



New South Wales

# Electronic Transactions Amendment (Remote Witnessing) Bill 2021

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are—

- (a) to make permanent certain provisions that were introduced as a pilot scheme to enable—
  - (i) the remote witnessing of documents, and
  - (ii) oaths, declarations and affidavits to be taken or made before an Australian legal practitioner, and
- (b) to identify—
  - (i) the document that is the original document when a document is witnessed remotely, and
  - (ii) the place of execution of the document, and
- (c) to make clear it is not necessary for the signatory or witness to physically be in New South Wales to witness a document remotely, and
- (d) to enable regulations to exclude documents that may not be witnessed remotely and to set out methods, technologies and processes for witnessing documents remotely, and
- (e) to re-enact a temporary provision that expands the classes of persons before whom a statutory declaration can be made.

## Outline of provisions

**Clause 1** sets out the name, also called the short title, of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act.

## **Schedule 1      Amendment of Electronic Transactions Act 2000 No 8**

**Schedule 1[6]** omits a number of provisions, some of which are redundant and others that are to be re-enacted in the *Oaths Act 1900* by Schedule 2 of the proposed Act, and inserts provisions that—

- (a) identify the document that is the original document when a document is witnessed remotely, and
- (b) make clear that it is not necessary for the signatory or witness to physically be in New South Wales to witness a document remotely, and
- (c) specify the place at which a document is executed if it is witnessed remotely, and
- (d) enable the regulations to set out methods, technologies or processes for witnessing documents remotely, and
- (e) include a savings provision for endorsements that would have satisfied a former provision.

**Schedule 1[4]** allows the regulations to exclude documents that may not be witnessed remotely.

**Schedule 1[1]–[3] and [5]** make minor amendments in the nature of statute law revision.

## **Schedule 2      Amendment of Oaths Act 1900 No 20**

**Schedule 2[1]** re-enacts a temporary provision that expands the classes of persons before whom a statutory declaration can be made. The provision is currently in the *Electronic Transactions Act 2000*, section 14I which is to be repealed by Schedule 1 of the proposed Act. The provision was due to be repealed on 1 January 2022 and the re-enacted provision will now be repealed on 1 January 2023.

**Schedule 2[2]** makes permanent a temporary provision that allows oaths, declarations and affidavits to be taken or made before an Australian legal practitioner. The provision is currently in the *Electronic Transactions Act 2000*, section 14H which is to be repealed by Schedule 1 of the proposed Act.