



## Electronic signing and virtual witnessing of Wills and Enduring Powers of Attorney in Victoria

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Wills and Enduring Powers of Attorney (EPOA) are now amongst the documents that can be signed and witnessed electronically. Thanks to the rollout of the *COVID-19 Omnibus (Emergency Measures) (Electronic Signing and Witnessing) Regulations 2020 (Regulations)*, a framework has been released, which sets out the way in which these estate planning documents can be electronically signed and witnessed in Victoria.

In summary:

1. A Will and EPOA can be signed electronically. The signature of the will-maker and/or the Principal must be accompanied by a statement on the Will and/or EPOA that the signature was made by electronic means in accordance with the Regulations;
2. Two witnesses are still required and the usual requirements about appropriate witnesses are still in force. The witnesses can now witness by audio-visual link (in addition to being able to do so in person);
3. The witnesses must include a statement in the Will and/or EPOA that the witnessing was done using an audio visual link in accordance with the Regulations;
4. There will still be one Will and/or EPOA which is signed by the will-maker and/or the Principal and witnesses;
5. The will-maker and/or the Principal then certifies the duly executed version with a statement that the copy is a true copy of the Will and/or the EPOA signed by them and that the conditions in the Regulations regarding execution and witnessing have been met;
6. The will-maker and/or Principal must date and sign that statement;
7. All these steps must occur on the same day;

### People who can help



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8. There are no requirements as to how the Will and/or the EPOA are transmitted between the will-maker and/or the Principal and witnesses. It is, therefore, open for programs such as DocuSign to be used to sign the documents during, for example, a Zoom, Skype or Microsoft Teams conference.

For the most part, Victoria has adopted temporary measures similar to those in other states with one key exception. Victorians can not only witness these documents by audio-visual link but electronically sign them too. This is a keen inclusion that will, no doubt, facilitate further convenience in the signing process during a time when meeting in person is restricted.

Care and diligence must be exercised to ensure that the will-maker or Principal is not under any undue influence. This could include asking the client to take their camera around the room so that the witnesses can confirm that no one else is there. It is also possible to record the meetings on programs such as Zoom as a record for the file.

Although lock-down restrictions have been eased somewhat in Victoria this week, there are still many people concerned about their health who would prefer not to meet in person to execute these documents. It is, therefore, a very useful update for many clients and practitioners.

For more information about the updates to witnessing estate planning documents virtually in NSW, please read our alert [here](#).

For more information about the importance of getting your affairs and estate planning in order please read our alert [here](#).

## How we can help

Although, due to COVID-19, the execution of formal estate planning documents face more hurdles, we work closely with clients to address and meet their needs. If we can help in any way during this challenging period, please contact [Ilana Kacev](#) (Vic) or [Camille Broadhurst](#) (NSW) for further advice.

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