

ELECTRONIC EXECUTION FACT SHEET

Execution provisions – QLD, NSW and VIC

Type of Document	Queensland	Relevant legislation	New South Wales	Relevant legislation	Victoria	Relevant legislation
Deed	<p>Yes – Deeds can be signed electronically and in counterpart and split execution – witness not required for individuals.</p> <p>Note: an individual may now sign a deed on behalf of a partnership or unincorporated association without a witness (s46E and 456G <i>Property Law Act 1974 (QLD)</i>)</p> <p>Deeds do not need to be sealed or stated to be sealed, though it must contain a clear statement that it is executed as a deed.</p>	<p><i>Section 44 - 46 Property Law Act 1974 (Qld)</i></p> <p>Electronic Transactions (Queensland) Act 2001 (<i>Qld</i>)</p>	<p>Yes – Deeds can be signed electronically – witness is required for individuals (in person or via audio visual link)</p>	<p>Section 38A <i>Conveyancing Act 1919 (NSW)</i></p> <p>Section 14G <i>Electronic Transactions Act 2000 (NSW)</i></p>	<p>Yes – Deeds can be signed electronically – witness not required for individuals.</p>	<p>Section 12A <i>Electronic Transactions Victoria Act 2000 (Vic)</i></p>
Mortgages	<p>Yes – Mortgages can be signed electronically where the mortgage is lodged through e-conveyancing (i.e. Pexa).</p> <p>Note: The mortgagee must obtain and hold a duplicate of the mortgage signed by the mortgagor on the same terms as the lodged mortgage signed by the mortgagor, this is known as ‘same terms’ mortgage. A same terms mortgage can be made as an electronic document and may be signed electronically by both the mortgagor and mortgagee without a</p>	<p>Section 78A <i>Property Law Act 1974 (Qld)</i></p>	<p>Yes – Mortgages can be signed electronically where the mortgage is lodged via an ELNO (i.e. Pexa) and must consist of two counterparts:</p> <ol style="list-style-type: none"> 1. an electronic counterpart, known as a Mortgage (Electronic Counterpart) Instrument, prepared and signed by the Subscriber representing the mortgagee; and 2. a counterpart on the same terms as the electronic 	<p><i>Real Property Act 1900</i></p>	<p>Yes – Mortgages can be signed electronically but a witness is required for an individual and the witness must be over the age of 18 and not a party to the document.</p> <p>Note: Mortgages in Vic are only required to be signed by the mortgagor. Mortgagee not required to sign the mortgage.</p>	<p>Section 12B <i>Electronic Transactions Victoria Act 2000 (Vic)</i></p>

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	witness as long as it complies with s 11 of the <i>Property Law Act 1974</i> .		<p>mortgage, signed by or on behalf of the mortgagor. This counterpart may be either wet signed or digitally signed.</p> <p>Both counterparts are required to form the legal Mortgage instrument. Only the Mortgage (Electronic Counterpart) Instrument is lodged for registration.</p> <p>The counterpart signed by the mortgagor must be held by the mortgagee as specified in the NSW Participation Rules for Electronic Conveyancing (section 6.13).</p>			
Contracts/Agreements	Yes – contracts and agreements can be signed electronically, and a witness is not required for individuals.	Electronic Transactions (Queensland) Act 2001 (<i>Qld</i>)	Yes – contracts and agreements can be signed electronically, and a witness is not required for individuals.	<i>Electronic Transactions Act 2000 (NSW)</i>	Yes – contracts and agreements can be signed electronically, and a witness is not required for individuals.	<i>Electronic Transactions Victoria Act 2000 (Vic)</i>
Affidavits, Statutory Declarations and Oaths	<p>Yes – Affidavits Statutory Declarations and Oaths can be signed electronically and made in counterparts (except if signed in wet ink) - witness is required (in person or via audio visual link) by a special witness (i.e. Australian legal practitioner, government legal officer or justice of peace).</p> <p>Note: If a statutory declaration is lodged or deposited in the land</p>	Section 13A, 31E and 31J <i>Oaths Act 1867 (Qld)</i>	No - Affidavits, Statutory Declarations and Oaths must be signed in wet ink even though witnessing of these documents can be witnessed via audio visual link these documents must still be signed in wet ink.		Yes – Affidavits, Statutory Declarations and Oaths may can be signed electronically – witness is required (in person or via audio visual link) by a special witness (i.e Australian legal practitioner, government legal officer or justice of peace).	Section 18A and 29A <i>Oaths and Affirmations Act 2018 (VIC)</i>

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	registry or register of water allocations, it must be physically signed and must otherwise be made, signed and witnessed in accordance with the Oaths Act.				Note: All participants must be located in Victoria during the witnessing process.	
General Powers of Attorney by a business (corporation, partnership or unincorporated association but not sole traders)	Yes – General Powers of Attorney by a business can be signed electronically, in counterparts and by split execution and without a witness.	Chapter 2, Part 3A <i>Powers of Attorney Act 1998 (Qld)</i>	Not Applicable	Not Applicable	Not Applicable	
Power of Attorney – individual (commercial)	Yes – General Powers of Attorney can be signed electronically and do not require a witness if: 1. the document containing the power of attorney given by an individual is under a deed and is part of a commercial or arm’s length transaction; and 2. the power of attorney is given for the purpose of the commercial or arm’s length transaction. Note: a document containing a power of attorney given by an individual under a deed may be characterised as part of a	Section 46A, <i>Property Law Act 1974 (Qld)</i>	Not Applicable	Not Applicable	Not Applicable	

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	commercial or arm's length transaction even if the document is executed at a different time, and is separate to , other documents that form part of the transaction.					
Wills and general powers of attorney (other than above) or enduring power of attorneys	No – Wills and General/Enduring Powers of Attorney must be executed in wet ink in the physical presence of the necessary witness.	<i>Powers of Attorney Act 1998 (Qld) and Succession Act 1981 (Qld)</i>	No – Wills and General/Enduring Powers of Attorney must be signed in wet ink even though witnessing of these documents can be witnessed via audio visual link these documents must still be signed in wet ink.		<p>Yes – Wills can be signed electronically only if the remote execute procedure (s 8A of the <i>Wills Act 1997</i>) is used (i.e. via audio visual link) and at least one of the witnesses must be a special witness (i.e. Australian legal practitioner, government legal officer or justice of peace).</p> <p>Yes – General/Enduring Powers of Attorney can be signed electronically and must be witnessed in accordance with the remote witnessing procedure by at least one special witness via audio visual link.</p> <p>Note: Wills and General/Enduring Powers of Attorney. All participants must be located in Victoria during the witnessing process.</p>	<p>Section 7 <i>Wills Act 1997 (Vic)</i></p> <p>Section 5 and 11(2) <i>Powers of Attorney Act 2014</i></p>