

# Notice

To Lodging Parties

7 September 2021 No 247

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

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### **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### **Repealed Changes**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to witness signing of an instrument under 267 of the RPA, as per the COVID-19 Emergency Response Act, has been repealed.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](mailto:DIT.RegistrarGeneral@sa.gov.au).



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