

Passed by both Houses



New South Wales

Electronic Transactions Amendment (Remote Witnessing) Bill 2021

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2021



New South Wales

Electronic Transactions Amendment (Remote Witnessing) Bill 2021

Act No _____, 2021

An Act to amend the *Electronic Transactions Act 2000* to make permanent certain provisions about the remote witnessing of documents; to amend the *Oaths Act 1900* to expand the classes of persons before whom oaths and statutory declarations may be made; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Electronic Transactions Amendment (Remote Witnessing) Act 2021*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Electronic Transactions Act 2000 No 8

[1] **Part 2B, heading**

Omit “pilot scheme”.

[2] **Part 2B, Division 1, heading**

Omit the heading.

[3] **Section 14F Definitions**

Omit “In this Division”. Insert instead “In this Part”.

[4] **Section 14F, definition of “document”**

Insert “documents, but does not include a document excluded from this definition by the regulations” after “following”.

[5] **Section 14F**

Insert in alphabetical order—

signatory—see section 14G(2)(a).

witness—see section 14G(2).

[6] **Sections 14H–14L**

Omit Part 2B, Divisions 2 and 3. Insert instead—

14H Original document

(1) For the purposes of another Act or law, the original document for a document witnessed under this Part is a document that—

- (a) contains every page or part of the document, and
- (b) contains each signature or mark of the signatory and witnesses wherever required in the document, and
- (c) contains the endorsement required by section 14G(2)(d), and
- (d) if a signature, mark or endorsement was applied to the same page or part by persons in different locations—contains duplicates of the page or part so that every signature, mark or endorsement is included, and
- (e) for a signature, mark or endorsement written physically on a page or part—contains the actual signature, mark or endorsement.

Example— A signature written by hand.

(2) Except as provided by subsection (1)(d), a page or part is required to be included in the original document only once.

14I Signatory and witness may be outside jurisdiction

A document may be witnessed under this Part even if the signatory or witness, or both, are outside this jurisdiction if—

- (a) the document is made, or required to be signed, under an Act or law of this jurisdiction, or
- (b) the governing laws for the document are the laws of this jurisdiction.

14J Place of execution

- (1) For the purposes of another Act or law, the place at which a document witnessed under this Part is executed is the place at which the signatory was when the signatory signed the document.
- (2) If, because of section 14I, the place of execution is outside this jurisdiction, the laws of this jurisdiction are taken to apply in relation to the witnessing and execution of the document as if the place were in this jurisdiction.

14K Regulations

The regulations may set out methods, technologies or processes that, if used, will be taken to satisfy some or all of the requirements of this Part.

14L Savings

An endorsement that would have been satisfactory for the purposes of the *Electronic Transactions Regulation 2017*, Schedule 1, clause 2(2)(d)(ii) had that paragraph not been repealed, is taken to be satisfactory for the purposes of section 14G(2)(d)(ii).

Schedule 2 Amendment of Oaths Act 1900 No 20

[1] Section 18 Declaration, how administered

Insert at the end of the section—

- (2) A declaration may also be made before a person before whom a statutory declaration under the *Statutory Declarations Act 1959* of the Commonwealth may be made.
- (3) This subsection and subsection (2) are repealed on 1 January 2023.

[2] Section 26 Before whom oaths and affidavits may be taken

Insert “or an Australian legal practitioner” after “for this State” in section 26(1)(a).