who is —

(i) a notary public; or

(ii) an Australian consular officer; or

(iii) an elected member of Parliament or other representative body at the equivalent of State or federal level; or

(iv) a judge or magistrate; or

(v) qualified and entitled to practise law; or

(vi) qualified and entitled to practise as a doctor of medicine; or

(vii) qualified and entitled to practise as a civil, electrical or mechanical engineer; or

(viii) qualified as a school teacher; or

(ix) a university lecturer; or

(x) the mayor of a town or city; or

(xi) a person with managerial responsibility in a bank<sup>1</sup>

## <sup>1</sup> [Guide updated on 01/10/2018 to insert list of witnesses]

(Also see [Verification of Identity web page.](#))

- for a paper instrument or mortgage that is subject to the VOI Practice, the witness must be an Australian Consular Officer (ACO) (fees apply);

The role of the ACO is to satisfy themselves that the photos on the identification documents produced by the person transacting are a reasonable likeness of that person. If this is not possible, the Australian Consular Office service is terminated.

When reasonable likeness is confirmed, the ACO:

- prepares endorsed copies of all original identification documents produced by the person transacting;

- ask the person to sign the paper land transaction document and witnesses the person's signature on the paper land transaction document;

- completes, signs, dates and endorses the "Australian Embassy/High Commission/Consulate Identity/Witnessing Certification" (Certification Form).

The ACO hands to the person transacting the:

- original identification documents;

- signed paper land transaction document;

- signed, dated and endorsed copies of the original identification documents produced; and

- signed, dated and endorsed Certification Form.

The ACO will not advise the person transacting of the documents required to be sighted and certified; this is the responsibility of that person's Australian representative, such as the Conveyancer/Lawyer/Mortgagee, who must provide written instructions to the person transacting.

The Registrar of Titles may, in exceptional circumstances, accept an alternative witness within the meaning of Section 145(1)(b) of the TLA for a paper instrument or mortgage which requires witnessing by an Australian Consular Officer.

The Registrar will not consider travel alone or mere inconvenience as exceptional circumstances. There must be some other exceptional or unusual circumstances fully explained, such as a person with a medical condition making it dangerous for them to travel, defence personnel on active duty overseas, etc.

Requests seeking the Registrar' approval to use an alternative witness must be made in writing by the Conveyancer / Lawyer / Mortgagee acting for the person transacting. The request must explain fully the exceptional circumstances and must be made prior to the execution (signing) and witnessing of the Paper Instrument or mortgage. All such requests must identify the land by volume and folio number as well as state the name of the person transacting and settlement date. Written

requests should be emailed to [VOIpractice@landgate.wa.gov.au](mailto:VOIpractice@landgate.wa.gov.au).

In some instances, where an instrument is executed but not witnessed in the manner provided in section 145(1) of the T LA, and the genuineness of the signature and handwriting of the person signing is proved to the satisfaction of the Registrar, the instrument may be accepted for registration by virtue of s.145(3) of the T LA. Please refer to SIG-01 – Signing and Witnessing of Documents

## 2 Also see

[- SIG-01 Signing of Documents](#)

[- Verification of Identity web page](#)

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